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The diaries of Henry A Washington, 1842–1845

H. A. Washington

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Washington, Henry A.

THE DIARIES OF HENRY A. WASHINGTON,
"

1842-1845

A Thesis

Presented to

The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of

Master of Arts

by

Carol H. Sturzenberger

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APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of

Master of Arts

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ABSTRACT

The diaries of Henry A. Washington have been transcribed, edited, and annotated to make available the journals of a prominent Virginia scholar, teacher, and writer. As a young Richmond lawyer, Washington produced an extensive collection of writings in the form of journals he kept from 1842 to 1845. The opinions expressed in these diaries later influenced Washington's views on social and political topics.

The main body of the thesis contains 111 entries, which provide information about numerous influential Richmond citizens, the city's political atmosphere, and, most important, Washington's opinions on the significant issues of the day. The annotation provides further explanation of the people, places, and events described in the journals.

THE DIARIES OF HENRY A. WASHINGTON,

1842-1845

BIOGRAPHY

Henry Augustine Washington was born at Haywood, Virginia, on August 24, 1820. His mother, Sarah Tayloe Washington (1800-1875), was a great-niece of George Washington and thus was a member of one of Virginia's most prominent families. She had married Lawrence Washington (b. 1791) of Westmoreland County in October 1819. Henry was the eldest of eight sons and three daughters, and in this role he seems to have enjoyed a close and affectionate relationship with his parents.¹ Lawrence Washington was a well-to-do farmer, and the family owned a summer home, Campbellton, in addition to their farm, Blenheim, in Westmoreland County.

When Henry was seven years old, he was sent to live with an aunt in Alexandria, where he attended Benjamin Hallowell's school. He next spent a year at Tackett's school in Spotsylvania and another year at Garnett's in Essex. He then returned home and was educated there by private tutors.² From later letters exchanged between Henry and his father, it appears that Lawrence Washington greatly emphasized the value of education to all his sons and that Henry was the only one who gratified his father in this regard.

In 1834 Henry was sent to Georgetown College. Although he was "treated kindly" by the faculty, he seems to have found the education he received there unsuitable. In the autumn of 1836, he transferred to the College of New Jersey (Princeton), where he entered the sophomore class. Because his previous study had included little mathematical

training, Washington avoided the sciences and instead concentrated on literary and historical studies. He was an assiduous collector of newspaper clippings, and he filled several notebooks with copied quotations and anecdotes, along with original poetry and short stories. While at Princeton, he became interested in politics and joined the American Whig Society, an experience that he considered invaluable because of the opportunities it offered in public speaking. He graduated in 1839 with the bachelor of arts degree "with credit to himself" and received the "Alpha Medal" from the Society.³

Washington returned to Westmoreland and decided to begin professional studies for the bar. At Fredericksburg was a private law school "of high and deserved reputation" conducted by Judge Tayloe Lomax, "a profound and accomplished jurist," a member of the Tidewater aristocracy, and the first law professor at the University of Virginia.⁴ Washington moved to Fredericksburg until his studies were completed, and in 1841 he received his license to practice law in Virginia.⁵

While in Fredericksburg, Washington contracted an illness that affected him for the remainder of his life. It was presumed that "his constitution had suffered . . . from the exposure of a room which he occupied . . . during the intense heat of summer."⁶ The disease was later diagnosed as chronic dysentery, and Washington was advised to take moderate exercise, to pay careful attention to his diet, and to drink white sulphur water.⁷ Despite numerous visits to the Virginia springs and to physicians in Baltimore and the District of Columbia, he intermittently suffered long and painful attacks, one of which led to the extraordinary circumstances surrounding his death.

After his admission to the bar, Washington "judiciously concluded to go where the people and the business were"--Richmond. "Here were

all the refinements which his cultivated taste desired and every influence calculated to stimulate literary and professional improvement." In January 1842 he opened an office and settled down to wait for business.⁸

Richmond in the early 1840s was a city of more than 20,000 with potential for growth in trade and manufactures. As the commercial center of Virginia, the city served a wide countryside, and its shipping business, tobacco manufactories, and flour mills were highly regarded. As the state capital, Richmond attracted lawyers and politicians to its judicial and legislative agencies, and these men actively promoted the development of the city's intellectual and social culture.⁹

The most notable aspect of the times, however, was the bitterness between Richmond's political parties. This situation mirrored national political developments, in which the trend toward the reshaping of party lines on basic economic issues was highly evident. In Richmond the press played a prominent role in the complex political imbroglios that marked the era. The two major city newspapers, the Richmond Enquirer and the Richmond Whig, were the organs of the Democratic and the Whig parties respectively, and their editors--Thomas Ritchie and John Hampden Pleasants--exercised considerable power through their personal influence and their vigorous editorials.¹⁰ Both papers were widely read, not only within the borders of Virginia but in other states as well, and especially in Washington.

Political issues aroused intense interest among the reading public, and this excitement was reflected in the passionate and often-personalized journalism exercised by Ritchie and Pleasants. Yet, men found that loyalty to party and candidate was often difficult because national issues--such as the tariff, internal improvements, and the banking system--frequently cut across party lines. Traditional party solidarity

had disintegrated in the 1830s "because of the division of opinion on the treatment the Virginia banks should receive during the [monetary] crisis of 1837 and, more important, because of the disagreement over [Martin Van Buren's] sub-treasury plan." The rebellious faction of Conservative Democrats--who denounced the sub-treasury scheme as hostile to the state banks, as an act of executive usurpation, and as a system that would lead to a national bank--soon moved into the Whig party when they realized that "independence was impotence." This helped draw the partisan lines for the bitter presidential battle of 1840, and Thomas Ritchie and John H. Pleasants were in the forefront of their respective parties' crusades. Richmond, a Whig bastion, kept the faith.¹¹

Political dissension continued unabated during John Tyler's administration as the president's ultimate repudiation by the Whigs drove some of his following into the Democratic party. In the election of 1844 Pleasants's Whig supported Henry Clay's opposition to the annexation of Texas, while in the Enquirer, Ritchie railed against the "Clay Clubs" and urged the "Spartan Band" of Democrats to "sweep the state and place the Democracy beyond the reach of the Federalists."¹²

Henry Washington soon found himself enveloped in the complex political environment of the city. Although he frequently attended the local courts to improve his legal education, his own court cases seem to have been infrequent enough that he was able to spend much time in other pursuits. He was a member of the Patrick Henry Society, a group of a dozen young men devoted to reading and debating. The Society had a library and a debating room in a large building on the northeast corner of Eleventh and Main streets, and there Washington became a close friend of the librarian, John M. Daniel, who later became the very influential

editor of the Richmond Examiner.¹³ Washington frequently passed long evenings in his rooms in discussion with the brilliant but moody Daniel, the fast-rising Richmond lawyer James A. Seddon, and Seddon's cousin James M. Morson, who had been one of Washington's law-school classmates. Philosophical and literary themes were favorite topics of conversation. There were heated debates over the morals of Edward Bulwer-Lytton's novels, the existence of luck in the world, and Malthus's principle of population increase.¹⁴ Washington's friendships with Daniel and Seddon proved to be lasting, and even after Washington left Richmond, the three men remained close confidants, congratulating one another on their successes and seeking advice on personal problems.¹⁵

Richmond society provided valuable opportunities for young men to meet the city's political leaders. One traveller reported that "the society is delightful. Although there is that air of business about the mass of the people, which is always found in a place of trade, yet no people are more fond of amusement and of sport; the winters are very gay and full of liveliness; parties and amusements of every kind are in vogue; the theatre is much frequented and every source of pleasure is eagerly sought after."¹⁶ Washington was part of this lively social coterie, and his diaries give evidence of his frequent presence at weddings, balls, and parties, where he encountered the wealthiest and most influential men in Richmond.

Despite his forays into the city's political life, Washington appears to have been content to remain, for the most part, an observer rather than an active participant. Several diary entries provide insights into this decision, which apparently stemmed from his dislike of the party machinations characteristic of the Richmond factions. Declaring that he was no party-man, Washington lamented the damage done to the country by political organizations.

View it in whatever light you will party-spirit is fraught with evil to our country. . . . The fruits which we have reaped have been dissention at home & disgrace abroad. . . . The constitution of the country is shattered--& nothing but repose can restore it. We want peace. Nothing else will do. . . . The country asks for a truce--for a cessation of arms. For 20 years it has been the prey of faction. . . . [The nation] has talent, energy, & immeasurable resources--all the elements of greatness. It is only necessary that they should be properly directed. And He who deserves & will receive most at her hands is the man who advocates peace--concession--compromise--union & seeks to combine the energies of the country & direct them to the advancement of national honor & national glory.¹⁷

Further evidence indicates that unlike many of his colleagues, Washington was not politically ambitious. He appears to have had an almost fastidious distaste for the masses, which would not allow him to fraternize with them on a political level. He believed that the life of a politician was undesirable because it was impossible to engage in politics without losing one's purity, and the temptation to fall into "evil ways" was great. This was illustrated by the habits of politicians, who desired influence by ingratiating themselves with the masses, who held the power.

To go upon one of our court greens & see a candidate canvassing for an office, is enough to quench the political aspirations of almost every sound judging man who regards the integrity of his morals & the purity of his habits. You see him arm & arm with men whom on any other occasion he would avoid as he would so many lepers--drinking with them--carousing with them--&, in every way he can, catering to their passions & prejudices. It is certainly one of the evils of our republican form of government that its administration must necessarily fall into the hands of men whose morals have been more or less shaken by their exposure to such severe temptation.¹⁸

His collegiate devotion to the American Whig Society notwithstanding, Washington was drawn to the tenets of the Democratic party during his stay in Richmond. He once described Henry Clay as "deficient in that judgement . . . those high powers of analysis & generalization without which no man can be said to be a statesman,"¹⁹ and it is possible that

as an advocate of free trade, he found Clay's American System repugnant. Washington was a member of the Democratic Association of Richmond, which had been formed in 1843 with the avowed purpose of opposing the election of Clay as president. The Association advocated Jeffersonian doctrines and called for the "permanency of the Union and the perpetuation of Republican institutions."²⁰ Despite his earlier protestations against party spirit, Washington participated in the Association's activities, no doubt caught up in the intensity of the political conflict, as evidenced by the Enquirer's grandiloquent account of an Association meeting in 1844:

Among others, look at the young and eloquent Henry A. Washington, who addressed us so powerfully on Saturday night, and who declared, in tones which rang through the Hall, that in such a cause, diffidence was cowardice and silence was fear. The Whigs once boasted of possessing all the talents. Few as we comparatively are in this Metropolis, we now boldly claim superior enthusiasm and a much greater acquisition of brilliant and rising talents than themselves.²¹

After attending a meeting of the Association in November 1844, Washington praised a speech made by Seddon, who claimed that the Democratic party was the conservative party of the country and that the Whig party "contains in its bosom those elements of disorder & commotion which threaten dissolution."²² Although Washington disliked John Tyler as a politician ("a thoroughly selfish man in whose narrow soul a spark of patriotism never found lodgment for one moment"), he approved of Tyler's vetoing of the bank bills in 1841--an action Washington regarded as a great service to the country.²³ He did not comment upon the annexation of Texas or the occupation of Oregon, but it is clear that he supported the election of James K. Polk as president in 1844 and, once the Democratic victory was assured, he predicted the "utter dismemberment" of the Whig party.²⁴

Washington was familiar with the works of the political economists David Ricardo and Adam Smith, and he firmly advocated the principle of free trade. Yet he realized that "this great result can [not] be accomplished in an hour or a day--or a year. . . . The bringing about of such a result involves a great deal. Great & radical changes must be affected. . . . I believe the Restrictive system to be an abuse, & that it should be corrected. But, it is an abuse in which a vast deal of capital is embarked--in which a large portion of the industry of the country finds employment & around which vast & complicated interests have entwined themselves." Washington offered no suggestion as to how free trade could be reasonably instituted, but he cautioned that the question must be dealt with cautiously, with "due regard to consequences."²⁵

Other diary entries indicate that Washington favored a narrow construction of governmental responsibility to the nation's citizens. He feared that a "libertine" government would not exercise its powers "on the side of human happiness"; thus the best government was the one that "intermeddles least."²⁶ Washington had great faith in the ability of the people to influence the progress of mankind, although in view of his distaste for the masses, he presumably limited the "people" to the country's upper classes.

It is not by the intermeddling of the would-be omniscient & omnipresent government . . . but by the enterprise & energy of her citizens that the United States has been hitherto carried forward with unprecedented speed in the career of civilization. And to the same energy & the same enterprise we must look for the future if we would realize similar results. In the mean time we hold that our rulers will best promote the interests of the people by confining themselves rigidly to their own legitimate duties--by leaving capital to find its most lucrative channels--commodities their fair price--industry & intelligence their natural rewards--idleness & folly their natural punishment--by maintaining peace--by protecting our persons--by protecting our property & by obse[r]ving a rigid economy in the administration of every department of gov[er]nment. Let the Government do this--the people will do the rest.²⁷

The experience of monetary hardship and the depressed economy that had marked the 1830s and the early 1840s caused many Virginians to examine the reasons for their financial troubles and to agitate for reform. According to historian J. Stephen Knight, Jr., "the desire to 'improve Virginia' was present . . . in both political parties. Criticism of the state, lamentation over the failure of its economy to grow and prosper, and proposals for the effective reform of society dominated the state's political debates."²⁸ Leading this agitation were the Richmond Enquirer and the Richmond Whig, which repeatedly called upon citizens "to discard apathy and lethargy and adopt an active spirit for the improvement of society. . . . Perceiving agricultural homogeneity as the basis of southern economic stagnation, they urged Virginia and the South to diversify her pursuits by adopting manufacturing and by promoting the immigration of energetic white laborers from Europe and the North."²⁹ Far from disdaining northerners, the editors and their correspondents admired their "active spirit" and desired to emulate their progress. Yankees were perceived as self-reliant, independent, courageous, resolute, active, and industrious. The injection of northern spirit and capital would develop southern manufacturing and encourage commerce.³⁰

The two Richmond newspapers also recognized the economic problems slavery presented. Knight has suggested that "the agricultural depression of the 1830s and 1840s convinced many Virginians that slave labor was uneconomical. . . . They strongly favored the liberation--and deportation--of Virginia slaves. . . . They urged the establishment of manufacturing and free labor in the place of the plantation and slavery."³¹ Writing in the Whig, Samuel M. Janney, an antislavery Quaker, "pointed out that slaves had no incentives to work, that the state was demoralized

because the only value of slave property rested in selling them south, and that free labor could, and hopefully would, defeat slave labor in open economic competition."³²

These sentiments were echoed persistently by Henry Washington and were particularly evident in the diary entries concerning his views on slavery. He believed that northerners excelled in perseverance, commerce, and intelligence in the practical matters of daily life; these qualities he attributed to the absence of slavery. But in the South, men were surrounded by slaves from birth and were invested with "a sort [of] domestic dictatorship" that allowed them to believe that they were born to command. The typical southerner was "a hard--impulsive--violent man, ardent in his desires, impatient of opposition, & easily discouraged if he cannot succeed in his first attempts." Washington saw in northerners the attributes of a middle class--energy, enterprise, and common sense--and in southerners the attributes of an aristocracy--generosity, courage, and frankness. Washington's preference was accorded to the North because he believed that "toil & temperance & endurance & enterprise are the pillars on which every state must rest. It is these hardy virtues which give it strength & substance." The virtues of southerners made great men but not a great nation, able politicians but not a prosperous country. "The axe--the spade--the spinning jenny--the steam boat--the railroad--the power loom--these are the great agencies of modern society through whose instrumentality its greatest achievements are effected. And I fear the inhabitants of the Southern States fall far behind their northern neighbours in the use of these agencies."³³

Although Washington deplored the effect of slavery upon white southerners, he insisted that the only relation that could amicably exist between two distinct races of men was that of master and slave.

Because he believed that labor was the common destiny of the majority of humans, he felt that it was in the interest of the Negro race in the South to remain in slavery. Washington recognized the inevitability of racial conflict: "The struggle between the races will come . . . causes are at work which must inevitably bring it about." But he was confident that the masters would subdue their slaves: "The Europeans have nothing to apprehend. They have two of the elements of power--wealth & intelligence--exclusively on their side."³⁴

Washington believed that free labor was more productive than slave labor because the hope of gain was a better incentive to the free man than the fear of punishment was to the slave. He presumed that the increase in population and wealth of Ohio and New York compared to that of Kentucky and Virginia since the Revolutionary War could be explained by the fact that the former were non-slave states. Yet, unlike the men who advocated the liberation and deportation of the slaves, Washington did not favor the establishment of free labor for slave labor in Virginia because he felt that there insurmountable barriers in southern society that prevented such an action. He believed that any attempt to change the structure of the master/slave relationship between whites and blacks "would lay the foundation of a civil war which would result only in the expulsion, extermination, or subjection of one of the races. The amount of capital involved constitutes another barrier. . . . Free labor is preferable to slave labor, but slave labor obtains in Virginia. . . . it is indissolubly interwoven with the texture of her social & political condition--& therefore circumstances render it unfit that we should attempt to pass from one system of labor to the other."³⁵ Thus, Washington had no answer to the slavery dilemma. He recognized the unprofitability

of slave labor but could not conceive of any method of altering a social structure in which slavery was so firmly entrenched.

In 1847 Washington decided to leave Richmond and return to the Northern Neck of Virginia. His five-year practice had brought him more expenditure than income, although he admitted that law practice in the city was very difficult and that compared to his colleagues, he had little reason to complain. He hoped that by practicing in the country, his expenses would be minimal and that by combining farming with his law practice, he could be financially successful. Believing that "calm and dignified repose is the result of having one's position ascertained and acknowledged," he professed a preference for country life, wherein the position of the gentry was fixed and recognized; this avoided the jealousies and struggles common in town society. More important, the country gentleman's occupation was not too laborious, giving him leisure time to improve his mind. It is also possible that Washington's illness forced him to seek the quiet of country life. Lawrence Washington purchased a farm in King George County for five thousand dollars and gave it to Henry and his brother Tayloe. He also gave them one thousand dollars to invest in horses and other stock necessary for the cultivation of the farm. Henry was pleased to accept, and he hoped that with his father's advice and some time, he and Tayloe would become "right good farmers."³⁶

Washington put his leisure time in the country to good use. In 1848 his essay "The Social System of Virginia" appeared in the Southern Literary Messenger. He was described by the editor as possessing "a mind well trained in the best schools of reasoning and a command of language that is rarely met with."³⁷ Many of Washington's social and economic philosophies earlier expressed in his diaries were evident in this essay, in which he attempted to demonstrate that there were several

prominent features of Virginia society that had failed to advance the cause of "social improvement and the production of wealth and progress in material greatness." He believed that the master/slave relationship, the existence of a landed "aristocracy," and the isolated country life characteristic of Virginia culture had led to a feeling of superiority and the desire for personal independence and individual liberty on the part of the "aristocrats." It appeared to him that while New Englanders were concerned with their rights as citizens in relation to the government and with the improvement of social conditions, Virginians cared little for their role as citizens and felt society to be a burden. The social system of Virginia thus favored the development of the individual man who was unconcerned with the amelioration of problems that affected the people in general. Washington also included in this essay an analysis of slavery that showed that his dislike of the institution was based on its effects on the master, not on the slave:

It seems to us that the slave has reason to rejoice, rather than repine, over his lot. He is well fed, well clothed, well housed, and secure in the enjoyment of all the necessities and many of the comforts of life. And this, as we have recently had much melancholy reason for knowing, is more than can be affirmed of the laboring masses of Europe. It is in the name of the master, therefore, and not of the slave, that we assail the institution of slavery. It is the political economy and not humanity which raises its voice against it.³⁸

While Washington was enjoying life as a gentleman farmer in the Northern Neck, events were taking place at the College of William and Mary in Williamsburg that would be of great significance to his career. The vigorous administration of President Thomas R. Dew (1836-1846) had brought about a golden period for the college. The enrollment had risen dramatically, and Dew's courses in the laws and customs of nations were widely regarded as important and innovative.³⁹ Dew died in 1846, and

he was succeeded as president by Robert Saunders, whose administration was marked by an "unfortunate row." Personal differences within the faculty and among the townspeople of Williamsburg were complicated by renewed attempts to move the college to Richmond. With the exception of Judge Nathaniel Beverley Tucker, professor of law, all the faculty resigned in 1848, and for a year all classes, except those in law, were suspended "to allow the acrimonious feelings to die out."⁴⁰

In 1849 the college was to be reorganized. Apparently Washington sought an appointment to the faculty; he received a recommendation from John Rutherford, a Richmond lawyer and former acting governor of Virginia. Although Rutherford acknowledged that he did not know the young man intimately, he wrote John Tyler of the Board of Visitors that he had seen enough of him in Richmond "to understand and appreciate his merits." Rutherford then provided a flattering testimonial to Washington's character and abilities.

He possesses a vigorous intellect, highly cultivated by study; and when he left Richmond, had acquired, for so young a man, a high reputation as a sound lawyer. He is, moreover, a gentleman of fine taste as a writer, and graceful elocution as a speaker. His disposition is amiable, and his deportment modest and unassuming. His manners are polished and conciliatory, and his principles pure and elevated. . . . He is evidently an improving man, and with his studious habits and fine abilities will soon attain to high distinction either as a lawyer or professor. . . . I regard him as eminently worthy of his illustrious name.⁴¹

This laudatory recommendation would imply that Washington had made a name for himself among the state's prominent men. On December 30, 1848, he was notified of his appointment as professor of history and political economy. He accepted the position, no doubt encouraged by the knowledge that "Mr. Dew [had] considered it preferable to a place in the cabinet in Washington." He moved to Williamsburg in January 1849, and although he acknowledged that he was "very slow to take root in new soils," he felt he had acted wisely.⁴²

Although Washington had been trained in the law, he was equally adept in the teaching of history and economics. Much of his leisure time in Richmond had been spent in reading the works of Carlyle, Macaulay, Malthus, Ricardo, and Adam Smith,⁴³ and those years of study served him well at William and Mary. His method of instruction included the use of textbooks, oral explanation, and written lectures. As a speaker, he was "self-possessed, calm and deliberate, yet earnest and impressive, clear in his conceptions and lucid in their exposition." According to the college catalogue for 1855, the history courses were taught to the first-year students; during the first half of the year, ancient history was offered, with modern history given in the second half. Among the texts used were the works of Francois Guizot on the Middle Ages, David Hume and Thomas Macaulay on English history, and George Bancroft on United States history. At this time, Washington also taught political economy and the law of nations, each for one-half session.⁴⁴

Washington's diaries and correspondence and his friends' and colleagues' assessments of him as a teacher and as a gentleman depict a solemn man, almost excessively rational. "He was always dignified, without being distant--easily accessible but not familiar. . . . In the meetings of the Faculty he was highly esteemed--his views were clear, sober, and practical." Washington was frequently asked to write letters of recommendation for his students, and on numerous occasions he was requested to oversee the welfare of his friends' sons who were attending the college. A faculty resolution passed after his death called him "the impartial and dignified Professor . . . the just and upright man."⁴⁵

It was a Washington family joke that Henry "had moral courage enough never to engage in any matrimonial speculation." Although his

friend John M. Daniel assured him that "of all the men I ever saw, you are the one whom a woman would be most certain to respect and revere," Washington had found little satisfaction in his association with female acquaintances in Richmond.⁴⁶ Acknowledging that he held unusual views on the subject of woman's intellect, he believed that "there exists between the sexes no mental disparity which may not . . . be attributed to a disparity in education. . . . Each have their peculiar virtues--& to say that the one sex was superior to the other would be to compare together virtues which allow of no comparison." Nevertheless, Washington evinced definite views concerning woman's innate characteristics, the most virtuous of which he termed a "passive fortitude" and a "resigned spirit." He believed that woman "is a true heroine in the strife of this world" who would inspire man in the struggle of life. Most of the women he met, however, lacked that "more delicate refinement which springs from intellectual culture and a generous sympathy with those with whom we are thrown."⁴⁷ Although he probably had no serious romantic attachments during his stay in Richmond, he undoubtedly was experienced in the complicated courting rituals of his class, for he once plaintively remarked that "it is only he who has been to sea & has been a little tempest-tost who knows the value of a calm & quiet harbor."⁴⁸

Once in Williamsburg, however, Washington found a more satisfactory state of affairs. Social life necessarily revolved around the college, and in this manner he became acquainted with Cynthia Beverley Tucker (1832-1908), daughter of his colleague Nathaniel Beverley Tucker, the distinguished jurist and law professor. At first the couple were merely friends.⁴⁹ But in August 1851 Tucker died, and it appears that a romantic attachment soon developed between the nineteen-year-old girl and the professor twelve years her senior. By May 1852 they were engaged.

By all accounts Cynthia Tucker's beauty, charm, and intellect captivated the men with whom she associated. An artist and writer described her as "graceful, slender, and of a most refined and spirituelle type of beauty. Dark sparkling eyes and rich raven hair. Easy and confiding in her manners and sweetly accomplished in music. She was petted and idolized by her father without being spoiled."⁵⁰ Even John M. Daniel was charmed. In a witty and affectionate letter to Washington, he clearly approved of the match.

Though I had heard you were about to marry divers other "virgenes" before, and never gave the slightest credence to the rumours; yet the moment I heard it mentioned casually in a conversation that "they said" H. A. W. was going to marry the very beautiful and elegant young person who was once pointed out to me in the Richmond Theatre as Judge Tucker's daughter--I knew it to be true. . . . In physical beauty there is no fault to be found in your choice. Her general air and expression also would sufficiently assure an observer that she was a born lady. As a matter of course it is to be presumed that she is clever--her blood would secure that. . . . Judging by the note you sent me, I have really begun to suspect that you are enamored of this female that you are going to marry.⁵¹

The Washingtons were a devoted couple, and Cynthia's regard was particularly evident during the constant nursing her husband required as his illness began to recur more frequently. They had two daughters: Lucy Beverley (July 22-29, 1854) and Sarah Augustine (1856-1862). The Washingtons lived with Cynthia's family--an arrangement that apparently caused no friction--and they were frequently joined by Henry's young brothers and sisters, who came to Williamsburg for extended visits or to attend the college. The marriage seems to have been a happy one, with Cynthia performing her wifely duties with the proper deference of a woman devoted to pleasing her husband. That this behavior was not always successful is made clear in an illuminating letter in which Cynthia acknowledged her "evil temper," but begged Washington not to keep his problems to himself.⁵²

Despite his poor health, Washington was determined to participate in activities outside his academic duties. He was frequently asked to address college literary societies throughout the state because of his "distinction in politics and literature." In 1852 he was appointed a delegate to attend a Tappahannock convention that was to select district representatives to the Democratic national convention. This, however, appears to have been the extent of his political activity. Presumably, his declaration that he was no party man held true in his later life as well.⁵³

During the period 1850-1854, most of Washington's time was absorbed by his work on the Thomas Jefferson papers, a project that brought him more personal anxiety than satisfaction. In 1848 Thomas Jefferson Randolph had sold his grandfather's public and private papers to Congress, which deposited the documents in the Department of State so that the private papers could be separated and returned to the family. An act of Congress appropriated funds for the publication of the remaining documents under the supervision of the Joint Committee on the Library. In the spring of 1850 Congressman James M. Mason of Virginia, a committee member, proposed that Washington be selected to edit the papers. Although it is not clear if Mason and Washington knew one another, it is known that Mason desired that a Virginian be chosen for the task. Apparently he was at least acquainted with Washington's reputation, for he wrote to the professor, "It is of great importance to Virginia that this duty should be performed by one of her own citizens, whose integrity and capacity may be relied on, that no injustice shall be done to the fame of Mr. Jefferson." Mason stressed that only material of a public nature was to be published and that "it is not expected or desired that any editorial matter should be incorporated." Washington was invited to

visit the Capitol as soon as possible to begin work on the project.⁵⁴

Because he wished to maintain his full schedule of duties at the college, Washington requested the committee to allow him to remove the manuscripts to Williamsburg. He was permitted to do so, and with the help of hired assistants, he spent the next four years sorting, copying, and editing the papers. Although Randolph had cautioned him that "the arrangement for reference is very convenient and it would be desirable to preserve it," Washington rearranged the documents to suit his own requirements. He chose the papers he deemed worthy of preservation in the National Archives at the Department of State and arranged and indexed them, eventually producing 137 volumes of manuscripts.⁵⁵

Working with all possible speed, Washington then selected those documents worthy of publication and prepared them for the press. The committee wanted the papers compressed into seven volumes--a limitation that the editor fought to supercede; ultimately, he persuaded the members to agree to nine. His private papers do not indicate his total compensation for the project, but according to William Cabell Rives, editor of the Letters and Other Writings of James Madison, Washington received \$6000.⁵⁶

The Writings of Thomas Jefferson were published in 1853-1854. In the preface Washington states that he selected those papers that possessed "permanent public interest, either on account of [their] intrinsic value, or as a matter of history, or as illustrating the character of the distinguished author, or as embodying his views upon the almost infinite variety of topics, philosophical, moral, religious, scientific, historical, and political, so ably discussed by him."⁵⁷ Under the instructions of the Library Committee, Washington had been permitted to add only brief

explanatory notes to the text; his primary contribution to the project was the arrangement and indexing of the papers.

Criticism of the work was not long in forthcoming. After the publication of the first three volumes, the New York Herald claimed that "great dissatisfaction is expressed that the works of Mr. Jefferson . . . thus far include little, if anything, that has not long been familiar to the public, while it is known that the unprinted Jefferson papers in the State Department . . . comprise ample material for forty or fifty volumes." Along the same lines, the New York Times remarked that "it is not too late to insist that the work undertaken be thoroughly accomplished so far, at least, as completeness is concerned." It further suggested that "the more important letters addressed to [Jefferson], having been omitted from the appropriate places in the volumes already printed, should be issued in . . . supplementary volumes."⁵⁸

Washington's printers were quick to urge him to answer these charges, especially because they believed that the newspapers' criticisms were motivated by political prejudice. The New York Times had particularly directed its readers' attention to the charge that "the immense mass of the Jefferson manuscripts has been removed from the State Department, and confined without bond, or even a schedule, to the Virginia Editor, of whom we know but little, except that he is a violent partisan in politics, associating his prejudices of today with all the affairs and characters of the age in which Jefferson was an actor."⁵⁹

The beleaguered editor quickly took up his pen but defended himself only to his printers. He pointed out that if he would have included letters written to Jefferson, they would have "extended the publication greatly beyond any thing which the committee would have sanctioned." From the beginning, his wish had been to expand the work as far as

possible, and he declared that "that it is as extensive as it is, is due mainly to my efforts." In response to the complaint that the volumes contained little new matter, Washington replied that most of the valuable new material would appear in the later volumes. He suggested that no response to the criticism be published, to avoid a continuing newspaper dispute. Instead, he proposed that periodic statements be issued to inform the critics of the work's true character. He believed that the completed work would be its own best vindication.⁶⁰

Later events proved Washington's hopes to be overly optimistic. In 1888 Sarah N. Randolph of Baltimore applied to the Joint Committee on the Library to re-edit the Jefferson papers, which she said were improperly edited and inaccurate in their published form. She cited "numerous errors in Professor Washington's nine volumes including omissions, inaccuracies, neglect, and ignorance, not to mention 'tampering' with the manuscripts." The Librarian of Congress, Ainsworth Rand Spofford, concurred, stating that "the deficiencies of this edition are so great as to impair, and in some cases to destroy its value as an index to true opinions of Mr. Jefferson, and to his relation to the men and events of his time."⁶¹

Washington appears to have received little personal satisfaction from his work on the project. Not only were his duties of a clerical, rather than an intellectual, nature, but close contact with Jefferson's correspondence left him with "diminished admiration for the political character and [with] aversion for the moral views" of his subject. A colleague recalled that prior to 1850, Washington had been a great admirer of Jefferson, "but before he had finished his work his opinions of Jefferson greatly changed. The cunning duplicity and want of good faith discovered in his private letters disgusted Prof. Washington and

he said frequently that Jefferson was not the man he supposed him to be."⁶²

At the same time that he was preparing the Jefferson papers, Washington was also completing a digest of Thomas R. Dew's history lectures, which had never been published because of Dew's unexpected death in 1846. Washington appended additional material to the book (although which portions of the volume are his work are not known), and it was published in 1853 as A Digest of the Laws, Customs, Manners, and Institutions of the Ancient and Modern Nations. Using the question-and-answer method, the text covered biblical history, Egypt, Asia, Greece, Rome, feudal Europe, the Reformation, the English constitution, and the French revolution. There were six printings of the work between 1853 and 1893, and considerable classroom use was made of it. Although Washington received no credit, his contribution to the Digest was recognized by his contemporaries. In a review, the Southern Literary Messenger commented, "We believe the labor of preparing this volume for the press . . . was performed by Prof. H. A. Washington, one of the finest scholars in our country. . . . Of course the task has been well done, in a manner alike worthy of the lamented author and his excellent editor."⁶³

During the 1850s Washington gave several public lectures that brought him considerable recognition in the press, which spoke of the professor as "one of Virginia's finest scholars and most earnest thinkers." Two lectures he presented before the Petersburg Library Association in 1855 on the topics "The Negro Races" and "The Races of Men" are valuable for the insight they give into Washington's concepts of black/white relations. The Petersburg Express called the speeches "eminently worthy of the widest circulation, inasmuch as they set forth truths of great

moment, that are too little known and valued by the people of the South-- truths constituting the only real defense of the frameworks of Southern society." Washington attempted to show that "the negro has always been represented as inferior and subject to the white man . . . with a physical conformation greatly below that of his white master." Pointing to hieroglyphical inscriptions, marble tablets, and writings throughout the ages, Washington declared that "the experience of time in every climate [has] shown that the white man alone [has] achieved national greatness."⁶⁴

I hold no theory of human equality. I do not believe that all men are by nature equal. . . . I see gradation and subordination everywhere in the inorganic as well as in the organic world, binding with a chain of many links, the lowest type of the African to the highest of the Caucasian man.⁶⁵

He believed that blacks and whites had been endowed differently by nature in order to adapt to the roles assigned to them. Under the condition of slavery in the South, the Negro would reach his highest point as "the instrument in the hands of Providence of effecting great results, of reclaiming an immense continent from a state of nature; and here it [is] that in the future he [seems] destined to do more than in any other age or condition he had ever been able to accomplish."⁶⁶

By the mid-1850s Washington was ill so frequently that most of his time was spent in Baltimore and in the District of Columbia seeking medical advice. He was urged to retire to the mountains or to the Virginia springs, but he derived little benefit from these suggestions. His college duties were severely curtailed, and in June 1857 he finally resigned. Although he had not been a particularly religious man in his youth, he now turned to religion, and, encouraged by his wife, he began to read and study the Bible.⁶⁷

In December 1857 he, his wife, and his parents took rooms in Washington, where they planned to spend the winter. There were hopes that

he might recover, since his health had improved to the degree that he was able to walk to the Capitol to hear the congressional debates. Arrangements were made to return to Williamsburg. On February 28, 1858, Washington spent the day reading the Bible and devotional books. He was brought his dinner while the family ate below, but when the servant returned, Washington was found lying on the floor.

All rushed up and soon saw how so terrible an accident had occurred. Shortly after he went to Washington, one of his brothers brought him an air gun to amuse himself. In his very nervous state, he was exceedingly annoyed by the noise made by numerous pigeons, which came upon a shed roof near the window of his chamber. He purchased from the owner the right to shoot them, but had never succeeded in killing any. He was now found, just by that window, stretched at his full length, with the blood streaming from his right eye, where the ball had entered.

It was surmised that when he had bent over to see into the yard, the fringe of his shawl had caught in the trigger of the gun, which then discharged, striking him in the eye. The verdict of the doctors was accidental death. In the presence of the family and close friends, a short service was conducted. The body was then taken to Westmoreland County and was interred at Campbellton, the Washington family's summer residence.⁶⁸

Inevitably, the peculiar circumstances surrounding Washington's death gave rise to rumors of suicide. According to the widow, "a distressing report was instantly circulated in Washington with regard to the manner of my dear Husband's death."⁶⁹ Silas Totten, professor of philosophy at William and Mary, theorized that "if he really died by his own hand, it must have been in one of his paroxysms of nervous suffering when he knew not what he was doing." Totten, however, rejected that possibility and, echoing the sentiments of the deceased's family, concluded that Washington could not have committed suicide, "for he was

then slowly gaining strength, had been less frequently subject to paroxisms of nervous agony and that day had spoken with cheerfulness and hope of his return of Williamsburg and the prospect of returning health."⁷⁰

Shortly before his death, Washington had placed a note among his private papers, indicating that although he had prepared a large amount of manuscripts for the press, no attempt at publication should be made since no one but he could complete the project.⁷¹ Unknowingly, however, Washington left an extensive collection of writings in the form of the diaries that he kept as a lawyer in Richmond from 1842 to 1845. In addition to accounts of daily life in the city, he entered his views on events of national importance and his opinions on the significant issues of the day. The sentiments he expressed in these journals were clearly evident in his later writings and lectures. Since the majority of his papers consist of letters written to him, classroom lectures, exams, and miscellanea, the diaries are the best source for understanding the thought of Henry Washington.

THE DIARIES

In physical arrangement the diaries are rather crude; they consist of six variously-sized booklets made up of a total of approximately 250 sheets of paper sewn together. Several of the booklets have coverings of paper torn from contemporary copies of the Richmond Enquirer; Washington entitled these "Essays." Although at some points the edges have been scorched or torn, the diaries are generally in good condition, and they are located in folder 10 of the Henry A. Washington Papers in the Swem Library, College of William and Mary. They were presented by Mr. and Mrs. George P. Coleman of Williamsburg on August 27, 1938.

Even a cursory reading of the diaries reveals that gaps of several to many months appear frequently. Washington seems to have been assiduous at times in keeping his journals up to date by recording entries almost daily; then, for months, nothing will have been written. Two explanations may be offered for this irregularity. More than once, Washington admits that the "vacuum" in his diaries is "occasioned by a perfect dirth of every thing worthy the trouble of recording." It is also possible that other booklets that once existed have since been lost. For example, an undated entry in late 1843 breaks off abruptly at the end of one booklet; the next diary begins in October 1844.

Washington's journals encompass a wide range of interests and concerns. He comments upon such topics as the trivialities of daily life in the city; his opinions of acquaintances and famous persons; the fine points of legal cases; literary and historical topics; and significant national issues. Several entries appear to have been commonplaced from

printed works. The diaries thus seem to have been a repository for any subject on which Washington wished to express himself. Although it is not possible to make any clear-cut distinctions, it appears that in later years, Washington became more concerned with using the diaries as a forum for the lengthy discussion of such subjects as slavery and the acquisition of property by religious societies. From October 1844 on, the booklets are bound in newsprint and labeled "Essays," indicating that Washington presumably felt these entries to be of particular importance; however, because they also contain other material similar to that in the earlier booklets, the term "diary" has been used to describe all the pieces reproduced here.

EDITORIAL POLICY

The original text of the diaries has been followed as closely as possible, but some editorial changes have been necessary in order to provide a readable text. All sentences begin with a capital letter and end with a punctuation mark. Dashes intended to be terminal marks have been changed to periods, and superfluous dashes after periods have been eliminated. Washington frequently used commas and dashes interchangeably within a sentence, and every effort has been made to render these marks correctly in the text here. Washington's proficiency in spelling appears to have been related to the speed at which he wrote, and he often spelled a particular word in varying ways in one entry. These eccentricities have been retained for the most part, but at some points omitted letters have been inserted in brackets when necessary to improve the clarity of a word. The ampersand (&) and "&c" have been retained, but the longtailed "s" has been reproduced as the modern letter. Stray marks and inadvertent repetitions of words have been silently eliminated. Superscript letters have been lowered to the line. Canceled words have been enclosed in angle brackets (< >) and placed before the matter that replaced it. Washington's abbreviations (such as "gent:," "stat:," and "gov:") are generally recognizable and thus have been retained.

Numerous diary entries appear to have been written hastily with many words therein carelessly scrawled. This practice has made accurate transcription rather difficult, and editorial insertion has been necessary at several points. Illegible words that were not conjecturable have been indicated by a space inside square brackets ([]). In his haste,

Washington often omitted words from the text; where these words are conjecturable, they have been placed inside brackets and inserted into the manuscript. In those places where letters were missing because of mutilation, and the meaning of a word was clear, up to four missing letters have been silently supplied.

Washington placed the date of each diary entry at the beginning of that entry, and it has been so placed in the text here. All entry dates are reproduced as originally written, with the exception that they all end with a period. Undated entries, which are separated in the manuscript by a double line from the dated entries preceding them, have been reproduced after the dated material they follow and are indicated by the term "[Undated]." Some probably were written on the same day as the preceding entry, but this is not necessarily true in all cases.

The policy of annotation followed by the editor has a dual purpose: to identify, wherever possible, persons with whom Washington associated in Richmond; and to provide the reader with explanatory information concerning historical events and personages (both well-known and unfamiliar) that is material to an understanding of the text of a particular diary entry. Thus, no footnote appears if a person could not be identified or if identification was deemed unnecessary for a further comprehension of the text.

Definitions of legal terms taken from Black's Law Dictionary and definitions of words obtained from the Oxford English Dictionary have not been given bibliographic citations.

1842

Jan'y 15. Settled in Richmond to practise law. Took board at the Exchange Hotell opened shortly before.¹ Rented a room on Main Street over I. Christian & Co--a few doors above the market. A pretty good location.

Jan'y 16. Had a case given me to day with a contingent fee. It will, in all probability, never take effect, because, as in some remainders, the contingency is too remote.² The weather has been remarkably fine during the last week or two. Mild as spring. I have observed that in some instances the trees have begun to bloom. Saw the Legislature of Va in session for the first time. Though by no means the most august & dignified body that I have ever seen, yet it was much better than I looked for. The reports which I hade heard slander it. It is immeasurably beyond the lower house of Congress in dignity & decency. Mr: Scott is regarded as the first man in the Legislature. Mr: Hollyday ranks next.³

Jan'y 17. Attended a large party at Dr: Watson's. The first one, to which I have been, in Richmond. It was agreeable. The beauty & fashion of the metropolis was assembled. Upon this occasion, for the first time, I was brought in contact with the Miss Bruces.⁴ Not seeking an introduction, I can only speak of their personal attributes. They are certainly interesting--well-behaved women--but nothing more--there were many such present on this occasion. I am firmly of the opinion, that,

was there not "a power behind the throne greater than the throne itself", they would not be the great attractions that they are. They must, however, be women on sense not to fall victims to the flattery which is heaped upon them. They have abject suitors enough in their train. There always will be found a plenty to fawn, when "thrift may follow fawning." I was introduced here to W.S.....--"God meant him for a man--let him pass". I am told, however, that my first impressions are wrong--that he is a man of character & sense. Time will develop. I suspend my opinion for a better acquaintance.

Jan'y 20. The life of a student affords little material for history. His time is spent with books & meditation, & the current of his life is an uninterrupted stream. He who writes his history will have to write a history of the heart--of its passions & emotions--of its towering hope & its abject despondency. Not different is the condition of a young lawyer mewed, like an anchorite in his cell, waiting for practice which never comes. Oh: what a fluttering about the heart there is when a tread is heard upon the stair steps--how the imagination conjures up the shape of a plump Client coming with griss to the mill, & what is the despondency--the disappointment--the deep dejection, when, upon spreading open your welcome door with your politest bow, it turns out to be--your landlord with a bill for last qua[r]ters rent.

Jan'y 25.⁵ Ascend with me, gentle reader, to an eminence, whence, in a single view, you may embrace this happy land of ours⁶ in all its huge dimensions--with its mountains which nurse the clouds upon their tops--its floods which bear upon their bosom⁷ the products of distant climes. Tell me what a spectacle does it present. Does a spirit of harmony

pervade the scene. Do you find men united--<bound together in the bonds of fellowship> inspired by a common patriotism coming forward together hand in hand & upon the altar of this country--sacrificing all considerations of self--all meaner [] objects--all anc[i]ent prejudices--all party schemes of ambition, & engaging in an honorable emulation to develop its resources & advance its honor. Is this the scene which is presented to your view? Or do you not rather b[e]hold stretched out before you a vast battle field--filled with restless & perturbed spirits--marshalled in opposing ranks by the demon of party spirit--exasperated by all the venom of pa[r]ty malice, & <marching> rushing with drawn swords & unfurled banners to the destruction of each. Is not this, gentle reader, the spectacle--mour[n]ful spectacle which our country presents at this time--& is it not to be bitterly lamented by all who have its interests at heart.

And this is the effect of party spirit--the legitimate fruit of party warfare. And yet there are some who have the hardihood to look an honest man in the face & tell him that this state of things is desirable--that it exerts a holsome influence--that it is a check upon usurpation--a safeguard to liberty--a sentinel upon the watch tower & all that catalogue of nonsense which is ever to be found upon the lip of the demagogue. For in what other light can any reflecti[n]g man regard it who looks upon the scenes which are daily transacted around us.⁸ I do not deny that there may be circumstances in which party spirit might be productive of good. All I say is that those circumstances do not exist with us. It may be that in despotisms, or in those governments where the tendency of power is strongly towards consolidation its influences may be salutary. When those in authority know that they are closely watched--that their conduct will be arraign[ed]--their motives impugned

& that they will have to render a strict [account] of all their deeds, it may have the effect of making them more lenient in the use of their power & secure the people from oppression. But in a <government> country where the reverse of all this is the case--where the tendency is rather to anarchy than despotism⁹--where the power which in other harsher systems is concentrated in a single point, is dispersed over a large space--apporti[o]ned among <various> numerous departments--each absolute in several spheres of action--where through the medium of a vast variety of conflicting & clashing interests men are split into factions & marshalled into opposition--in such a state of things, I say, that policy which conciliates & compromises--which seeks for peace--harmony & unity of action & which strives to blot out party lines, to abate party violence to unite men together in the bonds of fellowship & love & to direct their common energies to a common object--will be found to be the policy which will best subserve the interest & advance the honor of the country.

One of the greatest <calamities> curses which party spirit has inflicted upon us is an immense sacrifice of talent <which it has cost us>. He who considers for a moment what a vast accumulate of mental power we have in the country & then how <perfectly> utterly unavailable it is will be furnished at once with an argument against the present violence of faction. Here we have around us the very first spirits of the age--ornaments of the human race--"demigods of fame"--men to whom heaven has been most lavish of its treasures--men of whom Greece or Rome in their palmyest days might have been proud. Here they are--Statesmen--philosophers--orater[s] & poets--sages who wrote & warriors who bled. Men who have dived into the debts of knowledge & made themselves familiar with philosophy & science & wisdom of the world--whose sagacity has directed our counsels--whose fiery eloquence has asserted our rights & who[se]

gallant swords have achieved our liberties. Here they are--as bright a galaxy as ever adorned any land--but not united--not transported by a common impulse--not opposing a common enemy--not battling in a common cause--but divided--b[e]l[ig]erent--victims of party spirit--their almost super human energies expended upon one another--their triumphs won over one another--their disasters--their defeats--their mortifications suffered at each others hands, their laurels plucked from each others' brow. Is such a state of things to be endured. Does it not call for the execration [] of this country; for what land, however rich in such blessings can long sustain such a prodigal expenditure of its mental energies.

But as to the origin of party spirit. Here men will differ in proportion as they are inclined to look with more or less leniency upon their fellow men. Some there are, whose bosoms gushing with the milk of human kindness, feel disposed to place the most charitable construction upon the conduct of their fellows & refer it to the most creditable motives. Such will find its origin in a radical <difference> [di]versity in the opinions of men--to a fundamental difference impressed upon their minds by the hands of their Creator. But we, who, if it must out, have more of gall than honey about us--who are the friends of virtue, but not the apologists of vice--who view things as they are--not as they ought to be--we, I say, who are not over nice or squeamish in the matter who tell plain blunt truths--who speak right out what we think, refer this same thing called party spirit to no such fanciful origin as a radical diversity in the minds of men but to a radical difference in the interests of men. It is interest which in our opinion, is the "apple of discord". Were the interests of men the same--then would the opinions of men be the same. While there is diversity of interests--long will there be diversity of opinion. There is no greater mistake than to represent principle at the

bottom of faction. It has nothing with it. Principles are only used to subserve a given purpose--they are the means not the end--the weapons with which the battle is fought--not the objects for which it is fought. Plunder--power--spoils--emolument--place--these are the objects--the sordid objects. Principles the mere instruments for their attainments. Take any¹⁰ violent partisan in our country & subject him to the ordeal of sever scrutiny--dive into the secret chambers of his soul--tear the veil from the visage of Mokana.¹¹ Drag his hidden motives from their lurking places & my life upon it you will find delusion--sordid avarice--imposture--sordid ambition <beating> circling at the heart. Principle upon the lip of such a man is as prostituted as virtue upon the lip of a harlot.

If there be any character more worthy of detestation than any other it is that of those cringing fawning sycophantic demagogues whose cricket chirp is to be heard from one end of our land to another.¹² The enemies of order--the bitter--uncompromising opponents of the established state of things¹³--covetous of their neighbours goods¹⁴--envious of the wealth & distinction which have been earned by the labour of their fellow citizens. These men would dissolve every thing into primeval chaos, sap the foundations of society, would banish the sweet milk of concord into hell, uproot the universal [] in the hope that in the bo[i]ling & bubbling of the revolutionary cauldron they might be brought to the surface. And what makes it worse all this is transacted in the sacred name of patriotism. Such men vermin abound in our country, & not only so, but they have by dint of deception & flattery & sycophancy &¹⁵ where thrift might follow faw[n]ing, worked their way into places of honor & trust & have then set up for men of char[a]ct[e]r & respecta[bi]lity & in some cases have purchased from [the] world an acknowledgement of their pretensions by a lavish expenditure of their illgot wealth--thus demonstrating fully

the truth of the reflection which Shake[speare] puts in the mouth of [the] King in Hamlet.¹⁶

What do we see transacted daily before our eyes. Do we not behold it bandied from lip to lip in our legillative halls--sacraficed at the touch of temptation--its price set upon it--bartered like any commodity & almost become a byword with our wise men & legislators. Exceptions there are brilliant exceptions--men who have <been tried in the> stood the closest scrutiny & severest tests--who have been tried in the furnace & have proved pure--who have been weighed in the balance & not found wanting & who have been pronounced sterling by the universal suffrage of their countreymen. Under the steady guidance of the polar star of principal--the[y] preserve unaffected by the accidents of change & circumstance, one firm uncompromising line of conduct. Who[se] faith is built upon rock. Upon their names the breath of suspition never rested--at their feet the arrows of detraction have fallen harmless. Their country is their idol, & sacrificing upon its altar all man[n]er [of] groveling objects--all considerations of self, they devote the entire energies of their souls to promote its advance, its greatness & glory. Some such we have--& they are the pride of our land. We should look upon them as the richest legacies of heaven. We have only to regret that they are exceptions.

Not among the least to be lamented of those evils which have been inflicted on the country by party <warfare> contentions, is the extreme licentiousness of the press. Here I wish to be distinctly understood. No one, I assure you, Mr R.¹⁷ can be a warmer advocate than myself for the freedom of the press. I hold <that> in the language of the Bill of Rights that it is one of the bulwarks of liberty, & can never be restrained but by despotic governments & farther, that he who should dare to lay unhallowed hands upon it, should be regarded in no other light than that of

a fool or a madman. But, at the same time that I yield to no one in zeal for the institution, & am fully persuaded of the inestimable blessings which attend it, I yet openly declare myself no advocate for the abuses to which it is subjected. And hesitate not to say, that when I see the daily uses to which it is put--when I find that instead of being pure for the instruction of the world--for the advancement of knowledge among men--for the promotion of virtue:--instead of being confined to the discussion of the conduct of men in high places, & the canvassing of general questions of policy:--when, I say, I find that instead of confining itself to these its legitimate objects it is prostituted to the vilest purposes--that it is perverted into a vehicle for gross detraction--that it is made subservient to the secret ends of malice--& that the private sanctuary is invaded for the purpose of pandering to a filthy public taste, & feeding with scandal the fowll indiscriminating appetite of the multitude,--from being the zealous supporter I am almost tempted to become if not the enemy the doubtful friend of an institution susceptible of such abuses. From being an instrument for the dissemination of truth, it has degenerated into nothing more or less than a pitiful means of subsistence for a vile, hireling tribe, who "eat the bread of prostitution & pander to the low appetites of those who cannot or who dare not cater for their own malignity." To such a pitch of licentiousness has it arrived, that none are so exalted (of that we ought not to complain) nor none so humble as to escape it. Not only is the palace assaulted with the arrows of detraction, but the college is invaded with the torch of slander--the peace of families destroyed--the social circle broken up--& this to grubby individual malignity or to feed the depraved public taste which is not pleased with any thing which has not in it more or less the spice of scandal.

A single word in conclusion. 66 years ago our ship of state was launched upon the high seas--since then many have been her perils--many her hair breadth 'scapes. At the very commencement of her voyage we have seen her struggling among the breakers & the rocks--thrown upon her beams end--the waves fast closing on her decks--her masts riven by the lightning--her sails scattered to the winds; but then she had a <gallant> noble crew on board--men who could laugh the whirlwind into scorn & louder than the voice of the tempest the gallant cry passed round--"Dont give up the ship." They didn't give up the ship. We have seen her survive that awful night & now with her broad stripes unfurled & her streamers floating in the breeze the winds of heaven are wafting her in triumph to her destined heaven. Then there was no mutiny on board. The undivided energies of every man was concentrated upon a single object--& in that consisted the salvation of the vessel. New dangers await her. She has yet to pass the Sylla of abolition & the Charybdis of disunion.¹⁸ And my fervent prayer is that when the crisis arrives there may be no jealousy no heart burns or dissention among the crew, but that every man may be found at his post, & prepared to make any sacrifice which the occasion may require.

A word in conclusion. It would be <useless> unnecessary, Mr R for me to say I am no party-man. I <pride> flatter myself that I stand upon an oasis in the fiery desert of politics, nor, if I know myself am I likely to leave it soon. During my childhood I imbibed prejudices against party-spirit. When for the first time I read with thrilling interest the story of our revolutionary struggles, & as I advanced in the history of my country I found it a glowing picture of the blessings of Union on the one hand, & of the evils of faction on the other.

But how. The tale is a simple one. She had a gallant crew on board & they were united. They had sworn to save the vessel--to this their

individ[ual] energies were directed, & amid the strife of the elements, louder than the voice of the waves.

View it in whatever light you will party-spirit is fraught with evil to our country--it is the rock upon which our hopes are destined to be wrecked. Already it has proven a "root of Upas".¹⁹ The fruits which we have reaped have been dissention at home & disgrace abroad. Under its influence have been enacted scen[e]s which have left an indelible blot upon our name--which have made us the laughing-stock of Europe, & placed on the lips of kings another argument against the capacity of man for self government. But its influences are not only felt (at home) abroad. They are felt at home--they are felt in every vein & artery of the social system--they are felt in every department of industry--by the merchant--the mechanic--the farmer--the capitalist--in ruined commerce--in prostrate credit & in that deep seated lethar[g]y which seems to have seized upon body politic in all its members. The constitution of the country is shattered--& nothing but repose can restore it. We want peace. Nothing else will do. It is time to bury the Tommyhawk. War to the knife blade has been the cry long enough. The country asks for a truce--for a cessation of arms. For 20 years it has been the prey of faction. Let the contending armies rest for a while on their laurels & give the nation time to collect its scattered resources. It is all she asks. She has talent, energy, & immeasurable resources--all the elements of greatness. It is only nec[es]sary that they should be properly directed. And He who deserves & will receive most at her hands is the man who advocates peace--concession--compromise--union & seeks to combine the energies of the country & direct them to the advancement of national honor & national glory.

[Undated]. Formed the acquaintance of a Mr: G._____. I regard him as a man naturally of a sprightly mind. With industry & perseverance, he might have risen to eminence. But, unfortunately, the system of education which he has pursued, is ill adapted to the character of his intellect. With a rich--sprightly fancy, & a spirit indignant of restraint, & <governed> the complete child of impulse, his education has consisted rather in gratifying his natural propensities than in checking them, & presenting strong wholesome food to the mind. Had he subjected himself from youth to a severe course of study, had he made himself more acquainted with books containing useful substantial information, & less with books of fancy, had he, in fine, dealt more in reality, & less in ideality, he might have been another man. As it is, he is certainly a brilliant man. And this is particularly the case in his conversation, the powers of which he possesses in a remarkable degree. It is upon first acquaintance that you are most struck. If you a[re not] dazzled by the first blaze, you are safe for the future. His conversation will not bear the ordeal of severe scrutiny. You find after a while that it does not flow spontaneously--but is forced--that there is an unremitting effort for effect & that he must be brilliant, at whatever cost. Hence you find him the advocate of no settled principles, but ever changing to suit circumstances--always espousing those which at the moment may give him an opportunity of exhibiting himself to greatest advantage. If by espousing a particular principle, he thinks he will be able [to] make a pretty speech, or to round a sentence, or point a retort, you will not find him hesitate. If he <were more concerned> relied more on an inward sense of superiority & were less concerned about impressing others with that idea, he would be better both for him self & his friends.

March 9th. This is doomsday for many a poor soul. The Bruces make their exit--hearts unscathed. What hard-hearted creatures they must be. And many pitiable fellow[s], who for the last four months have been "courting an amorous looking-glass", and spending their fortunes on their back[s], are now to be found in the "slough of despond". I met Mr: S. the other day who looked like the personification of a Sigh. I am afraid it is "all up with Squeers" in that qua[r]ter. I hear he has announced his determination to commence hard study, & suggested at the same time, that by possibility, it might have been well had he been doing so all along. And there is Mr W.--we must not forget him. The poet has said

"Twixt woman & wine man's lot is to smart
The one makes his head ache, the other his heart."

Mr: W. is an exemplification. His potations, poor fellow, are quite deep lately--but only to drown love. Nothing else. He finds in whiskey punch a "sweet oblivious antidote" for all his cares. Judging from the frequency of their intercourse, I should infer that quite an intimate frien[d]ship had sprung up between them. Nor is he so very wrong after all. A whiskey punch is not to be hooted at. It is passport to a good deal of happiness--I will speak of the misery next time. It is a kind of panacea--certainly the balm of Gilliad²⁰--there can be no doubt of that. How many diseases of heart & mind does it not cure. How contented it makes one with him self. I never knew a man who after three or four "bumpers" had not the approval of his conscience. Not only is he pleased with himself, but with every one else. It infuses into the heart a kindly sympathy for our fellow men. I never have met with a man who could sip a half dozen punches--however much of gall & wormwood, he might have about him, that he did not become pro tem: a philanthropist,

& may I not add, a philogenist also. And what if we do find a serpent coiled at the bottom of our cup, the venom of whose fang will distil itself [in] the veins & arteries of our system, [] it matters not. If we have the bane, we have the antidote also. So what is the difference. At least thus thinks Mr W.²¹

[Undated]. Should Gen: Jackson's fine be remitted?²² This case seems to me to resolve itself into a single question. Can an American general, under any circumstances, declare martial law. For if he can, then I maintain that he is to be the judge of the circumstances under which it should be declared. If a general can under any circumstances suspend the regular course of law & supersede the regular constituted authorities of the country--then must he necessarily be the judge of those circumstances. Nor is he responsible to any other power than that which appoints him, & to which he is responsible for every act he does in his official character. I cannot conceive any thing more idle than to say that a general has under particular circumstances a right to supercede the civil authorities & yet that the civil authorities shall have the right to judge of the circumstances under which this power should be exercised by the general.²³

It is in fact to substitute the judgement of the civil authorities, in a matter purely military, for that of the general--to deprive the general of the power of declari[n]g martial law unless the civil authorities should see fit to coincide with him in thinking that it should be declared. So that however strong the case might be--though, in the opinion of the general, it should be necessary in order to prese[r]ve the life & property of the citizens--yet unless the cooperation of the civil authorities could be procured, he could do nothing more than make an

empty proclamation which the civil authorities might obey or not, as they saw fit. This is altogether opposed to my view of martial law, & the conclusion to which I have arrived is that if a general has the right to proclaim martial law <under any circumstances> at all he must be the judge of the circumstances--accountable only to the power which appointed him for the proper exercise of the power. From the necessity of the case, the individual or body of individuals with [w]hom this power is lodged, he or they must be the judges of its proper exercises. In Russia it is vested in the Emperor--there he judges. In England prior to the Revolution of 88 it was vested in the King--there he judged--since that period by the Bill of Rights it is vested in parliament--now they judge. With whomever the power is lodged--there must be the power to judge in refe[re]nce to the circumstances under which it should be exercised. If therefore our general at N. Orleans had the right to proclaim martial law at all he had the right to judge of the circumstances under which it should be proclaimed, & Judge Hall was obliged to submit to that judgement. Whether he was right or wrong, under the circumstances, of the case, make no difference. He was the sole judge, & nor was it for Judge Hall to gainsay his []].

I therefore say that in the view which I take of this <question> case it resolves itself into this simple question--can an American general under any circumstances suspend the act of habeas corpus by declaring martial law--for if he can, I hold that he is the judge of the circumstances. But can he under any circumstances? I think not. I do not believe that it was the intention of the framers of our govmt to intrust any such vast & undefined power in the hands of any man. If indeed there arises a state of things when it would be necessary to suspend the regular course of law, & supersede the constituted authorities --

the legislative departmt is to be the jud[g]e of that necessity. That department alone which makes the laws has the power to suspend them.

[Undated]. There [is] a party in this country who seem to look upon government as a sort of panacea--who seem to entertain the most romantic views in reference to the objects for which it was instituted--the duties which devolve upon it, & the powers with which it should be invested.²⁴ It is not enough for this party that government should simply protect the persons & the property of its citizens--the two great objects for which government was instituted. Extending the sphere of its functions far beyond this, they would make government a sort of Jack-of-all-Trades--an architect--a merchant--a banker--in a word, a sort of Paul Pry, prying into every man's house--spending his money for him--manufactu[ri]ng his opinions--doing every thing for individuals, & leaving individuals nothing to do for themselves. The principle upon which this party seems to proceed is that no man can do any thing for himself as well as government can do it for him, & they, therefore, argue that that government is best which does most for the citizen & leaves the citizen least to do for himself. Now grant to these gentlemen their premises & their conclusions indisputably follow. Grant them that government is this thing of inspiration which they suppose it to be--that it has both the wisdom to discern the right & the virtue to pursue it--grant that government understands the interests of its citizens better & will advance them better than they will themselves, & the inference is indisputable that that government is the best the sphere of whose functions is the most enlarged, & whose direct influence penetrates in to every thread & fibre of the social system. But, as I humbly conceive is the case, the reverse of all this shall be found to be true--if it shall be found

that government, so far from enjoying a monopoly in wisdom & virtue, is somewhat of a tyro in the one & a libertine in the other--if it shall be found that government is the worst engineer in the world--the worst merchant in the world--the worst banker in the world--if, above all, it shall be found that individuals understand their own interests better & can advance them better than government can for them, why then I hold that government to be best which confines itself most rigidly to the objects for which it was instituted & which is least infected with the itch of intermeddling. Believe me, it is not by the intermeddling of the would-be omniscient & omnipresent government, as these gent: would have you believe, but by the enterprise & energy of her citizens that the United States has been hitherto carried forward with unprecedented speed in the carreer of civilization. And to the same energy & the same enterprise that we must look for the future if we would realize similar results. In the mean time we hold that <the> our rulers will best promote the interests of the people by confining themselves regidly to their own legitimate duties--by leav[in]g capital to find its most lucrative channels--commodities their fair price--industry & intelligence their natural rewards--idleness & folly their natural punishment--by maintaining peace--by protecting our persons--by protecting our property, & by obse[r]ving a rigid economy in the administration of every department of govrt. Let the Government do this--the people will do the rest.

May 10th 1842. This City is at this time the scene of a very remarkable religious reformation. The number of those who have made profession of Religion <are remarkable> is very great. Nor is it confined to any particular denomination. There seems to be an enthusiasm upon this subject abroad generally in the public mind, & all the sanctuaries are

crowded with attentive audiences--men deeply impressed with the truths of religion & with their senses for the first time keenly awakened to the realities of eternity. The conversions which have taken place are really astonishing. They have been among all classes of our citizens--none without some representative at the altar. The merchant--the mechanic--the farmer all were there--the profligate--steeped in his debaucheries--the sceptic, who had denied the existence of a God--the moral man--who had trusted in his morality but now finds it a "broken seed"--the timid maiden whose sins have no existence save in her own excited imagination. Much good certainly has been done. But whether much evil is not to ensue, I regard, to say the least, as extremely problematical. I have always been disposed to question the ultimate benefit to be derived from unnatural excitement. During its existence, it does good, provided it be in a good cause. But, so far as my observation has extended, it has invariably been attended by a relapse--productive of much more evil than the excitement had been of good. An apathy seizes upon the minds of the commun[i]ty, & those who but a moment before were keenly alive to every breath of excitement, seem now insensible to the most thrilling appeals.

May 11th 1842. Robert Howison starts tomorrow for Fredbg, having abandoned the profession of the law to join the ministry.²⁵ He was doing well in his profession, & with the talent & untiring energy which he possessed, must have finally succeeded. The step which he has taken can only be justified in one point of view--that of an imperative sense of duty. And it is upon this ground that he justified himself. He says that he feels that he should live but for one object--the service of God, & that he is persuaded that his efforts will avail more in the

sphere of the ministry than any other. Seddon²⁶ undertook to remonstrate with him upon the falacy, &, particularly, the rashness of the step. He only asked that he would take time for reflection, & not, in the ardour of enthusiasm, take a step, which would be irretrievable, & which he might have occasion to regret. He stated to him that he had once himself been under the influence of feelings such as then governed him, & would, possibly, but for the advice of friends, have acted under them; but he gave himself time, & they left him with maturer reflection. Howison afterwards told me, in a conversation upon the subject, that he regarded Seddon's apostacy, as he termed it, one of the strongest arguments which could be presented to him why he should, now that he felt the disposition, take the contemplated step. His idea seemed to be this--that he was then certainly in the right--he would not allow himself to question that--& such being the case, it was best that he should take such steps as would ensure his keeping in the right--that he should remove himself as far as he could from the sphere of temptation, that he should interpose barriers between himself & the world, & secure himself against the possibility of relapse into error. Having entrenched himself in this position, it was, of course, impregnable. The remonstrance of Seddon could effect nothing. He advised with me in reference to the propriety of the <step> movement. I told him that, as far as policy was concerned, in the worldly sense of the term, nothing could be more impolitic--that it could be regarded in no other light than as a sacrafice; but that if it was a sacrafice which he felt himself imperatively called upon to make--if he believed it to be his binding duty to devote his entire energies to the service of God, & he thought that he could serve him more effectively in that sphere than any other--

why then it might be justified & not otherwise. That was the ground upon which he rested it.

May 12th. Doct: Selden was married yesterday evening to Miss Durthard. The Miss Watsons (Miss Julia & Caroline) started down on Wednesday to attend the wedding. Upon getting some ten or twelve miles from town, they found that they had been robbed of their trunk, containing all the finery which they had prepared for the occasion. This compelled them to return. Black Mason, upon hearing of the calamity which had befallen them, immediately set out in search for the lost treasure. His efforts, however, were unavailing. Such galantry is worthy of all commendation.

I was present today at an argument in the Hustings Court in which the question was as to the effect of a stat: which was introduced to the Legislature by Robert Carter²⁷ & was adopted upon the last day of the session, which says that "In all recoveries hereafter to be had under the gaming Laws, ten dollars shall be assessed for the Commonwealth's Attorney & thirty dollars for the Commonwealth." It was contended by Seddon & Stanard²⁸ (counsel for the prisoner) that this statute repealed all preexisting penalties under the gaming law--those inflicted upon the Exhibitor, as well as those upon the player--that it was not confined, in other words, to the fifth section of the Act, but extended to all the sections. The ground upon which they contended for their construction was the broad language of the statute--"In all recoveries &c". They were, however, overruled both by Court & Jury. They have taken it to the Superior Court. Although I think there can be no doubt but that it was the intention of the Legislature to legislate in reference to the fifth section alone, yet I think there is a very good ground to contend, upon a fair construction of their language, which is exceedingly

broad, that the Law of March 1842 has repealed <all> the penalties recoverable under all the clauses of the preexisting law--those applicable to Exhibitors as well as to players.

May 13th 1842. On last Sunday an argument sprung up between Morson²⁹--Seddon & myself about Bulwer's new novel, Zanoni.³⁰ We all agreed in reference to the merits of the work--that it was a transcendant effort of genius. The point of difference between us was in reference to a charge of inconsistency, brought against him by Morson. It was this. The wonderful powers & mysterious influence of Zanoni are referred to magic. Magic, the author defines to be nothing more or less than a higher order of science. It was by means of science then that Zanoni accomplished what he did. The instruments which he employed were agencies existing in nature, but which were concealed from the mass of men because of the absence in them of those qualities of laborious research, & enthusiastic devotion in the pursuit, which are necessary to their attainment, but which he had possessed himself of by virtue of the appointed means of arduous labour--intense study--self-denial, & the entire energies of a soul directed to a single object. Having, thus, placed him self in possession of these agencies, he should have the same power over them that the Natural Philosopher or Chymist has over any agencies within the sphere of his Art. Now the inconsistency charged is this--that having <placed> attributed Zanoni's powers to magic, & having placed magic upon the ground of a science, he afterwards makes a sublimated & abstracted existence, untainted by any of the alloy of human passion or human weakness--the sole condition of the tenure of that power, which <abandons> fails him as soon as he abandons that mode of life which had first placed it at his disposal, & attempted to direct

it to worldly objects. Now this, it is charged, is inconsistent with the hypothesis that magic is a science; for the agencies of science are held upon no such conditions, but which once in the possession of a man are not dependent upon the mode of his existence & may be exercised for good or for evil.

Seddon contended that we were wrong in supposing that Bulwer intended to refer the powers of Zanonni exclusively to the use of physical agencies. That intellectual agencies were in his employment, & that the duration of these were dependent upon his perseve[r]ing in that mode of life which had placed them at his command. That it was only the physical agencies which were placed upon the footing of a science, & that these did not abandon him after his fall; but only the intellectual agencies, which were dependent upon the mode of his existence. The difference then resolves itself simply into an issue of fact. Does Bulwer refer the powers of Zanonni simply to magic which he defines to consist in an acquaintance with those agencies, which exist in nature but are concealed from the herd because of their ignorance, or does he refer it to a combination of physical & intellectual agencies, the latter of which only abaandoned him after his fall. If the first be the case there is an inconsistency--if the latter, there is none.

May 14th. Went last night to a May Ball at George Taylor's. A handsome affair. A Miss William's was Queen. I met there for the first time the youngest Miss Ritchie. She is certainly very beautiful. Miss Betty Robertson was there too--the sweetest thing in Christendom. It would be very hard to tell to which to assign the palm for superior charms. The order of their beauty is so different--that you cannot compare them. Steger returned with his bride the other day from Amelia.

It requires great moral courage for a young lawyer to marry during these hard times.

May 15th 1842. Heard Chapman Johnson³¹ for the first time in Stainback vs The Bank of Virginia. His argument I thought very able. There is much more of the Orator about him than I had expected to find. With an exceedingly fine person, a powerful but melodious voice--& an air of impressive earnestness, which leaves no doubt as to the sincere conviction of the <prisoner> speaker, whatever he says comes with peculiar force. Although the question upon which I heard him was a dry point of law, yet there was <so much> such distinctness in the annunciation of his propositions--so much logic in his deductions--& such symmetry and arrangement in his whole argument, as to render it in a high degree interesting. His mind seems to be unimpaired by age. It appears to have all the vigour and freshness of the prime of manhood.

Heard a sermon to day from Mr: Norwood³² upon the text "We will serve the Lord". One of the ablest sermons I have ever heard from him. It was the day appointed for the administering of the sacrament of the Lord's supper. There were thirty four new communicants. The excitement in the religious community still prevails. The conversions are really astonishing.

May 16th 1842. I have now known Morson for nearly three years, & think I understand his character with all its intricacies, of which there are no very few. The great leading principle of his character, that principle which gives tone to it--which distinguishes it in every variety of place & circumstance--which may be traced in the minutest details of his life--to which may be refered whatever he does--whether eating or

drinking--walking or riding--in the street--the court green, or the Ball room--that principle which follows him as the shadow does the substance--is the desire to appear upon all occasions the exquisite gentleman--the Pelham³³ of the circle in which he moves. It is from this principle that his character, at all times & under all circumstances--in all variety of development--in its minutest detail, receives its light & shade. To it may be referred his virtues & his failings--a liberality almost carried to a fault--a boon companionship--a bravery not to be questioned--a mild & courteous manner, & a high-toned sense of honor--but at the same time an undue deference to form--an importance attached to trifles which does not belong to them, & a particularity--a squeamishness which makes for itself an artificial standard, & condemns indiscriminately every one & every thing which does not come up to it. This often leads Morson into error as to others, for not finding in them those qualities which are necessary to bring them up to his standard, & which are at best but mere appendages to a man, he immediately imbibes prejudices against them, which renders him blind as to their real merit.

For example--there seems to be nothing which he holds in such utter contempt as a plain honest--unassuming man--but without a polished exterior, & with little of that grace & elegance of manner which the world & intercourse with the best society alone can give. But show him one of your finished gentlemen--a man of the world--with the advantages of a fine person & a good address--but yet whose character could not stand the ordeal of the severest examination, nor whose principles appear any the better for being scrutinized, & provided his infirmities are not too flagrant, he will be inclined to wink at them because of those qualities which lie upon the surface.

May 17th 1842. Removed to my new office next door below Smith & Van-
lew's new store. I think the change which I have made well advised,
although attended with some little pecuniary sacrafice. The objections
to the old office were numerous. In the first place, it is the dirtiest
hole that ever a decent man inhabited, & must have been <the> excessively
warm during the summer--being exposed during nearly the entire day to
the full glare of the sun. I also think, (& those with whom I consulted,
agreed with me) that it was too far down the street for business, &
would become worse & worse every year. My present possition is much
more central, & is in the most thriving portion of the town. Nothing
but ignorance & the direst necessity forced me into the old office.

May 18th 1842. I was writing something an evening or two since about
the character of Morson. There is not the same difficulty in portraying
his mind that there was in his character. Its great faculty is in its
memory--to which may be refered a considerable fund of useful & curious
information. I have seldom met with one who acquired knowledge with
greater facility. Even the dryest & most tecnical sciences, he easily
masters. And not only does he learn, but he appropriates the products
of the labour of others. He makes them his own--they are available to
him. And in this consists the interest of his conversation--in which the
memory is the most active faculty. With but feeble powers of invention,
& an imagination any thing but fruitful, he <was> is enabled, by means
of a faithful memory & a good taste, so to relieve his conversation with
curious fact, & the witty sayings of others, as to render it very enter-
taining. In originality he is deficient. So far as the road has been
explored, he finds no difficulty in climbing to whatever elevation it
may lead. But let him once reach its termination & be ushered into an

unexplored region--where no traveller has been before & there are no landmarks to guide, & you would soon find him inextricably involved in its intricacies. He has, therefore, one of those minds which can easily keep up with the age, but which can never go ahead of the age. He will follow another--however foggy his aspirations, whether leading to the mazes of metaphysics, or the elevations of science, but he will never be the one to take the lead. In that faculty which suggests--invents--combines--he is deficient.

May 19th 1842. The remarks which I have made above are, I think, confirmed by what I remember of Morson in our little debating society in Frederickbg.³⁴ In the selection of the question, he always insisted upon choosing one which had been much mooted--upon which able men had written--in order that he might have the assistance of their labours in preparing his arguments. If at any time it so happened that a question entirely novel in its character was proposed--one upon which nothing had either been spoken or written by others, but in the discussion of which he would have been thrown entirely upon the inventive faculties of his mind--he invariably opposed it. All the arguments which I have heard from him are to be regarded rather as tasty compilations of materials collected during his reading, than as the suggestions of his own thought.

In judgement (by which I mean that portion of the understanding which pronounces upon whatever is presented to it, either accepting or rejecting it) I think he is rather deficient than otherwise. In this, however, I believe I differ from most of his friends. He appears to me not to view things in their most natural point of view--in that point of view which is most glaring & palpable--but to distort them--to look at them in false lights--to draw metaphysical hairbreadth lines--making

distinctions where there are no differences--in a word, to act the part rather of an advocate, who has a case to make out, & so to torture & pervert facts as to reconcile them with the hypothesis which he has to sustain, than of the Judge whose decision is based upon a fair & impartial view of the evidence. I have known Morson deliberately to come to some of the most remarkable results by the most extraordinary processes.

May 24th 1842. The reason of this vacuum in my journal is--that I have been employed for the last two or three days in preparing for the argument of Neal's admr³⁵ vs Lygon, which, it is possible, may be tried in a few days. Also in preparing a declaration in the case of Rogers--Ketchum & Grosvener vs The Richmond Manufacturing Co:, which is of some importance, as the amount is considerable. I am indebted for this last case to Mr: Bentley who was so kind as to refer Mr: Hall, who was the agent for the plaintiffs to me. During this interval, however, nothing of interest has happened. The news has just arrived here that Doct: Johns³⁶ has been appointed assistant Bishop in this state--very much to the dissatisfaction, it is rumoured, of the friends of Mr: Norwood. If there be no impropriety in conferring the appointment upon one living out of the State, I really think the selection very judicious. So far as personal qualifications go, Doct: Johns has decidedly the preference. He has high pretensions to eloquence.

May 25th 1842. There was a great Cattleshow to-day. James M. Garnett,³⁷ as usual, presided, & inflicted upon the assembly an address of an hour, or so. I am told that the crowd collected was immense, & in it a great many ladies. The exhibition, however, contained nothing interesting. It abounded more in pigs than any thing else.

There is a custom prevailing here in the fashionable world which I find it impossible to approve. I allude to that custom, which makes it necessary that you should first pay a visit before you can expect an invitation to any place. I cannot but think that this is grounded in a false idea of propriety. In the first place, in what other light can it be viewed than as a premium held out by the lady for visits! Is it not virtually a proclamation to this effect--If you will call on me, I will invite you to the next party I give, but if you do not put yourself to that trouble, I will not. And again, observe in what a situation it places the gentleman, when every visit that he pays a lady is liable to be construed into so many efforts upon his part to secure invitations to her parties. Is there not something in this repulsive to the finer feelings of a man. But there is another objection to this custom. It takes away, in part, that power to select her company, which a hostess should always preserve; for, having made a previous call, the condition upon which a person's right to an invitation rests, all those who bring themselves within the conditions are entitled to it. The consequence is that whoever calls must be invited, whether his society be agreeable to the lady, or not, or offence is given. The custom is founded upon a false idea of delicacy.

May 26th 1842. Mr: Samuel Scott of Caroline marries Miss McGruder of this place tonight. Morson waits on them, who is to supply Seddon's place.

Seddon paid me his first visit this evening. We had long conversation, which comprised a little of everything, but much of love--that is, the art of love-making. The principal burthen of it was in reference to the course to be pursued by a person who wishes to engage the

feelings of a lady. There was no difference between us. We thought that love was predicated upon esteem, & that the gentleman must so demean himself as to gain the este[m] of the lady, whose love he would secure. That in order to effect this, there was no better way than always to approach her with an air of respectful deference--so as to impress her with the idea that you understood her character & appreciated it. This which is particularly true in reference to ladies, is also generally true. That the surest way to secure the esteem of others, is to impress them with the conviction that we esteem them. This led us to speak of the bad success which Doct: Minor is said to have met with in his advances to Miss Julia Watson. We both thought that the course of conduct pursued by him was impolitic--that of invariably laying aside, in the society of ladies, every thing like seriousness, & studiously assuming a light--frivolous air--playing upon purpose upon all occasions the part of a jester. The tendency of this course was to exhibit him in the wrose point of view by concealing his really strong good sense & decided character. We thought but for this impolitic aspect in which he always presented himself in society, that his suit would have been more favourably received.

May 27th 1842. I have a neighbour next door now--he moved here to-day. A Mr: Jeffries. Who he is, or what his business is--I know not. I hope he may prove a pleasant neighbour.

May 30th 1842. Mr. Johnson concluded to day the argument in the case of "The Heirs of Marks vs Abrahams.["] The case has occupied seven days of the court in its trial. It is a writ of Right³⁸ brought by the heirs of Marks against Abrahams to recover a lot in Richmond (No 8). And

ejectment³⁹ had been previously brought in the same case, but it was barred by Stat: limitations. The demandants were therefore thrown back upon their writ of Right. The tenant relied upon adverse possession⁴⁰--the demandant upon a regular deduction of tittle from John Mann Randolph. The tenant contended that this tittle exhibited by the demandant was deficient in two important particulars--that there are two links wanting in the chain. First that they trace their tittle up to Randolph, but are unable to fix the tittle in him. They could not show that R. had such a right to the property as to justify him in conveying it as he did. This deficiency the d[e]mandant attempted to supply by asking the court to instruct the jury that they might presume a conveyance⁴¹ from the trustees of Bird, who held the lot under a grant from the Crown, to R. The court gave the instruction that they might presume a conveyance. But it was contended that although they might do so, yet that it was not obligatory upon them to do so, & it was for they jury to say, whether with the evidence which had been laid before them, they would presume a conveyance--whether it would be reasonable for them to do so. Secondly--that the chain of tittle was broken, inasmuch as at the time that one of the deeds, which the demandant exhibits as part of his tittle, was made, the ancestor of the tenant was in adverse possession of the lot, & that therefore this deed conveyed nothing. Here an attempt was made by the counsel for the demandant to procure an instruction from the court saying that although this deed conveyed no tittle as a deed, that yet it conveyed tittle by means of the Estoppel.⁴² This, however, was successfully resisted by Mr: Johnson upon the ground that the Estoppel only operates between the parties to the deed, & their privies, & not between mere strangers. The demandants contended at the final trial that the possession of the tenant was not an adverse possession. I have not learned as yet what was the verdict of the Jury.

May 31 1842.⁴³ The life of a student presents very little incident for record. Day after day brings with it the same routine of duty. Weeks glide away, but no change comes to disturb the monotony of his life. Those unforeseen circumstances--those little thrilling incidents & even casualties, which are continually darting across the path of the man of the world, & which serve to impart to it an interest & excitement, are seldom known to pass the threshold of his study. That is a sanctuary sacred to the communion which he holds with his own thoughts, & with those who have enriched the world with the fruits of their wisdom & experience. Here he lives to himself, in a great degree, isolated from his fellow men, inhabiting a world of his own creation, unaffected by the busy current of life which is flowing around him. Poets have vied with each other in praising this mode of existence. They have spoken of it as the happiest of which man was susceptible--as that best adapted to rational creatures--when we are not dependent upon external objects for our happiness, but carry within ourselves the sources of our felicity. Now after some little both of reflection & experience, I have come to the conclusion that the felicity of this secluded life exists rather in the imagination of the Poets than in the truth of the case. He who rests his hopes for happiness in the mere acquisition of knowledge, will find himself baffled in the pursuit. Knowledge, sought simply for its own sake, leads, I am sincerely persuaded, to inevitable misery. It is the rock upon which the happiness of many a man has been wrecked. It is only when it is sought as a means to an end--as an instrument to accomplish ulterior purposes, that it ever fulfils the expectations of its devotees. The true secret of happiness is in action--action.

June 1st 1842. Weather remarkably cold. The Superior Court engaged in trying several cases, in all of which the James River Company is defendant. They were instituted by those Mills in the city, which had made contracts with this company to furnish them with the water necessary for their milling operations, & which it failed to do during the space of about a year, during which time they were making some improvements in the canal, & were compelled to drain off the water for that purpose. These suits are to recover damages for the loss which they sustained during this period. The damages are laid at several hundred thousand dollars.

June 2nd 1842. Heard Doct: Alexander of Princeton preach to night.⁴⁴ He is truly a great man. Although arrived now at a very great age, his mind seems to retain its vigour but little impaired. Whatever it has lost in vivacity, it has been richly compensated for in discipline & experience. Never have I seen in any one greater facility & aptness of illustration. His power of tracing resemblances, & bringing them to bear in the elucidation of his subject, is surprising. They seem to flow in from all directions--from the world of nature & the world of art. Every science, every art. Every department of human knowledge seems to be a fountain of illustration. Even the trades are made tributary to his purposes, & lowest departments of industry are made to furnish resemblances & analogies which, from the grace & appropriateness of their introduction, explain & beautify his discourse.

His manner is most peculiarly persuasive. His sermons are just as if a Father was talking to his children upon some subject which deeply interested him, & was persuading them to some course of conduct which involved their happiness. He must retain his memory to a surprising

degree. Never have I met with one who seemed in possession of a more valuable accumulation of facts. His mind seemed to be a store-house, in which is collected a vast assortment of the richest & most curious wares--all arranged with the most perfect system. And it is hence that I derive his singular facility of illustration, aided by a vivid & chaste imagination. His distinctness of articulation is remarkable for one so old. I have made these notes, because it is the last time that I expect to see this venerable character. The evening of his life must be rapidly drawing to a close. He is now past his three score & ten--the time allotted to the life of man. He must soon change this for another & a purer state of being, &, if there ever was in this world a spirit attuned to the melodies of heaven, it is his. That which marks the dissolution of the soul & body of such a man can be no sudden shock--no violent convulsion--but mild transition--a gradual wafting, as it were, of the spirit to the paradise prepared for it.

"To sounds of heavenly harps he dies away
And melts in visions of eternal day."

June 3. 1842. A discussion sprung up this evening between Seddon & myself in reference to the moral of Bulwer's Novels. I contended that the moral was bad. That generally the character of his heroes was stained with some heinous crime or vile []--some palpable & flagrant violation of the laws of morality, or a contemptuous disregard of the established order of things. That yet connected with this admitted crime or vice, there was such an assemblage of virtues--so many qualities combined with them to command respect & elicit admiration, that the crime or vice became merged, as it were, in the virtues, & attracted by the beauties & fascinations of the character, we either lost sight of the defects or,

if we did not lose sight of them, were inclined, if not to justify, at least to excuse them & that by these means vice & crime were divested of their natural deformity, & presented in an aspect which could scarcely fail to fascinate. His reply was, that there was a distinction to be taken between the moral of a book, & the effects of a book. That what I have been describing was the effects of Bulwer's novels--not their moral. The effects he admitted were bad, but the moral, he contended, was pure. He illustrated his distinction by reference to Paradise Lost. There the moral would be admitted to be pure, but the effects were any thing but salutary, & probably the very reverse of those intended by the author--for Satan, in the character in which he is there portrayed, forces our respect & admiration. We cannot for the life of us, withhold our sympathy from that firm resolve--that unshaken purpose--that daring, immutable fixedness of <purpose> soul which nerves him against the tortures of his prisonhouse. And thus, from admiration & sympathy for that brilliant assemblage of qualities which still clustered around his characters, we either lost sight of the heinousness of that offence which occasioned his fall, or are willing to extenuate or excuse it. The effects then of this poem were decidedly bad, while the moral of it would be admitted to be good. Thus, he contended, it was with Bulwer's novels. The moral good, but the effects bad. And it was only for the moral that he held him responsible, as evincing the object for which the book was written. The distinction which Seddon here takes between the moral & effect of a book may certainly be sustained. The moral of a book is that principle which it inculcates. Now the principle inculcated may be good, but the means of inculcating it pernicious. The works of Swift furnish an illustration. The principles pervading them are pure--the motives which prompted them good, but it is yet a

question whether the means employed were not injurious, & whether he did not thus prejudice, rather than advance the cause which he espoused.⁴⁵ The distinction may, I think, be sustained, but it is as to its applicability to the case of Bulwer that I have doubts. I am inclined to think that both the moral & the effect is bad. The effect, in the means which he sometimes employs, as in that fascination which he throws around the intercourse of Multraws & Alice, & the moral, in the principles inculcated, which are oftentimes in utter violation of the laws of morality, or in contempt of those elements which constitute the basis of society--as in the case of Paul Clifford.⁴⁶

The same distinction was taken [between] the works of Scott⁴⁷ & Bulwer, which exists between Hamlet & Macbeth--the one a vivid delineation of the human heart & an analysis of its motives--from whence we infer actions--the other a powerful narrative, or exhibition of the actions of men, whence we infer motives.

June 4th 1842. Visited Miss G.....w this evening. She is rather an intelligent woman. She thinks that self-knowledge is more prevalent than is generally supposed--that every woman thoroughly understands her own character & disposition--& is conscious of those qualities in which she excels, as well as of those in which she is deficient. From this intimate acquaintance which she believes every woman to have of her own nature, she arrives at the conclusion that compliments (which she defined to be just tributes to the actual merits of a lady) were more potent weapons in the hands of gentlemen than flattery (which she described as praise bestowed where it was not deserved--something over & above the actual merits of the lady). Their knowledge of their virtues & their faults--of that wherein they surpassed & of that wherein

they fell short, enabled them to distinguish between the two, & to detect the lurking irony of the latter; for she regarded flattery in no other light than as a secret, cunning satire. I differed with her as to the relative efficacy of these two mediums of introduction into the good graces of the ladies. The difference of opinion upon this point arose from a difference of opinion upon the other point of self-knowledge. I was not disposed to concede to the fair sex that intimate familiarity with their own characters, which she had attributed to them. I thought that, like men, they were liable to be deceived in their estimate--at least blind to their faults, if not ignorant of their virtues. That their vanity often attributed to them gifts which they did not possess, & qualities which had no existence save in their own imaginations. If I be correct in this it follows that flattery must be a very powerful lever when brought directly to bear upon self-love & vanity--those two weak points in the female character. For not having such an acquaintance with their own natures as to detect the truth or falsity of the praise, their self-love or vanity is always at hand to appropriate it for them, & to persuade them into the belief that they really deserve it. Indeed, so potent are these two principles in the female breast (may I not say, in the human breast) that there are few things so palpable that they will not digest. And again, a compliment is but the tribute paid to merit--we feel that it is due to us & that we have a right to demand it, & therefore we do not feel that it is incumbent upon us to be thankful for it when it comes; for we look upon it in the light of a debt discharged. Not so with flattery--it is something gratuitous--we do not feel that it belongs to us--we regard it as a free & voluntary offering upon the part of him who makes it, & therefore receive it with more favour than that which we look upon as something justly due us.

Musquitoes are the spirits of departed coquets--Seddon. Maphet, the great Methodist preacher, was asked why he did not lecture upon the extravagance & foppery of dress exhibited. He replied--That he aimed at the heart of the bird--not at the plumage.

June 5th 1842. Read Locke's argument against the existence of innate principles. It may be condensed as follows. He thinks that it would be sufficient to convince unprejudiced thinkers of the non-existence of any such innate principles to show them how, by the exercise of their natural faculties, they could arrive at all the knowledge which they have. The great argument used by the advocates of this theory is founded upon a universal assent, which they suppose to be granted by all mankind, to certain principles. Answer. Even were this universal assent established, it would prove nothing, provided any other way could be shown in which men could come to a universal agreement in reference to these principles (& he proposes to show this in his book). But this universal assent does not exist in reference to any principle, for none can be conceived, however simple, of which children or idiots &c have any thought or apprehension, and this destroys that universal assent upon which the argument is based. It will not do to say that the truth was in the mind, although it did not perceive it; for to say that a truth is in the mind, & yet the mind not perceive it, is scarcely intelligible. No proposition can be in the mind, which it does not perceive; for, if so, every proposition to which the mind is capable of assenting, may be said to be in the mind, & this would extend to truths which the friends of the theory would not pretend to denominate innate. Nor will it do to say that men assent to these propositions as soon as they come to the use of reason, & thus infer that they are innate. For, if it be said that

the reason may discover these principles, which are therefore inferred to be innate, the same may be asserted in reference to many other propositions, & the argument would make the demonstration of the mathematician, as well as his axiom, an innate principle. And again, if these principles be innate--that is imprinted by nature upon the mind from its birth, why need the assistance of reason to perceive them. You might with as much propriety say that reason was necessary in rendering the eyes capable of seeing visible objects, as to make the understanding able to see whatever was already engraven on it. If assent to proposition upon first hearing it & understanding the terms, is to prove it to be innate, why then they must allow all such propositions to be innate. And this would prove that "sweetness is not bitterness--that two & two are four--that square is not a circle--&c" to be innate principles. And these particular propositions are known earlier than the general maxims of which the mind is ignorant until it has made considerable proficiency in generalization, & generally, until they have been proposed to it, & has been instructed in them. The summary of the argument is this. 1st. If these principles be innate, there must be universal assent. But they are not assented to by those who do not understand the terms of which they are framed, nor by those who do understand the terms & yet have not thought of them--which is one half of mankind. 2nd. These principles are not the first to possess the mind, nor are they antecedent to all knowledge, which should be the case, were they innate. 3rd. They appear least clear under those circumstances under which, were they innate, they should appear clearest, as children--idiots--savages--illiterate people &c, where native thoughts have been least influenced by reflection & education.

June 6th 1842. A question arose this morning in the Henrico County Court as to the construction to be placed on the statute conferring jurisdiction on single magistrates in all cases of petty larceny committed by slaves. The question was, whether this jurisdiction was cumulative or exclusive--viz. whether the statute was to be so construed as to take away the jurisdiction over this class of cases previously vested in the County Courts, & confer it exclusively on this new tribunal, or whether the magistrate is merely to have concurrent jurisdiction. The question was not determined by the court. I am inclined to think that the jurisdiction is cumulative because there are no negative words in the stat: Seddon in argument to-day asserted that a slave could not be bailed in case of felony. In this, he must have been in error. Our stat: "Those slaves shall be let to bail who are apprehended for any crime not punishable with death or dismemberment; & if the crime be so punishable, & only a slight suspicion of guilt fall upon the party, he shall in like manner be bailable". &c. Bought a common-place-book to-day.⁴⁸ Induced to do so by reading a note appended to Locke's essay, in which he strongly advises its use, & states that he has derived a vast deal of good from one, which he has kept for twenty five years. I am determined to make the experiment. The argument employed by those who oppose the use of any think of the kind is predicated upon the assumption that their tendency is to weaken the memory by making your book the receptacle of those facts & truths, which should be treasured only in the mind. My idea is the reverse of this; for I am fully persuaded that the mere manual labour of writing impresses more deeply & vividly upon the mind whatever is recorded, & a vast deal is thus retained in the memory, which would otherwise escape. The fact that some, by means of the wonderful strength & tenacity of their

memories, have been able to accumulate a vast fund of accurate & curious knowledge, should not mislead others, not endowed with such natural gifts, into the belief that they can do the same. I cannot but believe that a book of this character will prove a great assistance to a slippery & threacherous memory--such as mine--& be an easy method for accumulating important facts & truths.

June 7th 1842. A question which arose to day in the case of "Richmond Manftg: Co: vs James River & Kanaway Co:" in reference to the competency of a witness. Gellis was his name. It seems that Gellis joined Dean in a bond as security to a third person, & Dean, to indemnify him against any loss which might befall him by means of this securityship, transferred to him 40 shares of stock in the Richmond Manftg Co:. A motion was made by counsel for def: to exclude his evidence upon the ground of interest. Patton⁴⁹ for the plaintiff. That interest, which disqualifies, must be legal--certain & immediate interest, either in the result of the cause, or in the record as an instrument of evidence, & not uncertain & contingent. If the interest is not of direct immediate character, but merely conjectural--dependent upon contingencies & possibilities--why then it is not that kind of interest which disqualifies. These principles are fully recognized by the Court of Appeals. The only enquiry then is as to the character of the interest which Gellis has in this cause--whether it is present & certain, or remote & contingent. It must be of this latter kind. First, because he merely holds this stock as an indemnity against loss, &, if Dean discharges this debt when it becomes due, it is then perfectly immaterial whether the plaintiffs recover in this action or not so far as the witness is concerned. It is only upon the contingency of the failure of Dean to discharge this

debt when due, & of loss accruing to Gellis by virtue of this failure, & of his being compelled to pay it himself, that his interest in this stock becomes liable. Secondly. Even if it be conceded that the witness is interested, he is still admissible, because this knowledge of the fact as to which he is called to testify <happened> existed previous to his interest, & it is a principle of law that a witness cannot by a subsequent voluntary creation of an interest, without the assent of the party, deprive him of the benefit of his testimony. Thirdly--Even if these two points are overruled the witness must yet be admissible *ex necessitate rei*.⁵⁰ He was the agent of the Company--the facts lie peculiarly within his knowledge, &, from the nature of the case, it was improbable that others should be privy to them. For these reasons he thought the witness competent. Chapman Johnson in reply. 1st conceded that interest to disqualify must be direct, immediate & legal. The interest in this case is of that character. Is not the witness directly & immediately interested in increasing the value of this stock. Does not the validity of his indemnity depend upon it. If the plaintiffs should recover to such an amount as to raise this stock to par, would not the lien, which he has, secure him against loss, & as it now stands is he not in imminent peril. In what sense then can it be said that he is not directly & certainly interested in increasing the value of this stock? Is he not as much interested as any creditor can be in increasing the fund out of which he is to be paid. A, as security for B, joins him in a bond. B, to indemnify A, gives him a deed of trust on real estate. A suit is afterwards instituted which involves B's title to this real estate. It is decided that A is not a competent witness. The same where the deed of trust is upon personalty.⁵¹ And what is the difference between these cases & the one in question. Mr: Patton is entirely

mistaken in supposing that the interest of Gellis is contingent upon the failure of Dean to discharge the debt, for the creditor has his election as to whom he will have his recourse against, & may in the first instance sue the (principal) surety,⁵² regardless of the principal. Secondly. The general rule is that a party has a right to the testimony of a witness, & he shall not by a subsequent voluntary creation of interest deprive him of it. There is however an important modification to this rule, which is that the party himself shall not be privy to, nor assist in, the creation of the interest. One of the stockholders transferred this stock to the witness, & it is now inadmissible for the plaintiffs, of which he is one, to claim the benefit of this rule. Again, it was never intended that this rule should have that extended application, which the gentleman would give it. It should only be applied in that class of cases, where by virtue of some act of the party, he has procured a right to the testimony of the witness--as in the case of a witness to a will--bond--deed--where he has been subpoenaed &c. Thirdly--He cannot be admissible ex necessitate rei, because, although an agent of the company, he is called here to testify upon a subject out of the line of his duty. He was employed to contract--to sell & buy &c--& he is examined in reference to the condition of the machinery--the damage sustained during the suspension--things just as notorious to others as to him self, & entirely out of the line of his agency. And farther, he could not be admissible ex necessitate rei, because witness after witness has been examined, & floods of testimony introduced, upon this very subject. For these reasons Mr: Johnson thought the witness incompetent. The court will give its opinion tomorrow.

Decided that the witness was competent June 8th.

June 9th 1842. Mr: Wickam,⁵³ who has lately been elected by the magistrates of Richmond to supply a vacancy in their body, upon offering to qualify, was refused permission to do so, upon the ground that he had been engaged in a duel. He applied to the Superior Court for a Mandamus to the Court of Hustings, directing it to allow him to qualify. Argument to day before Judge Nicholas.⁵⁴ Stanard for Wickam. The law is "That no person shall be capable of holding or of being elected to any post or office of profit, trust or emolument under the government of this commonwealth, who shall fight a duel &c". The office, which a person who fights a duel is disqualified from holding, is an office under the Government. This is not an office under the government. Whence do the magistrates of this Corporation derive their power? Not from the government surely; but exclusively their charter. They are elected under the charter & derive their power from the charter. They stand upon precisely the same footing with the officers of any other public corporation in the state, & with just as much propriety might it be contended that an officer of the James River is an officer under the government as an officer of the corporation of Richmond. They both derive their power from, & hold their offices under the charter. I know of but two ways in which a person can be constituted an officer of government, & those are either by receiving a commission from gov:, or pay from gov:. In neither of these predicaments does a magistrate of this Corporation stand. I am willing to concede that a Justice of the peace in a county is an officer under gov:, because he is merely recommended by the county court, & commissioned by executive. He, therefore, derives his power directly from gov:. We find this distinction acknowledged in England. Again. It will be said that although I be right in supposing that this is not an office under gov:, yet there is a

clause in the charter of incorporation which declares "that the magistrates of the corporation shall in all respects be governed by the same laws which govern Justices of the Peace in the several counties,["] & this anti-duelling law is one of those laws. What are the laws governing justices? We find them enumerated in a chap: in Rev: Co: & in that chap: not one word is said of anti-duelling law. It prescribes the oaths which justices are to take before entering on their duties, but not one word of anti-duelling oath. It is not to them as justices, but as officers under gov: that this oath is administered. The meaning of this clause in the charter is that those laws which govern justices as justices shall be obligatory upon the magistrates of Corp:, & not those which govern them merely as offices under gov:. This law is of the latter kind, &, therefore, not embraced by the clause in the charter, &, to make it obligatory upon a magistrate of Corp: to take it, it must be shown that he is an officer under government. This cannot be done.

Brook⁵⁵ for Com: From the very nature of government, there are certain powers which belong exclusively to gov: & where ever we see others exercising those powers, we may be assured that they hold them as trusts from gov: One of these powers inherent in government is the Judicial power, & though we see others exercising this power, they are doing so merely as the agents of gov: This delegation of Judicial power may either be direct--as where the Legislature confers it immediately upon a Judge, or it may be indirect,--as in the case before us, as where the Legislature for the sake of convenience confers by charter upon others the right to elect those who are to exercise this power--but in either case the power is exercised under gov: & is an emanation from gov: This is proved by the fact that gov: can withdraw it at any moment, which would not be the case, were there no difference between the Corp: of

Rich: & any other public corp:, as Mr: Stanard supposes; for it is the settled doctrine in Va at least that when privileges are conferred on corps: they have a vested right in those privileges, & gov: cannot withdraw them without their consent. Not so with political corps:, where the powers bestowed are direct emanations from gov:--where they exercise them as agents of gov:, directly responsible to gov: & liable to have them revoked at any instant. Again these Corporation magistrates have the power to decide upon the life & liberty of a large portion of our population, & how can it be held that these powers--the peculiar prerogatives of gov: & never exercised but as trusts delegated from gov:, are derived from a charter of incorporation. But the clause in the charter, which declares that "the same laws in all respects shall govern the mag: of corp: that govern justices of the peace", is conclusive. Mr: Stanard's argument on this point is answered by the simple fact that the law prescribing the oaths to be administered to justices was passed before the anti-duelling law. It was not necessary that it should be inserted in the general law, because the anti-duelling law itself had already made it obligatory upon every person elected to any office of profit--trust &c under gov: to take it, & Justices confessedly fall within this provision. The law prescribing the anti-duelling oath is therefore a law governing justices, although not inserted in the general law, & consequently embraced in the clause in the charter.

June 13th. 1842. Attended Chesterfield Court. Nothing to do there. A horrible state of things. I, however, corrected an erroneous opinion which I held. I had supposed that int: could not be added to principal to give jurisdiction to Superior Court. I find that it can. See Stratton vs Mutual Ass: Society. The County & Corp: Courts are probably an

exception to this general rule: for the 30th sec: declares that if suit be brought, where justice has jurisdiction, the plff: shall be non-suited, & debts not exceeding \$20. exclusive of int: are cognizable⁵⁶ by justices.

June 14th 1842. The warrant upon which a prisoner was committed charged two offences--1st larceny of the goods--2ndly receiving stolen goods, believing them to be stolen. It was contended that these two offences were inconsistent, & that the examining court could not send him on for both, but must distinguish. The attorney for the Commonwealth maintained that the court could send on for both. Seddon for the prisoner. These two offences are inconsistent. It is impossible that the prisoner can be guilty of both. If he be guilty of one, he must from the nature of things, be innocent of the other. If you send him on for both, you send him on for offences, of one of which he must of necessity be innocent. If the court thinks that there is any offence which should be enquired into, let them say what that offence is, & send him on for that, & not send him on for two offences, when it is impossible that he can be guilty of but one. Mayo⁵⁷ for Commonwealth. It is not the province of this court to discriminate between offences. That belongs peculiarly to the jury. This court has simply to enquire whether any offence has been committed which should be investigated, and if any such offence has been committed, it is their duty to send on without stopping to examine into the character of the offence, whether it be one felony or another. If they believe it to be a felony at all, they must send on. This Court can only discriminate between offences so far as is necessary to the exercise of its powers expressly given. For example, it may decide whether an offence be grand or petit larceny, for this is essential to

determining whether it is to be tried [in] the Superior or Inferior Court. But farther than this they have no power of discrimination. In a case of felonious homicide they cannot acquit him of murder & send him on for manslaughter. The practice of the court has been uniform in charging two distinct & inconsistent offences in the same warrant & send on for both. Dabney's case is in point.⁵⁸ He was charged with larceny & embezzlement, which are inconsistent offences. The court did not decide upon the point, acquitting the prisoner on other grounds.

June 23. 1842. The reason of this vacuum in my Journal, is, that there is nothing of interest which has taken place in Court, or out of Court, & also, it must be confessed, that the sultry weather for the last week has made me intolerably lazy. To day a point, which argued in Sp: Court, which would have been of some interest, had it not been fore closed by the express decission of the Court of Appeals. It was under our stat: sanctioning the assignment of "all bonds, bills--promisory notes & other writings obligatory whatsoever", & the immediate question was whether a receipt showing upon its face that money was paid after notice of assignment, was sufficient proof that the payment was after notice, or whether that must be made to appear aliunde.⁵⁹ The decission of the Court of Appeals is that it must be made to appear aliunde--if a receipt must bear a particular date to make it available, it does not prove its own date, but extrinsic evidence of its date must be given before it can be given to the Jury. The case in Court of Appeals was this. A legatee assigned his legacy--the assignee sued the executor--in that suit a receipt from the legatee for the legacy was produced by the executor, bearing date prior to assignment, or notice thereof. The Court held that the receipt did not prove the date of the payment of legacy to

legatee--that must be proved aliunde before the receipt could go to the jury.

[Undated]. A warrant of attachments⁶⁰ was quashed because it did not state on its face where the debtor absconded from. The warrant must state upon its face from what County or Corporation the debtor absconds, or else the Court has no jurisdiction. This upon the author[i]ty of a decision in the Court of Appeals. Somebody vs. Daniels.

June 29. 1842. The General Court met on Monday 27. There is no very important business before it. The most interesting case which has yet been prosecuted is an application upon the part of Dabney for a recommendation to mercy from the court to the executive. He contends that having been an accomplice with Dabney⁶¹ in the frauds committed on the Bank, he was called upon by the Commonwealth to give in his evidence, & that, in pursuance to that call, he made full, fain, & true statement of the whole transaction, & thereby entitled himself to a recommendation for mercy from the Court, as also to a certificate of the fact that he had made a full, fain, & true narative of the transaction. It was contended by the counsel of Dabney, that in England the rule was well established that if an accomplice was called upon to give evidence for the crown, & in pursuance of that call made a full, true & sufficient disclosure of the whole transaction, that he thereby entitled himself to a certificate from the court of those facts accompanied by a recommendation to mercy from the pardoning power. And that there being no Stat: or adjudication in Va changing this rule, it remained the law of this state. Upon the part of the commonwealth it was argued, that this claim in England upon the judge for a certificate & recommendation to mercy

never amounted to a right--it was not a claim that could be enforced if the judge denied it--that it was purely a voluntary thing on his part, & amounted to nothing more than an appeal to the lenity of the judge--that it was a mere usage that had grown up in England & has no existence here. It depending entirely upon a mere usage apart from any right, the fact that no such usage exists in Va is conclusive against it. Judge Robinson decided today that the effects of an foreign corporation could be attached in the state under our law against absent defendants.

July 2. 1842. The general court delivered its decision today in Dabney's case. They refused to grant his application. They would not countenance the idea, that, in Va., an accomplice who gives in evidence against his fellow-accomplice in pursuance to a call from the commonwealth, thereby entitled himself to a recommendation to mercy from the court accompanied by a certificate that he had made a full, fair, & true narrative of the whole transaction. They said that this claim for a certificate accompanied by a recommendation to mercy, in England had never assumed the shape of a right--that it was nothing more than an appeal to the individual leniency of the judge; but that, being grounded in policy there, it had grown into a usage to grant it--& that this usage, even there, was never obligatory upon the judge, but it was purely discretionary with him to follow it or not as he pleased. This claim then not being founded on the common law, but on mere usage, did not become with the common law a part of the law of Va. No such usage has ever obtained here, & there are strong reasons, grounded on a difference of policy, why it should never be introduced. These, I am told, were the reasons assigned by the court for its decision. I was not present.

July 13th 1842. Dabney's case is now going on. They were two days employed in procuring a jury. The circumstances connected with the embezzlement of the funds of the Bank by Dabney were so notorious, & being of general interest, were so much discussed that it was with the greatest difficulty that twelve men could be found who had not so made up their minds as to render them incapable (in their own opinion) of rendering an impartial verdict. There is no difference as to the facts in the case. They were simply these. Dabney took from the vaults of the Bank \$4000, & substituted in its place good securities--upon which the Bank recovered at a very early date after the embezzlement, the sum due with int: The only question was whether under our Stat: this constituted an act of embezzlement. The Stat: declares that "If any officer of public trust in this com: or any officer or director of any Bank, chartered by this com:, shall embezzle or fraudulently convert to his use". &c. The question was whether under the Stat: to constitute embezzlement there must be a fraudulent conversion of the effects of the Bank, or whether a simple conversion, unaccompanied by fraud, would constitute an act of embezzlement. I am told that the instruction of the court was to this effect. That to bring the offence within this statute, the conversion must be fraudulent, but that if the jury believed that the money was taken from the bank secretly & that the prisoner fled the country, that these facts constituted a presumption of fraud, & it was incumbent upon the prisoner to rebut them, & farther, that the fact that indemnities were left behind did not rebut the presumption of fraud. To this opinion the counsel for the prisoner excepted. They then went before the jury, & endeavoured to get the jury to disregard the instruction--or rather that part of it which declared that the circumstance of leaving the indemnity behind, did not rebut the presumption of fraud. The

argument condensed was this. Under the instruction of the Court, to bring the case within the stat: there must have been an intention to defraud the Bank--an intention to defraud the Bank is nothing more nor less than an intention to despoil the Bank of its funds, & this is inconsistent with the fact that indemnities were left behind. They contend that this is the construction which the courts have invariably placed upon such cases, & have relied upon the fact that an indemnity was left at the time of the conversion to rebut the fraudulent intent. The case of a man who met a fisherman with a fish was cited. The man wished to purchase the fish, but the fisherman refused to sell. The man took them by force, but at the time that he did so threw him double their value. This was declared not to be larceny, but a mere trespass. So where a man entered the stable of another & took his horse & rode him to a distant place where he left. This was a mere trespass.

July 20th. 1842. D Young Richardson was tried to-day for forgery. It was stated by Mr: Scott⁶² that he was but sixteen years old at the time when he committed the offence. His connection was highly respectable. The history of the transaction is said to be this--that he had formed an illicit connection with a woman of ill-fame, who induced him to commit the forgery in order to supply her with funds. The offence was so distinctly proven that there was no defence in the case. An appeal, however, was made to the mercy of the jury, who assessed the term of imprisonment at the minimum allowed by Stat: (two years). They also signed a paper recommending him to executive clemency. The executive has reprieved him that it may have time to consider the merits of the application for pardon. His extreme youth, & the fact that he was an instrument in the hands of this lewd woman are strong circumstances of

extenuation in his case. I heard that Seddon, in his appeal to the jury, was very happy.

[Undated]. A few days since we had a tremendous freshet in James River.⁶³ The water here rose twelve feet. It was said to have been occasioned by the breaking of the canal. The destruction of property is reported to have been immense. Nearly all the low-lands on the river above this were overflowed.

[Undated]. The Governor pardoned Richardson, who has left the city.

Sep. 3rd 1842. This vacuum in my Diary is occasioned by a perfect dirth of every thing worthy the trouble recording. The City under the pressure of the times & the absence of the gayest portion of its population in attendance upon the Springs presents a dreary & melancholly aspect. We have, however, within the last few days been visited with a little excitement. A Mr: French a young lawyer from Petersburg, being a convert to the truth of Mesmerism, has abandoned his profession, & is travelling through the country lecturing on the subject.⁶⁴ To establish the existence of any such power as that claimed by the mesmerist, must (it seems to me) call for the conclusive & indisputable evidences. For is proportion as the phenomenon to be established is marvelous--in proportion as it contradicts our experience & is repugnant to known & established laws, just in that proportion must be the weight of the testimony. If we try mesmerism by this principle the well-balanced mind must demand the most decisive tests & the most trying ordeals before it can assent to its truth. For nothing can be conceived more astounding--nothing in more palpable violation of the universal experience of

mankind--of the laws gover[n]ing mind & matter--of all that we know of the human frame & of the senses, than the phenomena claimed for this science. Not only is a new agent called into being, but that agent is endowed with the most potent & incredible attributes. By a few passes of the hand, & indeed without ever so much physical exertion as this, the mesmerist by a mere act of volition claims the power of so operating upon his subject as to give himself the most perfect control over him--so that the frame is deprived of qualities heretofore believed to be inseperable from it, & endowed with others entirely new. And yet, notwithstanding the monstrous pretensions of this science, so startling have been some of the evidences exhibited that a reluctant assent to its truth has been extorted from some of the most inquisitive & sceptical minds. I went to hear Mr: French's lecture, & upon that occasion nothing was exhibited which could satisfy the most credulous. Every phenomena might have been much more readily & rationally explained by attributing it to some other cause than mesmerism. I have since [been] told, however, by gentlemen of the most indisputable veracity, & upon whose discrimination & ability to weigh evidence the utmost reliance may be placed that certain phenomena had been exhibited in their presence, which if true, could seem to establish beyond doubt the existence of such an agency as that claimed by the mesmerist. I have been informed from the most credible sources that many, having been induced by Mr: French's lecture to make the experiment, had succeeded in throwing indifferent persons into this mesmeric sleep, during which, after passing through several ordeals, they gave the most conclusive evidence of insensibility to pain--of an entire sympathy in all the senses between the mesmeriser & mesmerisee & of some of the other phenomena of the science. Miss Margaret⁶⁵ has succeeded in throwing several persons into this

state, during the existence of which she made many experiments showing indisputably that the subject was in an unnatural condition, & possessed of faculties & susceptibilities unknown to him when awake.

Sep: 4. 1842.⁶⁶ We have had among us for some days a Doct: Meucci, a young Italian. Trusting to the well known credulity & gullibility of the Americans, he is attempting to pass himself off for the son of the Governor of Tuscany. This is the story that he tells. That upon his fathers death he will inherit an immense ancestral state--but that until that time he is totally dependent on his father, that his father has treated him unkindly & driven him from his home--& that he is thrown for the present upon his personal resources for a livelihood. He is here in the Character of an intinerant lecturer on physiognomy. He has given the good citizens of Richmond two lectures gratis on his science, on both of which occasions he had good audiences. In the present dirth of money & amusement, we should look upon him as a public benefactor. His exhibitions were passable pieces of buffonery. But as lectures on Phis-iognomy--the science which they professed to illustrate--they were below contempt. As to his subject--he seemed to have a mortal aversion to it. He avoided it with as much earnestness as a young miss--fresh arrayed for her fancy ball would a chimney-sweep in a narrow passage. If he ever approximated it atal--it seemed to be to get the benefits of that repulsive power which it seemed to have for him to gain an impulse which invariably land[ed] him in some antipodal region. He however succeeded in amusing the audience--although at his own expense--& as there was not outlay on their part, they were not fastidious & very charitable.⁶⁷

Sep: 5th 1842. A motion was made to-day in Henrico County Court to

rescind an order receiving the report of certain viewers, previously appointed to examine & report in reference to the advantages & disadvantages of a new road, proposed to be made. The ground upon which the motion was made to rescind the order accepting the report of the viewers was this. That the last Stat: in reference to the laying out of new roads prescribes a particular form in which the viewers shall report, as also certain matters which shall be reported. He contended that this report did not comply with the requisitions of this Stat: & was therefore informal, and must be rescinded. He also read several authorities from the Court of Appeals which decide that where an erroneous order has been made accepting the report of viewers which is faulty because of its informality, or any other reason, that any subsequent court may upon motion rescind such orders. The order was accordingly rescinded by the Court. The error in this judgement was this. That although the report of the viewers was informal under the new law, yet it was formal under the preceding general law. And the Legislature, at the time of the passage of the last law, expressly enacted that the several counties in the state might act under either at their option--adopting the new law if they saw fit to do so--if not acting under the old law. And the County of Henrico had refused or at least failed to adopt the new law, & continued to act under the old law. The viewers had reported in conformity to the old law, as they had a right to do, & under that law their report was formal. The judgement of the court was therefore erroneous.

Sep: 8. 1842. A few days since, Pleasants (formerly one of the Editors of the Whig),⁶⁸ in reply to enquiries made by some gentleman in Goochland, came out in a long letter purporting to develop a plot which had been formed by three individuals in Richmond during the last Presidential

canvass against Martin Van Buren, in case he should be elected. He states <with all the seriousness in the> that while the result of the canvass remained in doubt, & the public mind was in the highest state of excitement, a rumor reached Richmond that Pennsylvania & New York had gone against Gen: Harrison. And knowing that these two states together with Virginia <had> must turn the scale against him, & being thoroughly convinced that Virginia had been carried by fraud, they devised the following scheme of retaliation. They were to collect a company of about twenty "picked men & true", who were to proceed to Washington--charter a swift steamboat--inveigle Martin into it under the pretence of a pleasure trip--carry him around to North Carolina, & take him up into some one of its pine forests, where they were [to] retain him a prisoner with the utmost secrecy, but treat him with the utmost leniency & civility. Here he was to remain until the expiration of the term for which he had been elected, & then released. Pleasants states all this with the most perfect seriousness, & goes on to defend the plot in a manner equally grave. The consequence is that it has proved one of the best "hoaxes" that ever was devised. Several of the Whigs in the city, who were not on the best terms with Pleasants (Lyons⁶⁹ at the head of them), believing it all to be true, were for having a meeting of the Whigs called immediately to pass resolutions condemning the scheme, & disavowing all connected with it whatever. As for the Enquirer, its columns were teeming with reb[e]llion, conspiracy, treason, & Cataline. The venerable Editor was even more successfully quized⁷⁰ than he was by Mr: French with his magnetic fluid.⁷¹ I have heard that at the <dinner> supper given to Dickens last winter,⁷² after the regular toasts were over, & the company were pretty deep in their cups, Mr: Ritchie rose, & after some complimentary remarks to the author, toasted the Curiosity

Shop. Dickens immediately rose, & said that he intended to make the venerable gentleman the instrument of his own destruction. (Mr: Ritchie has a great objection to being reminded that he is getting old). He said that, in the first place, it was remarkable to meet with one who reached his age at all--but to see one of his years, after a life of toil & contention, exhibiting such buoyancy & elasticity of spirits was truly marvelous. <That> He regretted very much, he said, that he had not met with that venerable character before he composed that assemblage which <is to be met with> figures in the Curiosity Shop--that it would have pleased him much to place him among that group--for that verily he was a curiosity & should be preserved in wax. The figures in the Curiosity Shop were preserved in wax.

Sep: 9. 1842. Weather oppressive, & every one seems relaxed & uncomfortable. It is very generally reported that Morson is engaged to Miss Ellen Bruce. Rumour is not much to be relied upon, but I should not be in the least surprised if in this case it told the truth. I am told that during the last winter she gave evident signs of preference in many instances. I see no reason to disbelieve the report. It certainly has probability on its side. Morson has many things to recommend him. He is young, handsome, & rich, & with mental accomplishments of no inferior order. In his attentions he has been very assiduous, & has done much to prove attachment--either to her or her fortune. The charitable construction would say to the lady personally--what the true construction would say, I am ignorant. Five hundred thousand is a very potent lever nowadays & in the estimation of the world, much more destructive of hearts than Cupid with all his archery. However, it makes very little difference in this case what is the <motive> inducement, for Morson is a man of

principle, & will make as good a husband in the one case as the other. Indeed may it not be that he loves her for her money as for her beauty--her character, or any thing eslse that appertains to her. We hear every day of gentlemen falling in love with ladies for their beauty--their character--& for other qualities which excite passion--where is the inconsistency of falling in love with a lady for her money. Is it not as reasonable & as natural too, in the one case as the other. Nothing surely could be more contemptible than to marry a woman solely for the purpose of enriching yourself, when you felt no attachment for her person. But in the case where there was passion--attachment love, it would seem to matter but little how they were excited--whether by beauty--character, wealth, or any other agency. It is only necessary that a proper state of feeling should exist--it is indifferent how that state of feeling was produced. It will be said by some that weal[t]h is incapable of inspiring passion. I answer that experience contradicts any such idea. There have fallen under my observation <cases> & doubtless under the observation of everyone who has seen any thing of the wo[r]ld, cases in which wealth has laid the foundation of a passion which was in time entirely diverted from the cause which called it into being, & finally ripened into a attachment more pure, more durable, & more ardent than all the puling and sickening sentimentality of your love matches. I grant that there is danger. That attachment, which should concentrate solely in the woman, may [be] absorbed by her money. All that I say is, that where pure feeling exists it is enough, & it is not to be disregarded because of its origin.

Sep: 13. 1842. A girl was prosecuted to day for receiving stolen goods from <the> a white man, knowing them to be stolen. Not falling within

our stat: it was of course a prosecution for a misdemeanor merely, & not for a felony. The evidence in the case proved that the goods had been taken--that the prisoner had received them, & that the person from whom she received them was not a negro. But there was no evidence showing that that individual committing the robbery was a white man, nor was there any direct evidence that the person from whom she received the goods was the same with the person committing the robbery. It was contended by Scott for the prisoner--that in order to sustain the indictment it must be established by evidence that the goods were stolen by a white person--that the prisoner received them from a white person, & that the white person from whom she received the goods was the same white who committed the robbery. This proposition was acceded to by the Commonwealth's attorney, & the court instructed the jury accordingly. Scott then contended that the case had not been made out on the part of the commonwealth--that it had not been proved that the robbery had been committed by a white person--that it had not been proved that the prisoner received the goods from a white person--much less had it been proved that the white person from whom she received the goods was the same white person who committed the robbery. That in order to make out the case these three several facts must be established. That neither of them had been estab. & that therefore the prosecution must fail. The commonwealth's attorney, in repply, admitted that the three points must be established by the evidence, & contended that they were established. That the prisoner, in reply to some questions propounded by one of the witnesses, said that the person from whom she received the goods was not a negro--that negro was a generic term embracing slaves free negroes & mulattoes, & that the citizens of the commonwealth were divided into two classes negroes & white men, & that since, by the concession of the prisoner,

the person from whom she received the goods was not a negro, he must be a white man. As to the other points--that the person committing the robbery was a white man, & that there is an identity between the person perpetrating the robbery & the person delivering the goods--he contended that it was not necessary to make out these points by positive evidence--that it might be done by presumptions & that it was a presumption that the person delivering the goods was the person committing the robbery & that as the person delivering was a white person, the person robbing must be a white person. And thus by force of this presumption, it having been once established that the person delivering the goods was white, we arrive at the conclusion that the person perpetrating the robbery was white & also at the conclusion that there is identity between the person delivering the goods, & committing the robbery. I did not hear the verdict of the jury. I think it should have been one of acquittal. Mr: Mayo's idea of presumption won't do. It is presuming a person into guilt too easily. It seems to me that the identity between the person delivering the goods & the person committing the robbery was no[t] made out, nor was the other point that the person committing the robbery was a white man established.

Sep: 15--1842. To day Judge Mason⁷³ delivered his opinion in those cases, involving the question whether or not the making [of] a deed by a failing trader, conveying the whole of his effects to some of his creditors leaving others unprovided for, amounts to an act of Bankruptcy. He decided that it was an act of Bankruptcy. And if any trader now makes a deed whereby he conveys the whole of his effects to some of his creditors without making provission for the others he may be forced into involuntary bankruptcy--the deed set aside, & all the creditors let in to share equably in his effects.

Morson returned this evening about four o'clock from the White Sulphur Springs, & a visit to Halifax to see the Misses Bruce. He seems in high spirits. Although matters have not yet been brought to a crisis, yet he has strong reasons to believe that the issue will be favorable. As far as advances have been made they have been kindly received. Cabel (Morson says) may hang his harp upon the willow. Goode is leading a wreckless & disipated life.⁷⁴ It is a great pity that with capacity to succeed [he] should thus totally abandon him self, & blast the bright prospects with which he commenced life. I am told that no young man, within the memory of the oldest citizens, has commenced professional life under circumstances of such marked encouragement. From the day that he opened his office he was flooded with business. Many took him by the hand--he was kindly received in the very first circles of Richmond society, & no one had more promising prospects before him. But intoxicated with success & imagining himself firmly established on an elevation, he forgot the means by which he had attained it, & treated either with contempt or arrogance those who had been the instruments of his elevation. Had it not been for Seddon's industrious habits & generous nature he must long since have gone to the dogs. As he has to swim now by his own unaided strength, it must soon fail him. When he gets in the South or West, where he intends to settle, I hope some lucky accident may yet give him a helping hand. In the ordinary way of his profession, I fear his prospects are dark.

1843

June 17th 1843.¹ But as to the policy of Mr: Webster's plan for a commercial treaty.² Mr: C..... at our last meeting³ spoke of what he denominated a glorious principle--the principle of free trade. I too, Sir, am the advocate of free trade--of trade as free as the winds. I go with the gentleman heart & hand all the way in the Sentiments which he expressed on that occasion. Let every port of every nation in the world be free for every product in the world--is my doctrine. I would beat down, tomorrow, had I my way, those barriers which have kept nations asunder. I would bring them together in social intercourse. I would make them friends & neighbours & bind them to each other by the bonds of mutual interest & mutual dependence--& from their mutual surplusses supply their mutual wants. I therefore count myself the friend of free trade. But I am no Eutopian. I do not believe that this great result can be accomplished in an hour or a day--or a year. It must be progressive. It can only be accomplished by the omnipotence [of] truth operating upon public opinion through a length of time. The bringing about of such a result involves a great deal. Great & radical changes must be affected. Prejudices inherited from generation to generation must be surmounted--opinions long entertained & acted on must be surrendered--valuable & complicated inter[e]st must be annihilated. All these barriers stand in the way of free trade--& they must be gradually surmounted--one by one. Nor do I think that it is desirable that the transition⁴ from a state of restriction to a state of perfect freedom in trade is desirable--even were it possible. I have said Sir, that I was the friend

of free trade, & therefore the enemy of the Restrictive system. I believe the Restrictive system to be an abuse, & that it should be corrected. But, it is an abuse in which a vast deal of capital is embarked-- in which a large portion of the industry of the country finds employment--& around which vast & complicated interests have entwined themselves, & the question is shall we, like prudent men, deal with it gently-- shall we gradually get rid of it, having a due regard to consequences, or shall we, like rash men, lay violent hands upon it--eradicate it root & branch at one blow, & send it with its vast dependent interests toppling down the abyss together.

Wednesday Nov: 22nd 1843. On Saturday last Morson returned from New York with his wife.⁵ There were sundry rumours afloat in town in reference to her health--attributing her indisposition to constitutional defects. These rumours are believed to be unfounded. The difference between Mr: Botts⁶ & myself, upon the question which arose during the progress of the debate at the last meeting of the P. H. Society, is very trivial. We both agree that the general mass of power (which I call sovereignty) abides in the government of Virginia & not in the people of Va--that the government of Va is in truth supreme, save so far only as it is fettered by restrictions & limitations contained in the Constitution, which restrictions & limitations are the Charters of the liberties of the people of Va. The result to which we have arrived is the same. We differ only in the mode of arriving at it.

Mr: B.s proposition is that government can exercise no power which is not delegated to it in the Constitution. My proposition is that governments, to which individuals as opposed to states are parties, can exercise powers not granted in the Constitution. Now we both agree that

the government of Va can do certain things. We both agree that the government of Virginia can charter incorporations--can tax the people--can imprison a man--can hang a man--can do these & any other things which it is not prohibited in the Constitution from doing. Whence these powers, which we mutually concede exists in the government of Va? The gentleman says they have been delegated in the Constitution. If so, he refutes my argument. If not, my proposition is established. For, in that event, I show that the government of Va is in the daily exercise of powers not delegated to it in the Constitution. Have such powers, then, been delegated by the <government> Constitution to the government of Va? That there have been special grants of such powers [] nomine is not contended for by the gent: But he says there has been a general grant of all power to government in the Constitution & these special powers are included under this general grant. If this be true the gent: has established his proposition. But is it true? Is there any such general grant of power in the Constitution. The gent: refers to the II--III--IV, & V articles of the Constitution. By what contortions of the Kings English those clauses can be perverted into delegations of power from the people to the government, I am at a loss to understand. They all <proceed upon the hypothesis> presuppose that the power is already in government, & then proceed to distribute it among the various departments. They are not clauses delegating power, but clauses distributing power already in existence--I therefore do contend that unless the gent: has something else to produce, he has not shown any clause in the Constitution of Va conveying to the government of Va the powers which I have enumerated. And yet the gent: concedes that the govermt of Va exercises those powers. I then hold that my proposition is established; for we have a govermt--& that too a Republican Govermt exercising powers not

delegated to it in the Constitution. Yes--the Government of Va is in the daily exercise of powers not delegated to it in the Constitution, & so it is with our sister States, if I be not grossly in error. They all proceed upon the hypothesis that, without any express delegation in their respective constitutions, but by the mere act of governmt (if I may be allowed the expression), by the mere act of coming together under govermt from a state of nature, all those powers & rights which belong to man in a state of nature are merged in govermt, & that govermt, by virtue of this general mass of power, may do any thing & every thing not falling within the restrictions & limitations upon that power containd in the Constitution. Gentlemen are forced to acknoledg this transfer thus effected, or to assert by denying it [that] the government of Va is a usurpation--that it is in the daily exercise of illegitimate power; for it indisputably is in the daily exercise of power for which no guaranty can be found in the Constitution.

Nov: 23rd 1843. The doctrine advanced by Gov: Dorr, & out of which the recent troubles in Rode Island have grown, I understand to be this⁷-- that the people, as opposed to the State of body politick, have the right, whenever they may think that the existing government is oppressive or false in theory, & therefore requiring amendment, to rise & subvert the Constituted authorities, & substitute in their stead such authorities as to them may seem best. Gov Dorr does not assert this right as a natural right, but as a right existing under, & recognized by Government--all Republican governments. I am unable to see that such a right is necessarily a constituent element of Republican government. Indeed it seems to me to be directly in conflict with the popular origin of government in this country--I mean the social compact. It is to this origin,

I believe, that most of the statesmen of this country are accustomed to refer government. Not that they believe that, in truth, there ever was such a thing as a social compact. Upon that point they affirm nothing. But, waiving \langle its truth \rangle all question in reference to its truth or falsehood, they assume its existence--they take that as a postulate--because they think that the conclusions which follow from assuming this origin for government are more in conformity with what they think govermt ought to be than the conclusions which would follow from assuming any other origin for govermt. This is the only reason. They affirm or deny nothing in reference to the social compact. They leave such researches to the antiquarian & the enthusiast. But the question--what origin you shall assume for government--is one of vast practical importance, for upon it depends great practical deductions in reference to the powers of government. Assume that government has its origin in the divine right of Kings, & \langle you have \rangle reasoning from this assumption, you make govermt supreme, & the people slaves. Assume that govermt has its origin in a social compact, & you have a govent with limited power, & a free people. Modern Statesmen have assumed that govermt originated in the social compact, not because they believe it to be true, but because they believe it to be salutary.

Saturday--Nov: 25th 1843. (A continuation of the argument from above). Assuming the origin of government to be in the Social compact, it would seem impossible to deduce the proposition of Gov: Dorr from it. For, reasoning upon this assumption, the social compact would be as binding as any other compact, & liable to be discharged only by the same acts. If, in the organization of government, freeholders refuse to become parties to it except on the condition that all the powers of govermt shall

be vested in a basis of freeholders, they have a right to demand that this condition shall be observed. So if any other interest, upon entering into govermt, requires that certain principles shall be engrafted on it, it has a right to demand that those principles shall be adhered to. And the people have no right to remodel the govermt so as to exclude those principles. Take an illustration. In the organization of gov: freeholders demand that the entire powers of the government shall be entrusted to themselves. This is the only condition upon which they will consent to become parties to it. Govermt is so organizd. Now I contend that the people at large have no earth[ly] right to remodel this govermt: so as to deprive the freeholders of their powers. It is to the freeholders alone, (in this case)--to the constituency of the existing gov: alone, that the question of changing the organic law can be conferred. This is the only view which seems consistent with the assumption that gov: originates in a compact.

But it may be supposed that these views are opposd to the right of revolution. I think not. The right of revolution arises in cases where the gov: has abused its powers--not where the gov: is imperfect in theory & may require amending. With whatever powers⁸

There are politicians in the country who seem to have an exalted opinion of the duties of govermt, & of the objects for which it is instituted. It is not enough that it shall furnish protection to the persons & property of its citizens; but, enlarging the circle of its functions, they would make it a Jacke of all trades--an architect--an engineer--a schoolmaster--a merchant--a banker--a Paul Pry in every mans house--prying & eavesdropping spending our money for us & manufacturing our opines for [us]. Their principle is that no man can do any thing for himself as well as govmt can do it for him--& consequently that

government is best which assumes to do most for its citizens, & leaves them least to do for themselves. Grant to these gentlemen their premises, & their conclusion indisputably follows. Grant that governt is this inspired being--that it has both the wisdom to discern the right & the virtue to pursue it. That it understands the interst & happiness of its citizens better than they do themselves, & will do more to promote them--make these concessions & the inference is indisputably that that govrmt approximates nea[re]st to perfection whose powers are <most> greatest--whose functions are most numerous, & whose direct influ[ence] penetrates every department of the social system. I would go farther than this. If govermt is indeed this powerful agent of good, & I could be sure that those powers would always be exercised on the side of human happiness, I would place a sceptor in its hand & a crown upon its head, for I care not what powers I entrust to govmt, if I can have a perfect assurance that they will be ex[er]cis[e]d for the good of the people. But if the reverse of all this be true, if govrmt, so far from enjoying a monopoly of wisdom & virtue be found both by reason & experience to be but a tyro in the one & a libertine in the other--if it be found that govmt is the worse architect in the world--the worse engineer in the world--the worse banker in the world--if it be found that individuals know their own <interest> business better & can do it better than govmt can for them, then I hold that government to be wisest which intermeddles least. See Macaulays Miscellanies--p: 107-115.⁹

[Undated]. The question is whether the law passed at the last session of Congress requiring the State legislatures to adopt the district system in electing their representatives to the Congress of the United States is constitutional? This is the substance of the Act. It is an

act requiring the State legislatures to adopt the District System. The act of Congress does not itself prescribe the district system. If by virtue of this law the district system is substituted for the general ticket system in those states in which the general ticket system now prevails, the substitution will be by force of the State law & not of the law of Congress. Such being the nature of the Act of Congress, the question is in reference to its constitutionality. The only clause in the constitution bearing upon this question with which I am acquainted is the sec: 4--Art: 1. The <meaning> interpretation of this clause seems to be too plain to admit of doubt. It in the first instance vests in the legislatures of the several States the power of prescribing the times, places & manner of holding elections for senators & representatives. But the right is reserved to Congress at any time, by law, to make or alter such regulations except as to the places of choosing senators. Here the power is clearly entrusted to Congress to make & alter such regulations as may be prescribed by the local legislatures. This would seem at once to exclude the idea that the power could be exercised by any other body than Congress. But the Act does not stop there. Not only does it entrust to Congress this power, but it prescribes the manner in which Congress shall exercise that power. It shall¹⁰

1844

April 27th 1844.¹ It appears from the Report of the Secretary of the Treasury that the present debt of the General Government is about tw[en]ty five millions. It farther appears that about six millions had been contracted at the time the present administration came into power, on the 4th of March 1841, & that, the debt, thus commenced, had up to the 1st of December 1843, been swelled to the enormous amount of twenty five millions.

The Chairman of the Committee of ways & means in his report states that in the tariff of 1842--a great proportion of the most important duties are much above what he believes to be the true revenue points.

Oct: 21st 1844.² I have a case in Chesterfield Court which []³ in this condition. A suit was brought in March 1843 on an assigned bond in the name of the obligee for the benefit of the assignee.⁴ Offsets are filed--which are claims by the obligor against the obligee. The law is that an assignee shall allow all just discounts against the assignor, before notice of the assignment was given to the defendant.⁵ The claims, which are set up as offsets, arose after the assignment but before notice of the assignment; unless the institution of the suit can be considered as notice to the defendant of the <defendant> assignment. Had the suit been instituted in the name of the assignee, there can be no doubt but that the service of the writ would have been held to be notice; but the question which arises is whether, as the suit was instituted not in the name of the assignee, but in the name of the obligee for the benefit of

the assignee, the service of the writ in such a case is notice of the assignment. I shall have to contend that it is. First--because the writ informs the defendant that the suit is instituted for the benefit of another person, & this necessarily imports that the interest of the obligee in the bond has been assigned to that person. Again, nothing is more common in suits on assigned bonds than for the obligee to sue for the benefit of the assignee, & the general understanding, & necessary influence in all such cases is that he for whose benefit the suit is brought is the assignee []. But it may be argued that, even supposing the obligor had notice of the assignment before the claims accrued, yet as the suit is brought in the name of the obligee & not in the name of the assignee, the offsets are good. This cannot be law. In such cases the obligee is a mere formal party to the suit whose name is used by the assignee for the purpose of enabling him to assert his rights, & the assignee has full right to use his name whether he asserts or not. He is made a nominal party to the suit in order to comply with a mere technicality of the law, & the courts will not allow a claim which the defendant may happen to have against this nominal party to be used for the purpose of defeating the just claim of the real plaintiff. If so, what must have been the consequences before the law allowing suits to be brought in the name of the assignee, when it was necessary for the assignee to sue in the name of the obligee. Why, although the assignee had taken pains to give full & formal notice to the obligor, yet the obligor might pay the amount of the note or bill to the obligee, & then, because the assignee must sue in the name of the obligee, the defendant would have it in his power to set up such payment as an offset to defeat the claim of the assignee--notwithstanding the most formal notice of the assignment. The result of such a principle of law as this would be to

open the door wide for fraud & collusion, & defeat almost entirely the assignment of bonds & notes. The principle cannot be maintained. The law is that the discount may be used against the assignee if it [] notice of the assignment & not otherwise [] matters not a tittle whether the suit is instituted in the name of the assignee, or in the name of the obligee for the benefit of the assignee.

[Undated]. On Saturday night Major Davezac made us a speech at the Exchange.⁶ He had been announced by Mr: Richie with such a blast of trumpets that the failed to realize the expectation which had been excited. He, however, made us an amusing speech with here & there a brilliant flight. It is his enthusiasm--peculiarly French--which lends an interest to his remarks which they could not otherwise attract. His speech abounded in wild & vivid imagery. As to argument--he attempted nothing of the kind. Indeed, I have heard that he lays no claim to argumentative talent. It is upon his imagination that he draws, & this enables him to give attractive descriptions of the scenes in which he has been an actor. Gen: Jackson & the battle of New Orleans are his favorite themes & he never speaks of either but that his eye kindles. He is one of the numerous striking instances of the power which Gen: Jackson possessed of attaching to himself most ardently those with whom his association was familiar. Maj: Davezac is a warm democrat--of the northern school. His views are too radical for the Southern D[e]mocracy. For exam[pl]e--he holds the principles of Dorr.

Oct: [].⁷ I paid a visit on Sunday night to the Misses W____--the first one for several months. Never have I any where met with ladies possessing such advantages of person & association so entirely destitute

of interest. And why is this? It is, I think, because they are altogether destitute of sentiment. They are what are, in the common acceptation of the term, called refined women; but it is a conventional refinement--a refinement which is the result of a strict mechanical observance of the former formulas of polite society. In that other & more delicate refinement, which springs from intellectual culture & a generous sympathy with those with whom we are thrown, they are unusually deficient. I believe, however, I have peculiar views on this point. I do not believe that society, as at present constituted, can make a man a gentleman or a woman a lady. The best definition which I have ever seen of gentility is--(politeness) benevolence in small things. And if a man has a good heart in his bosom & a moderate share of brains in his head, he is a gentleman already. He is born one. And if he has not these invaluable gifts from nature, his only chance of ever making himself a gentleman is by sedulously educating his feelings--cherishing those which are warm & generous & suppressing those which are harsh & selfish. Whenever the feelings are properly attuned & the inner man is modulated aright, the mere conventionalities of gentility are easily acquired. But where the feelings [] all discord & the heart without a sympathy or kind impulse, society may make a man a hypocrite, but never a gentleman. But (enough) to leave this episode. There is one of these ladies--(S. W.) for which I feel a deep interest, although she has failed to inspire me with much regard for her character. The interest which I feel for her is that which sympathy with disappointment always inspires. I look upon her as a disappointed woman, & as a woman who has suffered keenly because of her disappointments, & this induces me to look with much charity upon blemishes in her character which otherwise I might judge more harshly. Had she expected less or had she realized what she expected, in either

contingency she would have been a happier & lovelier woman. Nothing so much dwarfs the character of a young female, or so soon turns the tender charities of her nature into gall & bitterness as her failure to realize an alliance which she has been taught from her earliest infancy to look upon as her birthright.

Oct: 24th 1844. On Tuesday last we had a visit from President Tyler. He came as a private citizen & went as a private citizen. His unpopularity in Richmond is extreme. John M. Botts & John H. Pleasants have been chiefly instrumental in bringing about this state of feeling towards him. They accuse him of treachery to his party, & this accusation is based upon his refusal [to] sign the Bank bill in 1841. If the Whig address of 1840 is to be taken as an exponent of the views of the Whig party of Virginia upon this point, the charge has small foundation to rest upon. So far as the accusation of treachery is concerned, there is much stronger reason for charging the politicians of 1840 with treachery towards the people of Virginia than there is to charge Mr: Tyler with treachery towards his party. I, however, am not the apologist of John Tyler. I have no sort of admiration for his character. I esteem him a thoroughly selfish man--in whose narrow soul a spark of patriotism never found lodgement for one moment. Upon many occasions his conduct has met with my approval, & in vetoing the several Bank bills in 1841 I think he did his country great service, but I have never attributed high & patriotic motives to his conduct on that occasion. I believe that he was governed purely by considerations of policy, & that, had he believed it would have advanced his political aspirations, he would have signed the bank bills without a pang of conscience. This is just the man--one who is governed purely by his interest, & whatever he believes

will promote his ends, that he will do, & whether it right or wrong is neither here nor there. That is mere "leather & prunella." But still we must give the Devil his due. He is not amenable to the charge of treachery to his party. The Whig politicians of 1840 were the traitors--these men who had repudiated Bank & Tariff, & yet, as soon as the extra session was called, set dilligently to work to pass laws establishing both.

I was at Chesterfield Superior Court to-day. A prisoner was prosecuted for "stabbing with intent to kill &c". The evidence was that the wound was inflicted with the edge of a sharp edged instrument, & not with the point of a sharp pointed instrument. The question arose whether there was a "stabbing" within the meaning of the statute. The point was not decided. I thought that it was not--& supposed that it was an accidental imperfection in our statute. In a conversation, however, with Judge Clopton⁸ upon the point he expressed the opinion that the legislature intended to draw a distinction between a "stab" with intent to kill &c & a "cut" with the same intent--making the first a felony & leaving the latter a misdemeanor as at common law--upon the ground that <the> a "stab" may be inflict'd secretly & is much more dangerous than a "cut", which is generally more superficial, & cannot well be inflicted without notice. But quaere,⁹ for although what the Judge says may be true, yet cutting with intent &c is very dangerous, & it could not have been the design of the legislature to leave it a mere misdemeanor.

Oct: []¹⁰ 1844. I dined yesterday with M....--the dinner was a pleasant one. It was given to a young friend of M....'s from New Orleans--a Mr: Caperton. He seemed a very genteel man. The objection to him was that, although a young man, he set up as a connoisseur in wines.

In an old man this is by no means in good taste--(as I think); but in a young man quite intolerable. As a general rule you find that men who indulge these epicurean tastes [are] fit for little else. It seems as if their characters become enervated, & themselves disqualified for action of any kind--physical or mental. Indeed we have in this city a most signal, & at the same time a most lamentable illustration of mental prostration growing out [of] indulgence in this habit. I allude to Mr: Leigh.¹¹ In his earlier years, & most especially about the time of the Virginia convention, he must have possessed a very vigorous intellect. The almost entire talent of the state was assembled on that occasion & it contained men equal to any in the Nation. It was upon this arena, & in debate with these men that his greatest achievements were accomplished. I believe general consent has conferred upon him the fame of the best debater in the Convention. Others may have made a single speech superior to any of Mr: Leigh's; but then he was always speaking & always spoke with distinguished ability. But alas! "How have the mighty fallen." I believe there is at this time a thousand men in Virginia the superiors of Mr: Leigh in debate. I have heard him frequently during the last three years, & never has he made a speech in my hearing which would have given reputation to a county court lawyer. There must be a vast falling off in his faculties since 1830. His intellect still retains much of that neatness & precision which has always characterized it; but its fire & vigour have left it. This <mental> rapid deterioration is generally attributed to his epicurean habits--most especially to his wine-bibbing propensities. His system is so constantly saturated with vinous drink that his mind, like a harp exposed to a humid atmosphere, has become untuned. "Oh! that men should put an enemy in their mouths to steal away their brains." "Every inordinate cup is unblessed, & the ingredient is a devil."

[Undated]. Catharine II--the wife of Peter III--was a German princess. In 1762 she murdered her husband & usurped his throne. In 1764 she imposed upon Poland her favourite Poniatowski, as king, by the name of Stanislaus Augustus. She was a great Empress though a dissolute woman. It was during her reign that the partition of Poland was made. She died of an appoplectic fit Nov: 10th 1797. Her son Paul succeeded her. Prince Potemkin was her favourite lover & minister.

Oct []¹² 1844. Ricardo was the first to detect the error into which Adam Smith had fallen in supposing that the wages of labour had the same influence upon the exchangeable value of commodities as the quantity of labor has.¹³ He proved that the wages of labor, by distributing themselves alike through all the departments of industry, leave the exchangeable value of commodities the same--whether the wages be high or whether they be low. It matters not what degree of influence is exerted over different commodities--if the same degree of influence is exerted over them--their exchangeable value remains unaltered. In order to affect their exchangeable value there must be some alteration in the circumstances under which some of them are produced, which does not extend to others. So long as all are equally affected--& Smith shows that, generally, variations in the rate of wages equally affect all--it is impossible that their value can vary. The existing relation between two commodities--A & B--will not be disturbed, unless A be raised or depressed in a different ratio from B. If any improvement in machinery is made by which one commodity can be made with a less amount of labor than before & this improvement does not extend to all commodities, then the existing relation between those commodities to which the improvement extends & those to which it does not extend, is at once changed (And this)

and their value altered. Thus changes in the quantity of labour required to produce any commodity affects its exchangeable value, because its influence is partial & not general--affecting some commodities & not others. On the other hand, variations in the wages of labour do not affect the exchangeable value of commodities--because the influence is general--affecting all commodities alike. It is true the labourer is benefited by an increase of wages, & this increase of wages would affect the value of commodities if it could be confined to some commodities & excluded from others--but Smith has shown this to be impossible. This is Ricardo's theory--which maintains that, as a general rule, the value of commodities is not influenced by variations in the wages of labour.

This discovery of Ricardo would seem, at first sight, to answer the argument urged by the friends of free trade to show that this country cannot yet manufacture as cheaply as England--viz. because the wages of labour are higher here than in England. But a little reflection will show that such is not the case. Ricardo's view is that variations in the rate of wages do not affect prices because such variations affect all commodities alike--thus leaving their existing relations unchanged. If it were possible for wages to increase in some branches of industry & not increase in others--such would not be the case. Prices would then be affected by wages. Now in different countries there is this permanent difference of wages, & that tendency in wages to equalization--upon which his whole theory is based, does not exist. And thus Ricardo's view is sustained--or rather the case does not fall within the influence of Ricardo's principle.

Oct: 27th 1844. I have been perusing to day the works of The Rev: Sydney Smith.¹⁴ He was the first Editor of the Edinburg Review. He,

however, only edited the first number. It then fell into the hands of Lord Jeffrey & Lord Brougham. He however, continued to contribute from England where he had removed, & the principal contents of the present volume are composed of the articles which he contributed to that Review. Macaulay¹⁵ says he is the wittiest man in England. I think it is in his Review of Jesse's life of George Selwyn & his companions that he makes the remark. I have not read enough as yet to form an opinion. But if his letters on repudiations, which appeared in the public prints during the present year, are a fair specimen, I think Mr: Macaulay cannot be far from the truth. They are inimitable.

Oct 28th 1844. I was with Seddon last night. As usual, a controversy sprung up. He maintains that there is a distinct & independent agency in the world, which he calls luck, moulding the destinies of men. He thinks it is the same with the special providence of the christian, in which he believes. I agreed with him that if you once admit the doctrine of special providence there is no inconsistency in believing in the existence of this independent agency which he calls luck. For he defines luck to mean nothing more than a setting a side of the ordinary laws of cause & effect in favour of a man so as to enable <a> him to enjoy results when he has not exercised the customary means to procure them. And the amount of it is that luck & special providence are the same things. When God interferences in answer to prayer it is called a special providence--when he interferences without prayer it is called luck. But in this acceptation, Seddon was wrong in calling luck an "independent agent" in the world. It is God controlling human affairs directly by an immediate exertion of his power, & not indirectly through his agencies.

But I deny the doctrine of special providence, & that it is taught

in the Bible. Why then, I am asked, was prayer ordained by the bible? Why are we taught to pray, if our prayers are not to be answered. It is enjoined upon us in the Lords Prayer to pray for our daily bread--I am told. According to my view of prayer, it was ordained for the purpose of teaching us humility, & to keep constantly before our eyes the truth that God framed originally those laws by whose uniform operation we live & move & have our being. Its object is to keep God constantly before us in the character of Creator--to remind us that he is the fountain from which all our blessings have flowed, & it is a mode rather of returning our thanks for past favours conferred than a supplication for new favours. If the other construction be true & we are taught to pray with the expectation that the thing prayed for would be granted--then it would seem that there should be instances in real life when <such> the prayers of the faithful have been answered. Yet I question whether there has been a case since the days of miracles where the circumstances were such as to convince a rational man that there had been a special interposition in his behalf in answer to his prayer, had he not first believed that God had promised to answer. God has promised to answer the prayers of the faithful--I have prayed in faith--<therefore> God does not lie--therefore he must have answered my prayer.

Oct 29th 1844. A great deal has been written, & much more spoken, upon the question--whether the minds of women were naturally inferior to those of men. It is one of those questions which finds its way into the question-book of every debating society in the union--which has exercised time & again the logic of juvenile wranglers, & which is just as near a decision as it was the first day it was mooted. So far as my experience goes, there exists between the sexes no mental disparity

which may not, in my opinion, be attributed to a disparity in education. And surely this is the most rational explanation of the matter. When we behold with our eyes every day the miracles wrought by education--when we see, through its potent agency, the natures of men transformed, & powers elicited of which even the owner had no consciousness--are we not at once in possession of a reason quite adequate to explain any disparity which may exist between the sexes without resorting to any fanciful hypothesis of an organic difference in the structure of their intellects. As long as the boy & girl are playmates together & are exposed to the influence of the same circumstances--as long as they are subjected to the same system of moral & mental culture, no disparity between the sexes is observed. But as soon as the girl is taken from her school-mistress & put in the hands of the music master & the dancing master--then it is that the Spring of the female mind is seen to give way, & loses that vigor without which it can never climb to those heights which the male mind reaches only by virtue of its superior discipline.

But that there is a great difference between men & women--whether attributable to original organization or to the influence of circumstances I will not decide--is the experience of every one who has seen any thing of society. I say there is a difference--I will not say there is a disparity. Each have their peculiar <merits> virtues--& to say that the one sex was superior to the other would be to compare together virtues which allow of no comparison & pronounce the one set superior to the other. That in most of the moral virtues she excels cannot be doubted. Fortitude is her cardinal virtue. Nothing could be more grand & at the same time more lovely than some of the achievements of the fortitude of woman. Let what will come, she has a heart for it. She is a true heroine in the strife of this world. They are not bold daring & brilliant

action, which <are cheered> strike the <fancy> imaginations of men & are rewarded by their plaudits. This is the courage of men. Hers is a different & a higher courage--a passive & not an active fortitude--a fortitude which suffers & endures & yet never loses heart. Its reward is the consciousness of having <performed without> struggled nobly with our fate & of having come off a victor in the struggle. The sense of strength & <independence> security which this consciousness inspires is the <noble> sublimest feeling which can enter the human mind. Let what will come, we are now ready for it. 'Spit fire--spent rain"--let misfortune do its worst--it matters not. We have a heart for any fate. The star of the unconquered will rises in the breast--calm--serene & resolute. She know[s] the highth & depth--lenth & breadth of care--&, she stands an untiring sentinel at her post ready for the combat come when it may. Cased in the impenetrable armour of a resigned spirit, she feels that strength which is the presentment of victor[s]. Talk to me about men being philosophers! Men may prattle about philosophy, but it is women who practice it.

Oct: 30th 1844. The melancholly news of Gen: Pegram's death reached us yeesterday by the cars.¹⁶ He was going down <in> the Ohio river in a steamboat--whose boiler burst, destroying the life of himself & eighty three other persons. The steamboat had stopped in the middle of the stream to repair some of its machinery, which had broken, & the Engineer failing to let off the steam three of the boilers exploded, tearing the greater portion of the boat to atoms, & killing nearly every one on board. The death of Gen: Pegram is sincerely lamented in the City. His urbane manners & courteous bearing towards all had made him a very great favourite. He was one of the few men, whose good fortune it was

to conciliate all. I do not remember ever to have heard a harsh or unkind sentiment expressed towards [him] by any human being. He was, <with> by the concession of all, a polished gentleman & an honorable man. If there was any fault at all in his bearing towards his fellow men it was that, although kind & courteous to all, he seemed seldom--if ever, bound by strong sympathy & friendship to any. This, however, is an opinion based upon a short acquaintance with him. A more intimate knowledge of his character might have proved it fallacious. His widow learned to-day the melancholly news of her misfortune. It was imparted to her by Mr: McFarland.¹⁷ It will come upon her like a bolt from a clear sky. Little dreamed she last night, as she layed her head upon her pillow--that she was a widow, & her children fatherless. It will require all the calm fortitude of the female nature to stand the shock. She deserves, as she will unquestionably receive, the tenderest sympathy of friends.

Nov: 2nd 1844. This canvass is enough to teach a reflecting man that the life of a politician in this country is any thing but desirable. Indeed it is scarcely possible to engage in the strife of politicks & come out as pure a man as before. The habits of our political men but too forcibly illustrate this. Few of them escape the contagion. And the reason is plain. The temptation to fall into evil ways is immense. If a man imbarks in politicks, he of course desires influence. This can be only secured by ingratiating himself with the masses, who hold power. And he can only ingratiate himself in their favour, by falling into their habits--catering to their prejudices, & thus, at the same time that he polutes his own character, becomes the almost involuntary instrument of depressing the public morals by lending dignity to dissipation & vulgar prejudices. Of course there are some exceptions to this general rule--some

who pass the ordeal without injury--especially in those portions of the country removed from the influence of large cities. But such is certainly the general & strong tendency of political life. To go upon one of our court greens & see a candidate canvassing for an office, is enough to quench the political aspirations of almost any sound judging man who regards the integrity of his morals & the purity of his habits. You see him arm & arm with men <with> whom on any other occasion he would avoid as would so many lepers--drinking with them--carousing with them--&, in every way he can, catering to their passions & prejudices. It is certainly one of the evils of our republican form of government that its administration must necessarily fall into the hands of men whose morals have been more or less shaken by their exposure to such severe temptations. The consolation is that what we lose in this particular, we gain in others.

We had a most enthusiastic meeting to night at the Democratic association, which met at the Exchange. It was the last meeting before the Presidential election, which takes place on monday next. Young--Seddon, Patton, & Caskie spoke.¹⁸ Seddon delivered one of the best speeches I ever heard from him. His speech was devoted in the main to repelling the charge so often urged against the Democratic party that it[s] principles are disorganizing & revolutionary in their tendency. He proved, I think, to the satisfaction of every candid mind that, as is not unfrequently the case, those who make the charge are more amenable to it than those against whom the charge is made. The democratic party, he contended, is really the conservative party of the country, & that it is the Whig party which contains in its bosom those elements of disorder & commotion, which threaten dissolution. Mr: Patton spoke next. A part of his speech was inimitable. John H. Pleasants--the Editor of the Whig--had assailed him very bitterly on the ground of inconsistency at the time he took sides

with the democratic party. Mr: P. embraced this occasion to repel his attacks. He took for his text--"Those who live in glass houses ought not to throw stones"--& after applying it to Mr: Pleasants he portrayed his political vasillation in the most ludicrous colours--for a bank & against a bank--for a tariff & against a tariff--for the proclamation & against the proclamation--for nullification & against nullification--for H. Clay & against H. Clay--for John Adams & against John Adams--for Daniel Webster & against Daniel Webster--for Mr: Calhoun & against Mr: Calhoun--for every thing & against every thing--for every body & against every body.

<Oct: 3> Nov: 3rd 1844. I dined to day with Mr: Roane.¹⁹ It being the day before the Presidential election, he wished to convene some of his friends around his hospitable board "to encourage the brave & inspire the timid"--as he said in his note of invitation. Mr: Ritchie--Judge Nicholas--Mr: Scott--Seddon--Caskie, & myself composed the company. Mr: Green & William Ritchie joined us in the evening.²⁰ About half past three oclock the news of the favourable result of the election in the City & County of Philadelphia & the surrounding counties reached us. Never was there a merrier set of fellows than we were after these glad tidings. It was received by every man with a simultaneous outburst of joy, & it seemed as if a heavy weight had been taken from off the feelings of all. We left Mr: Roane's about six, & in the midst of our rejoicings & those of the drivers who, I suppose, had celebrated our victory in potations a little too heavy--we managed to break down one of our carriages & up set the other. The one which was upset was, however, soon set up again, & we all managed to get home safely in it.

Nov: 4th 1844. I have been examining to-day McCulloch's view of the principles which determine the value of money.²¹ He says that--when there is no monopoly of the right to furnish the money of a country but every individual is left free to bring gold & silver in the market at his pleasure--their value <of money> depends, like the value of every other commodity, on the cost of its production--the amount of labor & capital required to produce them & bring them to market. Gold is not more valuable than iron because it costs more labor & capital & labor to produce a quantity of gold than is required to produce the same quantity of iron. He states at this point that the distinction between value & utility must be borne constantly in mind. He does not mean to say, of course, that the value of the metals is not influenced by the fluctuations of supply & demand. All that he means to say on this point is that the supply can never so much exceed the demand as to exercise any perceptible influence on its value except by a diminution of the cost of production. The exchangeable value of commodities will remain the same as long as the same amount of labour is required to produce them. The <effect> fact that the quantity of the metals increase will not in any degree affect their value if the quantity of other commodities increase in the same proportion. It is only when the metals increase in a country in a proportion <greater than> different from its other commodities that their value is altered. And this will <never> rarely be the case unless there be a difference in the cost of production. If for any reason, either by the discovery of new mines, or by any new discovery in the art of mining, there be a diminution in the cost of producing metals, there will be at the same time an increase of their quantity, & a reduction in their value as compared with other commodities. If upon the other hand there be for any reason a diminution in the cost

of the production of any other commodity, there will be an increase in the quantity produced, & a reduction in its exchangeable value with the metals. It follows from this that an increase in the quantity of the metals is rather the effect than the cause of a reduction in their value--for their quantity would not have increased had not their value diminished. I do not mean by this that their absolute quantity would not have increased, but that their relative quantity would not--that is--that they would not have increased in a ratio different from other articles. And it is this difference in the ratio of increase which alone affects the exchangeable value of commodities. It may then be laid down as a very general rule--much more general than it is in reference to other commodities, because they circulate more freely between different countries & between different portions of the same country--that the value of the precious metals depends on the cost of their production when that production is left free to the competition of individuals. At this time, in a country possessing a sound currency--the <aggregate> value of the other property of a community & the value of its currency stand in the relation of thirty to one--that is--in a community whose aggregate capital is thirty one millions--one million is employed in the function of exchanging the remaining thirty millions from hand to hand. Now when the currency of a country consists of the precious metals, & the production of those metals is left open to individual competition--to say that the currency of a country stands to its other property in the ratio of thirty to one means--that thirty times as much labour was expended in producing the other property as was expended in producing the metals constituting its currency.

Next as to the principles which determine the value of money when its supply is placed under limitations & restraints. Whenever the supply

of money is limited, & is not left under the influence of the causes which affect the value of commodities & consequently the fluctuation in their quantity--its value depends upon the amount of commodities to be exchanged as compared to the amount of money to exchange them. In a country having a metallic currency, which is supplied by individual competition--if a hat exchange for a dollar, it is because it has cost the same amount of labor to produce the hat which it cost to produce the dollar. If, however, the supply of the metals is monopolized, & their amount limited, then, if a hat exchange for a dollar, it is because such is the ratio which the hat bears to the whole amount of commodities to be exchanged when measured by the metals. It may be thus stated--the hat is to one dollar as the rest of the commodities to be exchanged are to [t]he remainder of the dollars constituting the currency. If, therefore, either the number of dollars remain the same & the commodities increase--or the commodities remain the same & the dollars increase--in the one case the value of the dollar will be increased & in the other diminished. It is clear, therefore, that whatever be the matter out of which money is made--however intrinsically worthless it may be--its value may be increased to any point by limiting the quantity--inasmuch as, where its quantity is limited, the value of money does not depend upon the cost of its production, but upon the amount in circulation as compared with the amount of commodities which it is to exchange.

It then being true that paper may be raised to value of the metals for the purposes of currency, the grave question arises whether it is possible to maintain it at that value. The solution of this question seems to depend upon the further question whether a set of men can be found, who, when placed at the head of the currency, will rigidly & invariably adhere to a fixed principle in administering it; for it seems

to me a principle may be laid down by which a paper currency might be maintained at a value on a par with that of gold & silver. The principle is now almost universally admitted that, such is the facility with which the precious metals circulate between different countries, it is almost impossible that their value should rise higher in some countries than in others. By the operation of the laws of supply & demand they are kept at or about par in all countries--which means that the ratio which exists between the currency of one country & its other property together with the frequency of its exchanges is the same with that which exists in every other country--if the ratio be thirty to one in one count[r]y it is the same in all others. If then it be true that the precious [metals] will always stand at par in different countries--the fact that a paper note representing a dollar will at any time exchange for the identical amount of silver contained in a dollar proves that it is of the same value with silver--that is that the same ratio exists between this currency & the property of the country as would have existed if the currency had been a purely metallic one. But in order that the fact--that a paper note representing a dollar will exchange for the amount of silver contained in a dollar--should prove that it is of the same value with silver which is at par, it must not be convertible into silver. For if paper money be convertible into the precious metals--that convertibility will depreciate for a time the value of the metals themselves if there be an excessive issue of it, & thus cause them to be exported. The reason why an overissue of inconvertible paper will show itself by a depreciation of value of such paper as compared with the metals, but an overissue of convertible paper will not thus exhibit itself, becomes obvious if you will only look upon the metals as upon any other commodity. Suppose the amount of currency be suddenly increased by a large issue of inconvertible

paper. The price of all commodities must, of course, immediately rise, & with them the price of metals. But, on the other hand, suppose the currency consist of convertible paper, & there be an additional issue of convertible paper--it is plain that this additional issue cannot depreciate the value of the paper as compared with the metals; because it can be immediately exchanged for the metals. The only effect would be a general depreciation of the currency which would lead to the exportation of the metals. Where the currency is of inconvertible paper an over issue would also induce an exportation of the metals; but it would at the same time exhibit itself by a depreciation of the paper as compared with the metals--in this last respect differing from convertible paper. When a currency is composed partly of the metals & partly of paper convertible into them, the only manner in which an overissue shows itself is by a fall in the exchange & efflux of the metals.

[Undated]. To day is the presidential election. As it rains, the polls are to be kept open three days. So far every thing has passed off quietly. No riots--or quarrels.

Nov: 5th 1844. Mr: Calhoun in his speech on the currency in 1837, takes the ground that no convertible paper--that is--no paper whose credit rests on a promise to pay--can ever have that stability which is requisite to constitute a sound national currency.²² His reason for this opinion is--that the measure of safety in the two cases are wholly different. In the case of a promisory note or convertible paper, the community looks only to the maker, & if he be able & willing to pay, his notes circulate freely from hand to hand. The willingness & the ability to pay, then, is the measure of safety in the case of promisory notes or convertible

paper, & the amount of such paper in circulation in no wise affects this measure of safety if the maker remain responsible. Not so in the case of the currency. The currency of a country & the property of a country stand to each other in a certain proportion, & this proportion cannot be violated without deranging the currency. It is not known precisely what this proportion is; but it is assumed conjecturally at thirty to one for the purpose of illustration. It follows, then, that in a count[r]y having a sound metallic currency, the agregate value of its property is thirty times greater than the aggregate value of its coin. Now it is obvious that in a convertible currency there is a constant tendency to excess. For regard is had only to the ability of the maker to pay, &, whatever may be the quantity emitted, it will circulate as long as the maker is perfectly responsible--without reflecting that, considered as currency, such paper cannot safely exceed a certain amount--that is--the amount of gold & silver which would have circulated as currency had the currency been metallic. In the case of promisory notes or convertible paper there is no guarantee that the circulation will not exceed this amount. The ability of the makers to pay is certainly no such guarantee, & yet it is the only check upon its increase.

McCulloch supposes that it is possible to devise a system of convertible paper currency which shall be of identically the same value & amount with the metallic currency which would circulate in its stead, were it withdrawn--exposed to the same fluctuations & none other. He proposes that all local issues shall be suppressed, & that there shall be but one issuer under the management of government--that its business shall be confined rigidly to exchanging paper for gold & gold for paper according to the wants of the public. The principle is to be inviolable--that not[h]ing but the metals are to be received in exchange for its paper.

And it is this which distinguishes the establishment which is proposed from a government Bank, which discounts bills & makes public loans. It is supposed that by rigidly adhering to the principle [of] exchanging paper for nothing but gold & silver, a convertible paper currency may be preserved at the metallic standard.

Nov: 8th 1844. We this evening received partial returns from New York, which are quite favourable to the Democrats, but by no means decisive as to the result of the election in that state. But never were such a despondent set of fellows seen as the Whigs of Richmond. They are as much depressed now, as they were elated a few days ago, when, through the deceptive medium of their sanguine imaginations, they saw Mr Clay borne in triumph to the presidential chair amidst the acclamations of an overwhelming majority of the American people. Their present despondency, however, I think, is as unreasonable as their past elation. The news, although rather unfavourable to them, is by no means decisive. Such dejection, however, is but the reaction of extravagant & unfounded hopes. They supposed that Mr: Clay's popularity would sweep New York like a whi[r]lwind, when the result has been that he has run behind his party so as we have heard. Indeed the two elements which have entered most largely into Whig estimates are the <great> popularity of Mr: Clay, & the unpopularity of Mr: Polk. A fixed idea seems to have taken hold of the public mind of the Whig party, that Mr: Clay is to run greatly ahead of the strenth of his party, & Mr: Polk greatly behind the strength of his. The result has proved this to have been a mistaken idea--at least in the States of Penn: & Virginia.

Last night I was at Miss Caroline Watson's wedding. She married Mr: Barbor of Albemarle. The match is deemed a prudent one. The ceremony

was very solemn. Mr: Barbour passed the ordeal quite creditably--I thought. The lady was frightened, but did not disclose it so much during the ceremony as afterwards, when a certain listlessness & abstra[c]tion seemed to take possession of her which disqualified her for a graceful & dignified acquittal of herself out of the embarrassments of her situation. But the deed is done. There can be no doubt of that. They twain are one flesh. And as Miss Julia says, the only care is for those who remain behind. In her own language--"heaven send a speedy repetition."

Nov: 9th 1844. The news has reached us this evening that New York has gone for Polk & Dallas, & this is very generally considered as decisive of the result.²³ Polk & Dallas are, then, to be our next President & Vice President. The Whigs take this result very much to heart. It is really distressing to see the deep despondency into which some of them have sunk. If each man had lost his dearest brother it could not have cast a deeper melancholly over the City than that which pervades, at this time, the Whig portion of the community. During these exciting scenes, the conduct of the Democratic party has been worthy of all commendation. They have borne their triumph with exceeding moderation--it must be confessed by every candid man. No triumphal procession--no burning of tar-barrels--no public demonstrations. Every democrat is, of course, gratified at the result; but it is a flame which burns calmly in his own bosom. There is no insulting outburst of joy; but rather a tendency to sympathize with the disappointments of the Whigs. And this feeling would exhibit itself much more decidedly, did not every democrat know that his motive would be misunderstood & his sympathy construed into the bitterest irony.

Not only are the Whigs sunk into the depths of despondency; but some

of them--I do not charge it on the party--are wrought up to such a pitch of excitement that they are prepared for almost any rash act. I heard one say not two hours since that he would to night enlist himself for the purpose of forming a <party> company who shall go to Washington on the 4th of March next, & prevent Polk from entering into the presidential office by force of arms. The individual who uttered this sentiment, was, however, it is just to say, a gentleman for whom I have the highest respect; & I am quite sure that, after the first flush of excitement is over, he would retract it. The fact, however, is indisputable--that such is the excitement & exasperation at this time that nothing but an excuse is wanting to lead to acts of violence. The sums of money which have been staked are immense; & this, much more than the interest which has been felt growing out of public considerations, has contributed to the intense excitement which pervades the public mind at this time.

Well--a victory achieved! There is a possibility that I may be wrong in this exclamation. The probabilities are incalculably in favour of my being right. Assuming then that the Whig party is defeated in this election--how stands the case? I do not profess to have the power wielded by the witches of Macbeth--"to look into the seeds of time, & say which grain will grow & which will not," but I record here to night the following speculations in reference to the fate of the Whig party. I predict that there will be an utter dismemberment of that party, & that the elements of which it is composed will reassemble in some other form of opposition. Many of its members will, without doubt, join the democratic ranks--others will go towards the formation of a distinct party. This new party will probably draw largely from the democratic party & constitute a nucleus around which all the elements of disaffection & opposition will from time to time collect until ultimately it will

obtain the ascendancy. Then we shall see reenacted the scenes of 1840. For any one who will candidly analyze the political revolution of 1840 must concede that it was effected by a party composed of materials as incongruous as the ingredients of the cauldron of the witches of Macbeth. The Republican party had been for many years in the ascendancy. From time to time individuals & fragments had become disaffected--for power never fails to give offence to some & to provoke opposition. Gradually, through a length of time, these elements of opposition had been collecting until ultimately they came to constitute a majority of the voters of the U.S. And hence the Whig triumph of 1840. The same scene will be reenacted. The Democratic party having gained the ascendancy, will maintain it, until, after the lapse of some years, by virtue of the tendency of power to excite disaffection & provoke opposition, a party constituted from these elements shall gain sufficient strength to turn them out of office. What are the principles upon which this new opposition will organize, remains to be seen. In all probability native americanism will be its prepondering element in the beginning. Already many of the Whigs have raised that cry, & many more remarkable things have happened than that. W. S. Archer,²⁴ supported by this party, may one of these days reach the Presidency. It is reported that he looks forward confidently to such a result himself.

Nov: 10th 1844. The news from New York is confirmed, that from Georgia is encouraging. This last state will probably go for Polk by an increased majority. There can be little doubt remaining but that James K. Polk is president elect. The Whigs are gradually recovering from the stun of the blow of yesterday. They still fret & chafe a little; but this is the manner in which their disappointment will relieve itself.

The dangerous symptoms of yesterday have nearly passed away--that smothered & deepseated passion which is too strong for utterance, & which only exhibits itself by the flash of the eye & the gloom on the brow. There are a few such only remaining who move about the streets like spectres--& seem, like the "sulky sullen dams" in Tam O'Shanter,²⁵ to be "nursing their wrath to keep it warm." They are a class of gentry who are more grieved about the injury Polk's election has done to their purses than any imagined injury which it will do to the country. Now that the election is over, I hope most sincerely that things will speedily compose themselves. It cannot be long before the sediment, which the boiling of the caldron has brought to the top, will sink to the botom where it belongs. The sooner the better for the country. There are, however, several young men who have won laurels during the canvass. May they continue to wear them, for they deserve them.

Nov: 11th 1844. The last number of the Living Age contains a short notice of the late King of Sweden--Charles John--who before he ascended the throne of Sweden was John Julian Baptiste Bernadotte prince of Ponto Corvo.²⁶ He was chosen Crown prince of Sweden by the States of that Kingdom 21st Augt: 1800. During <the> his reign the family resisted Napoleon's continental system. His personal appearance is represented as being very fine. His strongly marked features--his beautifully modeled mouth--this brilliant eyes--all formed a whole, strikingly intellectual at the same time that it was extremely fascinating. But it was his eye which was the most remarkable feature in his face & which gave character to it. It is said to have been as keen as an eagle's & few could stand its flash. Everyone who met that gaze seems to have felt that his inmost soul was exposed to view. Bernadotte is said to have

been aware of this singular power of his eye, & to have formed immediately a bad opinion of those who qualified before its scrutiny. During the whole of his reign he was a good king, & sincerely devoted to the interest of his adopted country. His son Oscar--the present King of Sweden--is said to have inherited many of his father's virtues. He possesses a manly person with a face of exceeding beauty. The Swedes are devoted to him, & he seems to endeavour to merit their favour by his earnest devotion to their interest.

The same number of the Living Age contains also a biographical sketch of the late King of Prussia--Frederick William III. He was, I believe, the immediate successor of Frederick the Great. He seems to have been rather a good King than a great King. In all the private relations to life, he seems to have been a model. Had his lot been that of a private individual he would have enjoyed the reputation of a polished & refined gentleman, & would have been an ornament in the society in which he moved. As a King, the vacillation of his course during the career of Napoleon detracts much from his character for decision & firmness.²⁷ If, however, history denies to him those high powers which are required to meet crises, such as those to which he was exposed, with that coolness & energy which ensure success, it at the same time accords to him that high & christian philosophy which sustains its possessor in the midst of afflictions, & encourages him, in the blackest of the night, with the anticipation of a brilliant dawn.

Nov: 13th 1844. It has become quite the fashion with gentlemen lately to decry beauty--& underate its influence in society. This is the language rather of policy than of real conviction; for it nowadays not unfrequently happens to gentlemen that they have to entertain ugly

women, & policy suggests that they should pursue this course, for nothing is more pleasing to us than to hear those qualities depreciated which we do not possess. But that beauty is the most powerful weapon that a woman wields is indisputable. Beauty has ruled the world ever since the days of Mark Antony, & it rules it still & it will continue to rule it while men have eyes in their heads & hearts in their bosoms. Nothing was more natural than the conduct of Paris when he gave the golden apple to Venus. Juno promised him a kingdom--Minerva glory--but Venus the most beautiful woman in the world for his wife.²⁸ And in this she understood the heart better than her rivals. For what is a kingdom or glory--compared with a beautiful woman. Some cold hearted skeptics may question the soundness of this last proposition, & so might I--probably. But let that pass. Whether true or false, it is unquestionably the language which should be spoken to pretty women. But suppose the case reversed & you are conversing with ugly women. Then let this be the spirit of your conversation. It is true beauty rules the world. But in what does beauty consist? Surely not in mere symmetry of form & feature. If this be what is meant it is certainly not true that beauty exercises this great power in society. But it is that beauty which consists in a graceful manner--a polished & cultivated intellect--a pointed & piquant wit--& lastly a good heart which makes the greatest number of conquests. Where the world finds the Graces they proclaim the Venus. Nature furnishes the rough material, but Art must hew it into form & beauty. Look through this city, & say who are those most admired. Not those who have the prettiest faces surely. But those whose manner is the most pleasing--who possess the greatest conversational power, & who have most tact in society.

Nov: 14th 1844. I find it stated that many of the Moorish families in Morocco still retain in their possession the keys of the houses which their ancestors inhabited before their expulsion from Spain--believing that they will in the course of time be restored to their country. In 1842, the Mexican government granted to a wealthy merchant--Don Jose de Garay--the privilege of offering a communication by canal between the Atlantic & Pacific at the isthmus of Tehautepec.²⁹ He has made a survey & gives it as his opinion that although the distance is greater at Tehautepec than at Panama or Nicaragua yet that the work would be much more easily accomplished at that point than at either of the others--the difficulty being in the inverse ratio to the distance. It is apparently impossible at Panama--attended with immense difficulty at Nicaragua, & practical & easy at Tehautepec. John Howard, the celebrated philanthropist--was born in England in 1726. In 1773 he acted in the office of sheriff, & the distress of prisoners which he witness[ed] during the discharge of the duties of this office first led him to the humane design of visiting the prisons of England for the purpose of administering relief to their inmates. After having visited the prisons of England, he passed to the continent for the same humane purpose--where he visited the prisons of all the countries of importance. Having in this manner gained a vast amount of information on the subject of prisons, in 1777 he published a work on the state of prisons in England & Wales. He next proposed to himself a mission to Russia Turkey & thence through the East for the same purpose, but was cut short by death--having contracted a fatal disease while on a visit to a patient who was suffering with some malignant epidemic.

Nov: 15th 1844. Nothing so much gives dignity & high tone to manners

as having one's position in society ascertained & fixed. This, more than any other one thing, exercises a prejudicial influence over the manners of the Americans. Here all stations are ill-defined--society is in constant motion--the toes of one class are treading on the heels of the class immediately above them. The consequence is that society is a scene of jealousies & rivalries, where men are constantly elbowing their neighbours in their strife to get ahead of each other. Where the grades of society are, in this manner, forever fluctuating, there can be no standard of good breeding; & every thing is left to the intuitive tact & natural good sense of each individual. We have, therefore, great individuality in our manners--but no code or system to which all must conform--as in England where society is a tread mill routine of formulars, within the reach of every man & beyond which no man is allowed to soar. The result is great inequality in our manners. Those men who [have] fine intellects & refined tastes & feelings, being fettered by no artificial system, become polished gentleman--the peers of the English or any other gentry. On the other hand, those whose natural endowments are inferior, & who, not being born gentlemen, required to be made gentlemen, for the want of some conventional standard to which they may conform--being left to their own resources fall below their grade in other countries having some such conventional standard. The effect of every code of manners must be to improve & assist those who are rough & unhewn by nature up to a certain point; but at the same time to fetter men of better mould by clogging them with old formulars.

Nov: 17th 1844. Has a legislature the right to repeal a charter which has been granted by a preceeding legislature? By the term "legislature"--in this question, the lawmaking power is meant, &, in the government of

the U. States, the President would be embraced in it, as his assent is generally necessary to the passage of laws. With this definition of the term "legislature," I think one legislature has a right to rep[e]al a charter granted by a preceeding legislature. It is evident that <there> at every period of time, there must be in <the legislature of every government> every people the power to provide for the exigencies of the times as they arise. It is not enough that they should have this power at one time & not at another; but, at all times, they have the full right to decide what, under given circumstances, it is best for them to do. This right of <deciding> saying at all times what is best for their interest under existing circumstances, which is inherent in every people, is, when they come together under governments delegated to the legislature or lawmaking power. In every government, then, the legislature has the right to do what the people had a right to do themselves before the institution of the government--viz. to do at every period of time, whatever, at that period of time, it may think best for the interest of the country. It is true that in many cases when the people have met in convention & adopted written constitutions--either delegating specific powers to government, & reserving those not delegated to the people--consider the case of our Federal government--or <where> reserving specific powers to the people & delegating the residuary mass to the government--there are restrictions & limitations placed upon the right in the legislature. But with this qualification, & subject to these restrictions & limitations contained in their constitutions, every government has the right every year & every day of the year to do any thing & every thing which it may deem beneficial at the particular time.

Every legislature, then, having the right to do, at every period of time, whatever, at that period of time, is required by the best interest

of the country--the question arises whether one legislature can so part with this right as to bind a subsequent legislature? I say not for if one legislature can bind a subsequent legislature, one generation can legislate for another generation. And what right, I ask, has one generation to legislate for another. Each generation has the right to judge & is the best judge in reference to its own affairs. It has both superior ability, & greater disposition, to decide rightly. Accordingly it has the absolute right to manage its own affairs--make its own laws, & do whatever it pleases--untrameled by the past. The interest of mankind & the progress of improvement demands that this should be so. Otherwise we might have one century legislating for another--the seventeenth for the eighteenth--the eighteenth for the nineteenth--& the nineteenth for the twentieth--our ancestors for us & we for our posterity. Hence, I maintain, there can be no such thing as an irrevocable law, & a succeeding legislature may repeal any law which a preceeding one has passed. Every legislature must be the absolute & unfettered judge, for the time being, as to what will best promote the public interest.

Nov: 18th 1844. But a distinction is attempted between an ordinary act of legislation--although it may be expressly declared to be irrevocable-- & a law conferring a charter--because a charter is said to be a contract between the legislature granting it & the individuals to whom it is granted, & a contract, in its very nature, implies that it is beyond the reach of one of the contracting parties without the assent of the other. This is true, provided the parties have a right to contract, & the contract is valid. But what right has one legislature to bind another by a contract--or rather one generation to bind another. What right have our ancestors to bind us, or we to bind our posterity--the seventeenth

century to contract for the nineteenth, or the nineteenth for the twentieth? None whatever! Every generation has the right to be the absolute arbiter of its own destinies. But we are told that individuals are induced to expend large sums of money & to invest capital on the faith of the inviolability of these contracts. This certainly constitu[t]es a very strong reason why one generation should abide by a contract which has been made by a preceeding one, & unless some reason stronger than this can be shown why it should be broken, the contract should always be observed. But this is no argument against the power itself. It is an argument against its exercise only. And when used for this purpose, it is certainly a most powerful argument. For no one doubts that the fact that men have been induced to embark large amounts of capital in particular enterprises on the faith of contract[s] which a particular legislature has made with them constitutes an exceeding strong reason, why all subsequent legislatures should observe that contract. But, then, it is in the nature of things possible that still stronger reasons may arise why the contract should not be observed. And the power should be reserved to meet extreme³⁰ exercised through its legislature--no one legislature can part with this right so as to bind a subsequent legislature--either by contract or otherwise, & the only difference between a contract made by a legislature & any other law passed by a legislature, so far as it concerns future legislatures, is, that where a contract is made, greater trust & reliance is placed in government than <where> in the case of an ordinary act of legislation, &, therefore, the reasons are stronger why a contract should be inviolable than why an ordinary act of legislation should. But as reasons may exist why an ordinary act of legislation should be repealed, so may reasons exist why contracts should be repealed. With each generation is lodged the exclusive &

absolute right to decide in these reasons, & to act on that decision. The result, therefore, is that succeeding legislatures have the right to repeal charters granted by preceding legislatures, but very strong reasons should exist before the exercise of this right becomes proper. For every repeal of a charter has a tendency to shake public confidence in government, & it is of exceeding importance that public confidence in government should remain unshaken. But cases may arise where greater will result from adhering to the charter than from the shock which the public confidence would receive by repealing it. In all such cases the legislature has the right, & it is its duty, to repeal.

Nov: 19th 1844. Macaulay's argument against the union of church & State seems quite satisfactory. It may be condensed as follows. The whole question is whether the propagation [of] a religious creed is one of the ends of government as government. As to some of the ends of government all men are agreed. That it is designed to protect persons--to protect property--to force individuals to satisfy their wants [by] industry instead of by repine--to compell them to settle their difficulties by arbitration instead of by the strong arm--is universally conceded. Now these are things in which all men feel deeply interested, whatever may be their religious persuasion. Whether men be Jews--Pagans--Mahomedans--Papists--Protestants--Deists or Atheists, they are equally interested in the security of person & property. But the hopes & fears of man are not confined to this visible world. He finds himself surrounded by signs of a power & a wisdom greater than his own; & in all ages & nations, all men of all grades of intellect have believed in a superior mind. Thus far men are unanimous. But whether there be one God or many Gods--what are his attributes--how he is to propitiated & &c--these are questions

on which there is an infinite diversity of opinion. Here, then, we have two great objects--one the protection of the persons & the property of men--the other the propagation of religious truth. It is not possible to imagine two objects more distinct. Men who agree perfectly in reference to the means by which the first is to be accomplished differ entirely in reference to the means by which the latter is to be accomplished. Why then should those who have been entrusted with power for the accomplishments of the former objects use that power for the accomplishment of the latter? Can any better reason be assigned why those who have co-operated for the purpose of protecting persons & property from violence, should use the power, which such co-operation places in the hands of the majority, for the propagation of religious truth, than \langle that \rangle why those, who have co-operated for the purpose of banking--or manufacturing--or forming a rail road company, should use the power, which such co-operation places in the hands of the majority in these cases, for the same purpose? It is evident that any great objects can be attained only by co-operation. It is equally evident that there can be no efficient co-operation if men proceed on the principle that they must not co-operate for one object unless they agree about other objects. Nothing is more beautiful in our social system than the facility with which thousands of people, who perhaps agree only on a single point, unite their energies for the purpose of carrying that single point. We have daily instances of it. An army is possibly the most striking.

Now no one denies that the security of persons & property is an important object, & that \langle it cannot be that \rangle the best way of promoting this object is to combine men together in certain great corporations--called states. Now to reject the services of those who are admirably qualified to promote the objects of these corporations, because they

are not qualified to promote some other object--however excellent, is as absurd as it would be for a banking company to reject the services of an individual because he was a methodist.

Thus he established that it may be proper to form men into combinations for great & important purposes, & yet highly improper that these combinations should profess any system of religion. Why, then, may not this be the case with those great combinations of men called States?

Nov: 20th 1844. I cannot see that there is any difference between a contract to which individuals are the sole parties, & a contract to which the legislature is a party. They seem to stand on precisely the same footing. When the legislature lays aside its legislative character & becomes a contractor--any contract which an individual may make with it stands upon no other footing than that on which every other contract stands. They are both the subjects of legislative power. And as every legislature has full right--unless there be some prohibition contained in the Constitution from which it derives its power--to mould private contracts into such forms as it thinks the public interest demands, so may it exercise the same power over contracts to which it is itself a party. It is possible that some whose attention has never been particularly called to the nature of legislative power, may feel disposed to deny that the legislature can legitimately exercise any such control over private contracts. But if they will reflect on the <funda-> indisputable principle that all living men must, at every period of time, possess supreme power over their own happiness--& that to suppose that there is any thing which a whole nation cannot do which they deem to be essential to their own happiness--is sheer nonsense--all doubt must vanish. For this power which resides in every people, at every period of time, is,

in every government--for the sake of convenience--delegated to the legislature, or lawmaking power--& with it, therefore, in any govmt is lodged <all> the power of doing any thing & every thing which in its judgment the exigency of the case may require. The lawmaking power, therefore, is supreme, for the time being--in every government--unless there be some limitations upon its powers contained in the constitution which has called it together. To say that there is any thing which it cannot do, which it deems essential to the happiness of the people over whom it called upon to legislate & which is not prohibited by the fundamental law, is absurd as it is to say that there is any thing which a whole nation of living men cannot do, which, in their opinion, will promote their happiness. This supreme legislative control extends to contracts as well as to every thing else & if the legislature, in the exercise of its wi[s]dom, believes that the public happiness would be advanced by remodeling the private contracts of individuals--by interfering with the relation between debtor & creditor--<it has full> & there be no prohibition contained in the constitution of the state, it has plenary right to do so. How stands the fact? Have not legislatures in our own day exercised this power of interfering with private contracts? What are our stay laws & bankrupt laws--but such acts of interference? The constitutionality of these laws, it is true, has been questioned by some--that is--it has been questioned whether the right has been delegated to the legislature in the one case or whether it has not been prohibited in the other--in the constitution--thus to interfere with private contracts. No one denies that the right of thus <interfering> [] with the relation of debtor & creditor, or of remodeling it in any other manner belonged to the people of the state--& that they might, had they seen fit to do so, have delegated that right to the legislature in the one case, or that it would have existed in the

other, had there not been a prohibition. Of such paramount importance is the inviolability of contracts--of such high inexpediency, except in extreme cases any interference with the existing relation of debtor & creditor--so rare the instances when the exercise of the power becomes proper & so great is its liability to abuse--that many people living under written constitutions, have prohibited their legislatures from passing any law impairing the obligation of contracts. There is such a provision in the constitution of Virginia. But no one doubts that the people of virginia have the right to interfere in any manner with private contracts which they may think the public interest demands, & that they might have delegated this right to the legislature of Virginia had they deemed it advisable.

Thus we see that the right belongs to every people to deal with the contracts of individuals as, in their opinion, the public happiness may demand, & that this right may be delegated by them to the legislature, if they think it prudent to do so. Now if the legislature can exercise this right over the contracts of individuals, why may it not exercise the same right over contracts to which it is itself a party? Can any reason be assigned? The public happiness may require that private contracts should be <remodeled> the subject of legislation. So may the public happiness require the public contracts should be <remodeled> the subject of legislation. The two cases seem to be precisely analagous. But it may be said that when the legislature enters into a contract with an individual that its legislative character is lost in its contracting character quoad³¹ the particular contract. I answer that this is impossible, for the reason already assigned. Every legislature must be supreme at every p[er]iod of time & for every purpose. Otherwise we would have the anomaly of a people who would not have it in their power to do

what they deemed essential to their happiness, which is absurd. If, when a legislature becomes a contractor, its legislative power is lost in its contracting character, it would be <in the power> [] of one legislature to contract away, not only its own powers, but the powers of all subsequent legislatures. So that if the principle be persisted in, we would in the end have legislatures <which would> having no legislative powers--that is a nation of living men who would not have it in their power to manage their own affairs, because their affairs had been managed for them by a race of men long since dead. In this manner the government is transferred from those who are necessarily the best judges of their wants, to those who necessarily know little or nothing about them. One generation legislates for another generation--the eighteenth cent[ur]y makes laws for the nineteenth century & the nineteenth century fixes the destiny of the twentieth. Every legislature is supreme at every period of time & for every purpose. It has the absolute & exclusive right of ma[na]ging its own affairs for itself, & it cannot deprive either itself or any subsequent legislature of this right--neither by contract or in any other manner.

Nov: 22 1844. I have seen the following explanation given of the brilliant conversation powers of the first society in France about the time of the Revolution. During the despotism which preceded the revolution a system of patronage towards literature & literary men had prevailed very extensively. The French Academy, founded by Cardinal Richelieu, & under the patronage of the crown, drew together a vast assembly of talent which shed its light upon the throne.³² This example was soon imitated by the nobles. They took under their patronage men of taste & tallent, whose conversation might instruct & amuse them. There seemed

to be a tacit contract in all such cases between the noble & the man of letters--patronage & support on the one hand--instruction & amusement on the other. It, therefore, became the interest of the literary class, not only to accumulate the largest amount of information possible, but also to study the art of communicating it in the most agreeable manner. Hence conversation was studied as an art. The only danger was that it would degenerate into fawning. And for a long time there was this taint upon it. But when the French revolution came, it brought a corrective for the evil. Men threw off their old allegiance & their minds their old bondage. Great & engrossing questions became the subjects of speculation. The asperity of discussion was generally softened by the presence of ladies. The saloons of Madame de Stael & Madame Roland were the scenes of the discussion of many of the most important problems to which the social state can give rise.³³ The tendency of speculation such as this was to give boldness & independence to men's minds, & peculiarly to correct that servility which is one of the evils of the patronage system. The result was that the generation who lived at the commencement of the revolution enjoyed all the advantages of the patronage system purged of its evils--its desire to please without its servility. Never was conversational talent carried to higher perfection. Madame D'Arblay (the celebrated Miss Burney) was thrown with some of the French emigrants of this period, who settled at Norbury. Among them was De Stael--Talleyrand--Narbonne &c. Although she knew intimately Johnson--Windham--Mrs Montague & Mrs: Thrale--she acknowledged that she had never heard conversation before.³⁴

Nov: 23rd 1844. The religion of Socrates. At the time when Socrates appeared among the Athenians as a teacher, a deep & gloomy skepticism pervaded the public mind. Every educated Athenian was a skeptic & a

worldling. All his care & thought was about his present being. The future was a [] fiction, hung about with mystery. The early Greek superstition, which had been borrowed from the East, was at first a religion, which veiled, under the forms of types & symbols, sublime & valuable truths. But, as the tendency of the mind is to transfer its worship from the inward truth to the outward sign & to loose the substance in the shadow, these types & symbols, soon began to loose their sacred imports & the Greek religion soon degenerated into a devotion to the external world. This necessarily struck at the root of all sincere religion. Hence the universal skepticism which pervaded the Grecian mind at the time Socrates appeared. The poets of Greece had exercised as much influence as her priests in reducing its early religion--whatever may have been its merits--into a degrading superstition. The Iliad & the Odyssey were its canonical books--& the brutal & contentious divinities of the Trojan War the objects of popular adoration. Now the great achievement of Socrates was to direct his mind, from this system of idolatry & atheism, to the contemplation of the world, of the creation, &, discovering there the evidence of design, to infer from these evidences the existence of an intelligent designer--who presided over the universe. He was the first to discover the argument from analogy--which has been so often repeated by subsequent speculators on the same subject, & which has gained such repute. The religion of Socrates was--that a supreme being presided over the universe--& that the evidence of his existence was to be found in the works of creation. In reference to the manner in which this supreme being should be worshipped, he recommended the existing national formulars. Views of expediency, it is thought, induced Socrates to adopt this form of worship. For had [he] refused to conform to the religious observances of the country, the jealousy of the priests would have been

probably aroused, & his religion crushed in its infancy. Hence, after he had taken the hemlock--he particularly enjoins it on his friend Crito to sacrifice the cock to Esculapius.³⁵

The morals of Socrates. He believed that there was a monitor in the breast of every man--which he ascribed to the voice of God--pressing him on to do what was right. He taught, therefore, the modern doctrine of the conscience--& its province was, in his code of morals--to impel men to the performance of what was right & to the avoidance of what was wrong. But he never elevated the conscience into a judge of right & wrong. Its office was to act <press> as a spring to press men on to doing right & avoiding wrong, after it had been first discovered what was right & what was wrong. His standard of right & wrong was the will of God. And arguing on the universal benevolence of God, he made utility the interpreter of that will. So that in practice, utility became his standard of right & wrong. The fact that the tendency of a particular action was to produce happiness indicated to his mind that it must be in harmony with a system of things which <met with> emanated from a being of universal benevolence, & must therefore, meet with his approbation. So that, in his code of morals, utility & right--or the will of God, were the same things. Interest & duty--virtue & happiness became synonyms. His system of morals may be, then, stated in a sentence. Utility was his standard of right, piety the motive to right.

The politicks of Socrates. The ancient sages of Greece--as Thales--Solon &c--were practical legislators, as well as political speculators.³⁶ They were officers under government, & soon engrafted their improvements on the institutions of the country. This continued to be the case with the Athenian politicians as long as there was any hope for the republic. But when, in the course of its degeneracy, the Athenian government had

passed the point of regeneration & the Republic was abandoned, those minds, which had before employed themselves in practical legislation & in engrafting improvements on the government, abstracted themselves from public affairs & abandoned themselves to the wildest speculations. Their political speculations were the wildest utopian dreams. Socrates stepped in at this period as a practical political reformer. He taught principles by which the happiness & prosperity of the state might be increased. He held no office, like Thales & Solon, & could not therefore exercise a direct influence over the government, as they did. His labour was confined to individuals--& by reforming the citizens he hoped ultimately to reform the State.

There is no such difference between the philosophy of Socrates & Bacon--as Macaulay asserts in his essay on the Baconian philosophy.³⁷ The only difference between them was in the objects to which their philosophy was directed. The labours of the one was to promote the physical welfare of man--the other laboured for his moral interests. But they both took a large & comprehensive view of the wants & condition of the generation in which they lived. And if the labour of Socrates was directed more to the advancement of the moral than the physical condition of his contemporaries, it was because their moral condition stood more in need of advancement than its physical condition. Socrates lived in the age of the Sophists³⁸ when the foundation of morals was <shaken> tottering to its fall, & he therefore became a disciple of moral truths. Bacon, on the other hand, appeared just about the time that the world was th[ro]wing off the bondage of the dark ages & the war of opinion to which the reformation gave rise. The gloomy asceticism of those times enjoined neglect of body & contempt of physical comfort, & amid the struggle & throes of the mighty revolution, when contending parties were

contending for the empire of the soul, it is not surprising that men should forget that they had bodies to feed & clothe. Bacon therefore directed his attention to the advancement of the physical comforts of men. Thus the philosophy of Socrates & Bacon was differently directed, but it was still the same philosophy--the philosophy of utility & progress. And what Bacon did for physics, Socrates aimed to do for morals. He freed--or attempted to free--morality from the jargon of the schools. He disregarded all those enigmas which had puzzled the brain of the schoolmen for ages. He placed morals on the high ground of a practical science--a science the object of which was to cure the afflictions of the mind. And he maintained that the duty of moral philosophers was to set to work to discover by what means these afflictions of the mind may be av[o]ided--by what system of education--by what course of habits &c.

Nov: 24th 1844. Plato, although a disciple of Socrates, was not an accurate expounder of his philosophy. Xenophon, who occupied in reference to Socrates somewhat the same position which Boswell occupied in reference to Johnson,³⁹ speaking in reference to Plato's Apology, remarks that he had never heard such sentiments from Socrates. Plato possessed an imagination of almost oriental magnificence, & it gave colouring [to] all his theories. He was not merely a speculative philosopher. He was a poet also. The philosophy of Socrates in his hands, therefore, ceased to be that practical science which its author intended it to be. He engrafted on it from time to time the creations of his own fervid imagination until its original character was almost entirely lost. His fault was that of the schoolmen of the day. His philosophy, by aiming at things beyond the human ken, became impracticable--visionary, & dreamy. Socrates had brought philosophy from heaven to earth--Plato carried it

back again from earth to heaven. He drew a good bow, but, like Acestes in Virgil,⁴⁰ he aimed at the stars, & therefore, though there was no want of skill or strength, the shot was thrown away.

Nov: 25th 1844. A condensed view of the theory of the French Revolution. There is a striking difference between the careers of the English & French governments. In England the three great elements of power--Royalty--Aristocracy, & Democracy--seem to have developed themselves rather abreast--in France successively. Nither in England nor in France has any one of these elements entirely excluded the other, but each of the elements has in their turn been much more in the ascendant in France than in England. First came Aristocracy. During the days of Feudalism--the aristocracy held much more power in France than in England. In France, anterior to the reign of Louis XI, the Kings could be scarcely said to hold their crowns but by the sufferance of their feudal lords, &, unable to cope with them singlehanded, they could only defend themselves against their attacks, by calling in the aid of one to repel the assaults of the other. In England, on the other hand, the Plantaganets were always powerful princes--& with the assistance of the people managed to keep the barons in check. Next the monarchical element rose in the ascendant throughout Europe. In France the power of the mona[r]ch gradually increased from the time of Louis XI until the time of Louis XIV, when it had completely swallowed up the aristocracy. At this time the government of France was an absolute monarchy & it continued so until the revolution. In England, on the other hand, although the monarchial element advanced, yet there was no time during the proudest days of the Tudors when the king did not feel the check of the aristocratic & democratic elements in the government. The explanation of the fact the monarchial power

got so much more the ascendant of the aristocratic in France than in England is probably to be found in the superior individual power the feudal lords in France than in England. Relying upon their individual power, they did not feel the need of combination. The result was that the crown cut them down in detail. In England, on the other hand--the barons not having individual power to sustain themselves against the crown, combined into a body. And in this manner they were able to hold their place in the constitution. Next the Democratic element had its turn. In France, for a while, is entirely overwhelmed all the other elements, & now, after the revolution has subsided, it preserves a preponderance to which it has never attained in England. In England, during the struggle for liberty under the Stewarts, the monarchial & aristocratic elements were never lost sight of, & ultimately in the great adjustment of power in 1688 between all the conflicting elements, the government was settled upon a basis which gave decided influence to all. The democratic movement was decided--but not overwhelming--as in France. This difference in the careers of the two governments is striking & worthy of note.

The fact then, was that <in the> when Louis XVI ascended the throne, the King of France was an absolute monarch. But, although the aristocracy had lost their rank as an independent department of the government, they were employed by the King as agents of the state--they filled all the offices about the throne--<were> executed all foreign missions & were placed in command of the armies, & thus they became reconciled to the existing state of things. The people, on the other hand, were entirely excluded from all political power. Nither as an independent department, nor in any other manner was their influence in the government acknowledged. But while the people of France were thus doomed to political

insignificance, their social condition had improved vastly. Improvements in agriculture commerce--manufactures--the mechanic arts &c had given them command of wealth. With wealth came the desire for mental culture. They had thus acquired the two great elements of power--wealth & talent. The third they already possessed--numbers. The government of France, in the reign of Luis the XVI, presented the singular anomaly of all the elements of power being with one order--& yet all political power lodged with another order. It required no prophet to predict that this state of things could not last.

The theory, then, of the French revolution was simple. All political power was lodged with the King & nobles, & as long as the people had neither wealth nor talent the government was safe. Political power was united with the elements which can alone sustain it. But as soon as the great middle classes of France attained wealth & talent, they naturally began to desire political power. They would be of course resisted. The age, therefore, in which the tiers etat would probably succeed was that in which the power of the people--resulting from numbers, wealth & talent, should so far exceed that of the privileged orders as to counter-balance the advantages resulting from combination & the possession of the government. Such was the state of things at the close of the eighteenth century.

France being thus prepared for revolution, causes were not wanting to set it in motion. The wild speculations of the French philosophers about government--the American revolution--but above all the unjust system of taxation, which almost entirely exempted the privileged orders from contribution although they were in possession of two thirds of the kingdom, under the miserable sophism that the aristocracy fought & the clergy prayed, for the nation & the remainder must, therefore, pay the taxes--

all these causes combined to breed a spirit of discontent with the existing state of things. But the immediate cause of the revolution was the impossibility to raise revenue to meet the national exigencies. This led [to] the convocation of the States General on 5th of May 1789--& this is universally looked upon as the commencement of the revolution. In this General Assembly the three orders of the Kingdom were represented--nobles--clergy, & tiers etat--the latter having as many representatives as the other two combined. As soon as they were convened the question arose whether they should sit together in one <assembly> chamber & vote per capita, or in different chambers each with a negative on the proceedings of the other. At length on 17th June 1789 the tiers etat voted themselves into a General Assembly & proceeded to business. Upon this point there were precedents both ways. They were joined at first by a portion only of the nobles & clergy.

The National Assembly--thus constituted--remained in session until 30th of Sep: 1791⁴¹--when it adjourned--having passed the constitution--the bill of rights, & sundry laws, by which the orders of nobility were abolished--all titles suppressed--the church stripped of its immense possessions, & the power of the crown circumscribed within the narrowest bounds. During this period the Bastille was pulled down--14th July. On the 5th <16th> of Oct: 1789⁴² a mob of women with Maillard at their head marched to Versailles--entered the palace by force, & returned to Paris on the 6th--bearing the royal family in the procession. On the night of the 19th Augt⁴³ they escape from Paris, but are arrested at Varennes & brought back prisoners.

On the 1st Oct: 1791 the Legislative Assembly convened under the provisions of the constitution adopted by the National Assembly. The new constitution proved a perfect failure. Not one advocate of the old

order of things appeared in this legislative assembly. The cotè droit of the National Assembly had entirely disappeared. The constitutionalists--or friends of the new constitution, who formed a part of the cotè gauche in the national assembly, now formed the cotè droit in the legislative assembly. The cotè gauche was now composed of republicans, who desired to form a government without a King. It was composed of two elements--the Girondists & Jackobins--united for the present, but afterwards antagonistical. This legislative assembly passed a law confiscating all the property of the emigrants unless they returned by the 1st of Jany: 1792, & another requiring the clergy to take the civic oath under heavy disabilities. These two laws were vetoed by the King. This made both the King & the new constitution extremely unpopular, & led to the mob of 20th of June '92. On the 20th June an assemblage of about eight thousand met to celebrate the Tennis Court Oath--they then proceeded to the hall of the assembly--insisted on presenting their petitions, & were allowed to file through the hall. From the assembly the mob marched to the garden of the Tuilleries--forced their way into the palace & insulted the King & Queen in the grossest manner. This treatment occasioned much sympathy for the royal family & a slight reaction in their favour followed. It soon expended itself, however--& the sentiment became daily more decided that the safety of the nation required the dethronement of the King. In the mean time the Duke of Brunswick at the head of seventy thousand Prussians & sixty eight thousand Austrians was advancing on Paris. On the 25th of July he issued his celebrated manifesto, declaring that he should march to Paris--put an end to the existing anarchy--restore the King to safety & to his rights, & that he would hold the constituted authorities responsible for any disorders which should arise before his arrival. This foreign interference exasperated the

republicans to the highest pitch. The dethronement of the King was loudly demanded. But as the Legislative Assembly could not be brought to sanction it, resort was again had to a mob. On the 10th of Augt '92 it was collected under the auspices of Danton⁴⁴--stormed the palace--butchered the brave Swiss guards, & drove the royal family to take refuge in the Hall of the assembly. The dethronement of the King was now demanded of the assembly by the mob. Accordingly Vergniaud⁴⁵ proposed three measures, which were instantly & unanimously adopted. 1st To convoke a National Convention--2nd to dismiss the present ministry--3rd To suspend the power of the King until the meeting of the Convention. Poor Louis & his family were sent to the prison of the Temple, which they never left but for the scaffold. Next came the massacres, which, commencing on (Saturday) Sept 2--'92 continued until the following Thursday. After the scenes of the 10th of Augt: the prisons of France had been filled with what were denominated the suspected--that is--those who were in any manner disaffected towards the Revolution. In the mean time the Duke of Brunswick was advancing on Paris, & the City [was] in a state of the utmost alarm. At this crisis, Danton, for the purpose of ridding Paris of all suspected persons & "striking terror into the royalists" conceived the fiendish scheme of murdering the inmates of the prisons. His plan was executed to perfection. Few of those miserable men escaped. The number murdered is variously estimated at between 6 & 12.000.

From the meeting of the National convention until the fall of Robespierre.

The National Convention met on the 20th Sept 1792. The Girondists had a majority in the convention notwithstanding the exertions of the Jackobins. The Paris delegation were, however, all Jackobins. In this convention, the constitutionalists who had composed the cotè droit in

in the legislative assembly disappeared just as the nobles & clergy who had composed the cotè droit in the national assembly disappeared in the legislative. The Girondists & the Jackobins, who had worked together as long as there was a King on the throne, now separated forever--the former taking the cotè droit & the latter the cotè gauche. The Jackobins, backed by the Paris mobs, prevail. After the death of the King Jany: 21st 1793, all Europe nearly united against France. At the same time, Vendee⁴⁶ was in revolt. Dumouriez⁴⁷ had become disgusted with the government--lost the battle of Neer Winden & afterwards attempted to gain the army & establish a constitutional monarchy. This occasioned another Parisian panic. The whole government, they said, was infested with traitors & that the Girondists must be overthrown or the enemy would be in Paris. A mob accordingly assembled--surrounded the convention on the 2nd of June--& arrested twenty-two of the Girondist members, & soon massacred them. Thus fell the Girondist party. After this the Jackobins had the unlimited management of affairs. The difficulties which this government had to encounter were immense. France was assailed by the allied powers on all sides at once in the north--on the Rhine--the Alps & the Pyrinnes. In addition to this there was the rankling sore of La Vendee in the interior. But the paramount difficulty grew out of the scarcity of corn, which threatened starvation. Not that there was any serious diminution in the amount produced; but the great scarcity is mostly attributable to an improper distribution occasioned by the deranged condition of the monetary system. This derangement grew out of the issue of the assignats, & the point which it reached is almost incredible.

The means used by this Government of the Jackobins to meet the danger from without was on the most gigantic scale. Their military system

was this. All unmarried men from 18 to 25 composed the first requisition. The generation between 25 & 30 constituted the second--those between 30 & 60 the third. Under this system there were soon fourteen armies in the field amounting to one million two hundred thousand men. And this may be considered as the foundation of that military system which afterwards produced the finest armies & generals the world has ever seen. It was at this period that the most frantic efforts were made to supplant the laws of trade by adopting the system of maxima. A maximum was fixed to the price of corn. The necessary effect of this was that farmers refused to sell their corn. This, of course, increased the want & distress among the poor, & hence an outcry against the farmers who would not sell corn. Then came the decree making it criminal to hold back corn & the odious inquisitorial visits of the police to farmer's premises. This produced a temporary supply, but farmers next commenced abandoning farming & going to something else. Then came the decree making it criminal to abandon the farms. The history of these struggles most forcibly, but most mournfully illustrates the folly of any attempt to supersede the laws of trade by legislation. This Jackobin government was principally in the hands of the committee of public Safety--after the dethronement of the King the only one acknowledged power in France. The National Convention. This convention was compelled to do its executive business through committees. These committees soon absorbed all the powers of government--first, because it was impossible for the convention to attend to the manifold duties of government, & secondly, because since the fall of the Girondists the convention had been terror-stricken. The committee of public safety was the most powerful of these committees, & it was through its agency that Robespierre won & lost the dictatorship.⁴⁸

After the fall of the Girondists on 2nd June 1793, Danton, who, up to

that time had been the leading spirit of the Jackobins, became a moderate & was for stopping the career of the Revolution. The consequence was that he became unpopular & fell before the power of Robespierre on 5th of April 1794. It was during this period between the meeting of the National Convention & the fall of Robespierre that the infamous party of the Hebertists⁴⁹ arose. They pushed the Revolution into the wildest anarchy, & <they fell> Robespierre assailed them on the ground that their excesses would <bring> disgust the world with the French government. They fell in March 1794. This victory of Robespierre announced that the progress of the revolution had stopped; for it was the first time that the most forward <government> party had failed.

On the 27th July Robespierre fell & with him his friends St Just & Couthon.⁵⁰ It was the natural consequence of the system of massacre which he adopted. Any governmt, based on terror, must soon become absolutely insupportable.

From the fall of Robespierre to the establishment of the Consular government.

From the day Robespierre fell a decided reaction commenced. Finally in 1795 the Directorial government was established. The plan was devised by Seyes,⁵¹ & was this. First, the council of five hundred, having the exclusive power to propose laws. Second--the council of Ancients--composed of two hundred & fifty. The Executive was composed of five members--to decide by a majority--& renewable annually by one fifth. When the vote was taken upon the adoption of this Directorial government, great dissatisfaction was expressed & a mob of forty thousand persons assembled in the Streets of Paris. It was on this occasion that Bonaparte made his first appearance on the revolutionary stage. Barras,⁵² who was in command of the forces of the convention, gave their management

to Bonaparte (Oct: 5th 1795). He completely defeated the Paris mob by his well directed volleys of grape shot. This victory secured the quiet adoption of the Directorial government. It proceeded smoothly enough until 1797 when the new elections produced a majority in the councils opposed to the directory. This at once afforded a test of the strength of the government--& it was soon apparent that neither party would abide by the forms of the constitution. Bonaparte, at the call of the directory, sent Augereaux⁵³ to Paris & arrested forty members of the council. The government, after the purging of the councils, worked pretty well until 1799, when the elections again gave the councils a majority opposed to the Directory. This time the councils were too strong for the Directory & prevailed. From this time it was apparent that the government was a failure. Neither party would abide by the forms of the constitution when the Directory & councils were at issue. A government thus divided could not save France from the allied powers which were pressing in on her from all sides. It was now necessary that some mighty chief should wield the government, & by his single will, bring the resources of France to bear against Europe. Bonaparte returning from Egypt was that man.

The history of the Revolution may be divided into five parts.

First. Its history to the time of the meeting of the States General.

Second. From the meeting of the States general to the meeting of the legislative assembly.

Third. From the meeting of the legislative assembly Oct: 1st 1791 to the meeting of the National Convention Sept: 20th 1793.

Fourth. From the meeting of the National Convention Sept: 20th 1793 to the fall of Robespierre July 27th 1794.

Fifth. From the fall of Robespierre to the establishment of the Consular government 1799.

Dec: 11th 1844. In Virginia, I think you meet with the best society in the Country. That portion of society in Virginia, which has given repute to the state for hospitality & high tone, is the country gentry. The reason is that their position is fixed, & universally acknowledged. There is, therefore, but little of that rivalry & emulation which so much characterizes the society in our towns where the lines which separate the different grades are indistinct, & undefined, & where there is an eternal struggle for supremacy. Where there is this constant motion in society with the jealousies & heartburnings which it generates, there cannot be that calm & dignified repose which is the result of having one's position ascertained & acknowledged, & which is so essential to refined society. This advantage the country gentry of Virginia still enjoy to some extent, & formerly, to a much greater. And just in proportion as they are losing this advantage, society in the country is losing its former tone. There is also another reason why country society in Virginia should be superior to society in the towns. The occupation of the gentlemen is not so laborious, & it leaves them more leisure for improvement. The consequence is, that as a general rule, you find the country gentlemen better read, & better informed in reference to all matters not falling immediately within the sphere of their particular avocation, than the gentlemen in the cities. And as to the ladies--those in the country, for the want of Society, are to a great degree thrown back upon their own resources for amusement. They are, therefore, compelled in self defence to read & instruct themselves. Books become their companions. In the City, on the other hand, women are apt to abandon themselves to fashion & its caprices. All their offerings are at this shrine, & the consequence is that they become as light as the thing they worship. With their minds uncultivated--with opinions unformed--with false views of life--they are not unfrequently the victims of disappointment.

Dec: 12th 1844. Can a state confer upon an alien citizenship? It seems to me plain that it cannot. The constitution gives to congress "the power to establish a uniform rule of naturalization." The contemporaneous history & the subsequent commentaries on this clause in the constitution show conclusively that the object of vesting in the General government the power of naturalizing aliens was to secure, as the constitution itself expresses it, a "uniform rule." Now it seems impossible that the plain import & object of this clause can be accomplished unless the power is exclusive. For if each state has the power to prescribe a distinct rule for itself, what guarantee have we that there will be a uniform rule in all the states. See Federalist p: 144.⁵⁴

But this is not all. The constitution confers on the citizens of each state all the privileges & immunities of citizens of the several states. If, therefore, each state possessed the power to make aliens citizens, the probability is that they would establish very different standar[d]s of citizenship. In one state a long residence would be required--in another a short. But by force of this clause in the cons[ti]tution the naturalization laws of those States which adopt a high standard of citizenship, would be mere nullities. For an alien, by residing in a state having a low standard, would thereby entitle himself to all the privileges & immunities of a citizen [in] all the other states. And thus each state would have the power of naturalizing aliens in all the other states, & this too in contravention of its own naturalization laws. So that we have the anomaly of the laws of one state being paramount to the laws of another, within the jurisdiction of that other. Federalist--p: 202.⁵⁵

Dec: 13th 1844. But at the same time that I think that the States cannot

make aliens citizens, I hold that they may confer on aliens almost all the rights & privileges of citizens. We have in Virginia special acts of legislation conferring upon alien friends all the rights, privileges & immunities of citizenship, who shall migrate into the state & before some court of record give satisfactory proof of their intention to reside therein &c--they purchase lands--hold lands, alien lands--receive inheritances--transmit inheritances, & do almost every thing which citizens may do. But they enjoy these privileges, not by virtue of the right of citizenship, but by force of the special acts of legislation conferring them upon alien friends residents within the State who shall conform to certain prescribed formulars. In favour of the constitutionality of these laws we have a decision in our Court of Appeals in the case of Baizizas vs Hopkins. By force of these laws we have resident in our state an anomalous class of <citizens> persons, who enjoy most of the privileges of citizens, & yet are not citizens. For the want of a better name, they may be called denizens. In several important particulars their position is inferior to that of citizens. In the first place, the enjoyment of their privileges is confined to the jurisdiction of the state which confers upon them these privileges--& does not extend to the other states. Not being citizens of the state, they cannot claim the benefits of the clause in the constitution which confers on the citizens of each of the states all the privileges & immunities of the citizens of the several states. Again, in Virginia they have not the right to vote, for citizenship is one of the essential qualifications of a <citizen> voter. The constitution says that "every free male white citizen, who &c shall have the right to vote.["] Other points of difference might probably be pointed out, but it is unnecessary to go farther. There is a difference between citizens & denizens. And the States

have the power to make denizens, but have not the power to make citizens.

Dec: 16th 1844. Has a British cruiser the right to visit a merchant vessel for the purpose of ascertaining whether she is entitled to the protection of the flag which she may have hoisted--such vessel being in circumstances which render her liable to suspiscion--first--that she was not entitled to the protection of the flag--&, secondly, if not entitled to it, she was either under the law of nations or the provisions of treaties, subject to the supervision & control of British cruisers? This right is asserted by one nation against another, & must, therefore, be governed by the principles of international law. Now if this right exists international law is divided into two great branches. First--the natural law of nations. Secondly the positive. And, if this right exists, it must be found under one or the other of these departments. In reference to the natural law of nations, it seems to be little else than theory, until it has been converted into positive law by the assent & concurrence of nations. Indeed, it would probably be speaking more accurately to say that international law is positive law exclusively, & that positive law in many of its most important elements is derived from or based in natural law. For one of the consequences of the independence & sovereignty of nations is that each nation has the right to determine what natural law requires. And thus, although all nations are theoretically governed by natural law, yet inasmuch as it is often difficult to say what natural law enjoins, & inasmuch as each nation has the right to decide this question for itself, when we come to practice we will find that the law of nations stands on the foundation of positive law & [] [].

Dec: 18th 1844. In order that we may properly appreciate the merits of this English claim, it is necessary that we should first ascertain precisely what it is. If I understand aright the nature of her claim, it is this. She claims the right for her cruisers to visit merchant vessels on the high seas for the purpose of ascertaining whether they are entitled to the protection of the flag which they may have hoisted--such vessels being under circumstances which render them liable to suspicion. If she finds that they are entitled to the protection of the flag which they fly, she fully disclaims all right to interfere with them, unless <they> under the law of nations, (as in the case of piracy) or under the provisions of treaties (as those which England has entered into with Spain & Portugal) they are subject to the supervision & control of British cruisers. Otherwise they are bound to let the vessel pass on--even though, in the language of Sir Robert Peel--"they knew she was furnished with all the materials requisite for the slave trade & was prepared to receive hundreds of human beings within a space within which life is almost impossible". The right <then> asserted is exclusively the right to visit American vessels, appearing under circumstances of suspicion--for the purpose of ascertaining their nationality--for the purpose of ascertaining whether a vessel, pretending to be an American vessel, is in truth an American vessel. And herein lies the distinction between the right of visit, & the right of search--which last is admitted to be a purely belligerent right. The right of visit extends merely to the determination of the nationality of the vessel--the right of search has for its object, not only the nationality of the vessel, but the nature & object of the voyage & the ownership of her cargo. The right to search into the nature & object of the voyage of an American vessel under any circumstances in time of peace or into the ownership of her cargo is

in the fullest manner disclaimed by the British government. Her claim is to visit vessels, pretending to be American vessels, for the purpose of ascertaining whether they be American vessels, when those vessels appear under circumstances which render them liable to the suspicion that they are not \langle entitled to the protection of the American \rangle American vessels, & when, if not American vessels, they are subject to the supervision & control of British cruisers. Has she any such right? When the two governments came to understand each other upon this point, the difference between them seemed very nice. England says that the right exists, but that if, in the exercise of it, injury is inflicted, indemnity will be granted. The United States says the right does not exist--that the visit is made at the risk of the party making--that is [if] the vessel turns out to be an American vessel a trespass has been committed, but it is an involuntary trespass, & that she will carefully distinguish between voluntary & involuntary trespasses. Which government is right upon this narrow point? Has a British cruiser which, having reason to suspect that a vessel flying the American flag is a British vessel engaged in the slave trade, visits that vessel for the purpose of ascertaining her nationality, committed an involuntary trespass, if, contrary to expectation, it turns out that she is an American vessel? I say that no trespass has been committed? And all the analogies of the law sustain me. What is the argument by which this is made a trespass. It is this. British cruisers may have the right to \langle detain \rangle visit British merchant vessels for particular purposes--the right, acquired by treaty--to visit the merchant vessels of other nations for particular purposes. But they have no right at all to visit American merchant vessels. Every visit to an American vessel by a British cruiser is therefore a trespass--a trespass although it may have been done under the impression that she

was a British vessel, or the vessel of some nations whose vessel British cruisers had a right to visit. The mistake only makes the trespass involuntary, but still leaves it a trespass. This is the argument. Is it sound? An illustration will expose its falacy. A felony has been committed. The sheriff has good reason to suspect A. Acting on this suspiscion--he arrests A. A is innocent. Has any trespass been committed? Certainly not. It is true that if a warrant is placed in the hands of a sheriff directing him to arrest A, & he arrests B, he is guilty of a trespass. Because he is acting under authority & transgresses that authority. His duty is purely ministerial--no discretion is left him. But if instead of acting under the authority of a warrant he acts under the authority of his office without warrant, & having cause to suspect that A is guilty of a felony when in truth he is not guilty, arrests him, he commits no trespass. Take other cases. A store is broken open at night in the city of Richmond. The watchmen have reason to suspect that B was the guilty person. They arrest him & carry him before the mayor. B is innocent. Yet no trespass has been committed. Take another case. A magistrate, having reason to suspect that C has been guilty of fellony has him arrested & <brought before> committed for the purpose of ascertaining whether he be guilty. C is innocent. No trespass has been committed. So a British cruiser, having reason to suspect a vessel flying the American flag, is a pirate--visits that vessel to see whether she be a pirate. She is no pirate. I say no trespass has been committed. A British <vessel> cruiser having good reason to suspect that a vessel which has hoisted the American flag is a British vessel engaged in the slave trade. She visits that vessel. She proves, contrary to expectation--to be an American vessel. I say no trespass has been committed. By the principles of municipal law, where the sheriff

arrests an innocent man upon suspicion that he has committed a felony-- where a watchman on patrol arrests an innocent man upon suspicion that he has broken the peace--where a magistrate commits an innocent man upon suspicion of guilt--in all these cases innocent men are compelled, by the municipal law, to submit to slight inconveniences lest justice should fail & offenders go unpunished. And so, by the principles of international law, nations must submit to slight inconveniences in order that offenders against the laws of nations may not escape--pirates go unpunished, & laws of sovereign states evaded with impunity. The error of the argument on the other side is this. It is based upon the relation subsisting between men prior to a state of society. I freely admit that, prior to the institution of society, to arrest a person upon suspicion of guilt, would be an infringement of individual freedom, if that person was in truth innocent. But we all know that as soon as men come together under society they surrender many of those rights which belong to them in a state of nature. Among other inconveniences to which they submit, is that of having their persons arrested whenever they are so unfortunate as to fall under the suspicion of having committed some offence against the laws of society. And so with nations. If they choose to [] themselves without the society of nations, & throw themselves back upon their reserved sovereignty, no such right exists. But as long as a country keeps herself within the community of nations, & claims the benefit of those laws which, for certain purposes, bind the civilized world together (for certain pur-) in one great society--so long must she submit, in consideration of the advantages springing from this society of nations, to some of the inconveniences & limitations upon absolute freedom which it entails--& this inconvenience among others. Just as an individual living within the pale of society must submit to some inconveniences

in consideration of the advantages which that society secures to him, & without which limitation upon absolute freedom society could not exist. In the one case individuals must submit to have their persons arrested when they fall under the suspiscion that they have committed some offence against the municipal law--although they may be in truth innocent. In the other case--Nations must submit to have their merchant vessels visited when they fall under the suspiscion that they are violating the laws of nations--although they may be innocent.

Dec: 19th 1844. No reason can be assigned why the right of search should exist, which does not equally prove that the right of visit exists. We are told that the right of search is given (because) to prevent neutrals from carying contraband goods, & the enemy from sheltering himself under the protection of neutral flag[s]. Why may not the right to visit exist in time of peace to prevent pirates from protecting themselves under the flag which they may have ho[i]sted--or British slavers under the flag of some other nation. Is not the reason why the right should exist as strong in the one case as the other. A British cruiser in time of war visits a vessel flying the American flag, under the suspiscion that she is the enemy's vessel. She turns out to be an American vessel. No trespass is committed. Why then is a trespass committed if, in time of peace a British cruiser visits a vessel flying the American flag, when she has reason to suspect that she is not an American vessel, but a pirate or a British slaver?

Dec: 23rd 1844. Heard a Mr: Phillips sing at the Exchange concert room. His music was good. He was announced here as the first ballad singer in the world. But he seems to me to be but little better than some of

our own vocalists--Russel for instance, & others. Miss S. was there, looking more beautiful than I ever saw her. Swift compared women to riddles--but most of them are riddles easily expounded. The motives of their action--though widely variant from those of men, yet lie on the surface of their characters, & cannot be mistaken. Not so with Miss ---. Never yet have I met with that man or woman whose character seemed to me so inexplicable. With no hypothesis which the mind can conceive is it possible to reconcile the elements which are daily brought to light. Gay & sad--light & serious--earnestness & trifling are blended in ever changing proportions. That there is a deep under-current of feeling none can doubt who will observe her conduct carefully. But so thoroughly has she contracted the habit of wearing in society a light & sportive manner, that the superficial observer would never give her credit for those qualities which constitute the sterling worth of her character. But she certainly has the art of concealing her feelings more successfully than any other woman alive. I have watched & thought, & thought & watched--but no \langle breath \rangle word from the lip--no message from the eye--no tel-tale on the cheek, to say what is written in the sealed volume of her bosom. All the indicia by which reach the inward thoughts & secret motives of others fail in this case.

Dec: 26th 1844. Would Virginia be benefited by the abolition of slavery? How is it meant that the abolition is to be effected? By a prospective emancipation act, providing that all children born after a certain day shall be free? And if so, is it intended that they shall remain in the state, & mingle with the white population--as in some of the Northern States? Taking this view of the meaning of the question, there is but one opinion at the South. We all agree that the only relation which can

amicably exist between two races of men--not very unequal in number, & inhabiting the same country is that of master & slave--& that emancipation must result in the expulsion, subjection or extermination of one of the races. And looking to the question as one purely of humanity, we all agree in thinking that it is to the interest of the African race in the Southern States that they should remain in slavery. We know that labour is the common destiny of that great mass of the human race--that capital has ever held labor in subjection--that the labourer has never in any country in any age received other than a small proportion of its own products--never much more than what is absolutely necessary to subsistence. And no where, in our opinion, does the labourer receive a larger proportion of his own products than in the Southern States. If any doubt could at any time have existed in reference to the humanity of emancipation that doubt must certainly vanish before the result of the experiments which have been made in our northern states--in St Domingo, & in the British west Indies. Upon all these questions there can be but one opinion. I assume therefore that the question is not whether Virginia would be benefitted by the abolition of slavery--the black population being allowed to remain within the state.

I understand the question to be this--which would be most beneficial to Virginia--African slave labour, or free white labour? Which should she select, supposing she had her option? The question brings up the relative merits of African slave labor & free white labor in Virginia. I propose to discuss the question in three aspects--in an economical--a social & a political aspect.

First as to the relative merits of African slave labor & free white labor in an economical point of view. The superior productiveness of free labour over slave labour seems palpable. For while its consumption

on the average is the same, its production is greater upon the principle that the hope of gain is a better incentive to exertion than the fear of punishment. When a man knows that the result of his day's labour will go into his own pocket, <& not into the pocket of another> & that the amount realized will be in proportion to the labour expended, there is a motive to exertion which can never exist where the product of labour passes into the hands of another--& the rewards of labor are not determined by the industry of the labourer--where the veriest drone, & the most active & enterprising labourer[s] receive in the same proportion from a common fund to which they have contributed in very different proportions. Can there be any comparison in point of productiveness between a system of labour where the rewards of labour are determined by its exertions, & a system where the reward of the labourer is not proportioned in any degree to the amount of his labour but is fixed without any reference to it whatever. In the one case the strongest motive to labour known among men--the love of gain--has full play--in the other it is entirely annihilated. These views have ceased to be speculative. Their truth has been determined by facts in our own country so cogent as to place them beyond doubt. Even before our Revolution it was observed that those colonies which were comparatively destitute of slave labour increased in population & wealth with much greater rapidity than those in which slave labour obtained more generally. After our independence was achieved the difference in the ratio of increase in the slave states & free states became much more striking. In 1790 the population of Virginia was 748,308--of New York 348,120. In 1840 the population of New York was 2,428,921--of Virginia 1,239,797. In 1790 the population of Virginia was about double that of New York--in 1840 the population of New York about double that of Virginia. This great difference seemed

the more inexplicable from the fact that the people of the two states & of all the states were sprung from the same European race for the most part, nor were there any very marked lines of difference between them. The tide of population rolled rapidly from the shores of the Atlantic--to the West--its solitudes became peopled--manifold & unprecedented dangers & difficulties encounte[r]ed the settlers as they advanced--the races were intermingled--the inhabitants of the South went up to the North--the inhabitants of the North descended to the South--but in the midst of all this change & vicisitude, the same result recurred at every step. The states which employed slave labour fell behind those employing free labour in the competition for wealth & power. But when the tide of emigration reached the banks of the Ohio the disparity between the two systems of labour was more distinctly developed than before. Whence the difference between the career of these two states in all that makes a people great & powerful? The races which inhabit them are sprung from a common stock--their territory <which they> the same in fertility & natural advantages--the political institutions under which they live the same. In but one thing do they differ. The one employs slave labour--the other free labour. In the one labour is degraded by being confounded with the idea of slavery--in the other it is honored by being identified with prosperity & improvement. The result is that, while Ohio in bounding in her career of improvement with strides for which there are no precedents, Kentucky, if she moves at all, is moving like a sluggard with his load upon his back. In 1800 the population of Ohio was 45,365--of Kentucky 220,955. In 1840 the population of Ohio is 1,519,467--of Kentucky 779,828. While the population of Ohio has increased thirty three fold--that of Kentucky has increased in the same time only three fold.

Next, as to the relative merits of African slave labor & free white

labor in a social point of view. The social evils of slavery are those which necessarily result from that relation among men where there is the right of absolute command on the one hand & the duty of absolute submission on the other. Those whose duty it is to command becomes proud--inconsiderate & overbearing. Those whose duty it is to obey, fawning & hypocritical. The proprietor of slaves naturally contracts upon his farm where his will is supreme the habit of command. He there imbibes imperceptibly the idea that every thing must bend to his wishes. He carries with him into society this habit of command & this idea that his individual will is to prevail. Of course he sees the necessity of changing his manner to meet the change of his position. He succeeds to a certain extent. But then his character has received its bent--the habit has been contracted--&, although it may be partially governed, yet it imperceptibly influences the manner & bearing [of] the individual. He is in the habit of being obeyed, & when he is not obeyed he becomes peevish & fretful. The basis upon which society rests is the surrender upon the part of individual members of some peculiar prejudice & opinion for the sake of sympathy & harmony among all. None are so ill-qualified to make these concessions as those whose habit it is to command & be obeyed in all things. It is true that the relation of master & slave furnishes a theatre for the display of some of the noblest virtues, but it at the same time furnishes a theatre for the exercise of some of the worst of vices. A master may treat his slave with kindness & affection--we may provide for him in sickness & comfort him in old age. But, at the same time, we must not forget that there is that temptation which impunity furnishes to treat them with cruelty & unkindness--to neglect them in sickness--& forget them in old age. A master may be a protector. He may also be a petty tyrant.

Between the inhabitants of the north & South there is certainly a marked difference. In perseverance--in management--in commercial enterprise--in intelligence in the practical matters of every day life, the inhabitant of the North far excels his countryman in the South. To what is this difference to be attributed if not to slavery. In the South a citizen is surrounded by slaves from his childhood--he is invested with a sort [of] domestic dictatorship from his earliest years--the first notion which he acquires of life is that he is born to command. The first []⁵⁶ which he contracts is that of being obeyed [] out resistance. He, therefore, becomes a hard--impulsive--violent man; ardent in his desires, impatient of opposition, & easily discouraged if he cannot succeed in his first attempts. On the other hand the inhabitants of the northern States have no Slaves around them in their childhood--they are usually obliged to provide for their own wants--he no sooner enters the world than the idea of necessity assails him on every side--to combat with it & conquer it becomes the object of his life. He is, therefore, patient, reflecting, & persevering in his designs. The Northerners have the characteristic good & evil qualities of the middle classes. The Southerners the tastes--the prejudices--the weaknesses, & the virtues of aristocracies.

Next, as to the political point of view. It is in this respect only that I think slavery confers benefit. In every state which has made any progress in civilization & wealth there must, as there always have, arisen conflicts between capital & labour. Most of the dangers which have threatened modern governments have arisen from these conflicts. In our own country, where power is lodged in the hands of the masses, it is the point of most imminent peril to our Republican institutions. [] the lines between labour & capital shall [] distinctly drawn than they

now are, [] the political power of the state shall be in the hands of the labourer--then will come the strain upon our institutions. They may stand it--but it is an ordeal from which much danger is apprehended. Now the peculiar advantage of the institution of slavery in the Southern States, in a political point of view, is that the labouring class--that class which carries in its bosom the elements of disorder & anarchy--are kept in entire subordination, & excluded from all participation in the functions of government. It is true that we have among us a class of white labourers, who enjoy in the fullest manner all political privileges, but their number is comparatively small, & as a class, their influence is scarcely felt in the government, which is entirely in the hands of capitalists. By virtue of the institution of slavery, therefore, the Southern States seem protected against the danger resulting from those conflicts between labour & capital which spring up in all countries where there have been large accumulations of capital, & the line is drawn between the labourer & the capitalist, & which conflicts are particularly dangerous in countries where power is lodged with the masses.

But at the same time that the South is in a great degree protected [] institution of slavery from the danger [] a conflict between labour & capital. [] be forgotten that it brings with [it] a new danger probably equal to that which it removes. To suppose that two [] men--distinguished from each other by [] differences--nearly equal in number--the one masters & the other slave can inhabit the same country, & yet that those in slavery will make no effort to break their chains, is to betray the grossest ignorance of the human heart, & to disregard the lights of experience. The struggle between the races will come & must come. It may be postponed--this generation or the next may not see it. But causes are at work which must inevitably bring it about sooner or

later. The institution of slavery hangs like a black cloud over the Southern States. We know not the day nor the hour when it will discharge its wrath. In reference to the result of any struggle between the two races, as long as their relative strength remains any thing like what it now is, the Europeans have nothing to apprehend. They have two of the elements of power--wealth & intelligence--exclusively on their side. The third element--numbers--is probably divided equally. Under such circumstances of advantage, the European race [] come off [] in any struggle [] might arise, if left to rely exclusively [] resources. [] suppose the Southern States invaded [] material for the enemy to work [] proclaim universal emancipation of the enslaved race, & call upon them to [] achieving their liberation. Not only would [] have a fool lurking at every fireside & an assassin in every house, but at one blow the entire labour of the country ceases & its industrial operations at an end. Can a worse condition of things than this be conceived. I think, therefore, that it may be well questioned whether, even in a political point of view, the evils of slavery do not balance its benefits.

Jany: 2nd 1845.¹ The relative merits of free & slave labor as it affects the social relations. We have the relative merits of the two systems in a social point of view illustrated in our own country in the most striking manner. In the North free labour obtains--in the South slave labour--&, if we make due allowance for the influence of climate--it will not be difficult to ascertain what is the result of the two systems upon society & manners. For with this exception, the entire difference between the inhabitants of the Northern & Southern states in their social relations may be attributed to the absence of the institution of Slavery in the one & the presence of it in the other. What, then, are the characteristic differences between the inhabitants of the northern & southern states? It is not difficult to point them out. The inhabitants of the Northern states have the characteristic virtues of the middle classes of Europe--enhanced, however, by the absence of any cast above them. The inhabitants of the Southern States have the characteristic tastes--prejudices, & virtues of all aristocracies, with the disadvantage of havin[g] the privileged order very numerous & poor.² The virtues of the middle classes are energy--enterprise--commonsense--& a general aptitude to circumstances. We find that these are peculiarly the virtues of the inhabitants of the Northern States, with the addition of a boldness & freedom of thought & action which you do not find generally among the middle classes of Europe on account of the presence of a superior cast <among> in their midst to whom they look as models, & whose lead they servilely follow be it good or bad. The virtues of aristocracies are

frankness--magnanimity--courage & the like. These, I think, you find characteristic of the Southern people. They unquestionably have the courage & the virtues which are akin to courage--a directness in their intercourse with men--an openness in their enmities & friendships & an estimate placed on individual honor which counts all else as dust in the balance.

I have thus pointed out in the most imperfect manner the characteristic differences between the inhabitants of the Northern & Southern states. To which are we to accord the preference? I have no hesitation in according it to our northern bretheren. For after all, toil & temperance, & endurance & enterprise are the pillars on which every state must rest. It is these hardy virtues which give it strength & substance. Generosity, & magnamity, & individual courage--virtues of this class³--do well enough in their place as decorations to character--the body of which is formed of something more substantial. But it is not of these lofty virtues that great states are formed. They are made of sterner stuff. For after all they are the virtues of the man rather than of the citizens. I therefore think that the indirect influence which slavery exerts over the chara[c]ter is prejudicial to a state. Slavery may make brilliant men--probably great men--but it does not [make] a nation great. The virtues which it fosters are the virtues of the man--not of the citizen. It may make great orators--great poets--great statesmen. But it does not make great mechanics--or great merchants nor great farmers. And it is the merchants--the farmers--& the mechanics--not the orators--the poets or the statesmen which make a country great. The Southern States are thronged with politicians. In no country on the globe are the people better informed upon govermental questions than in Virginia. But then it is not politicians who make a country prosperous. The axe--the

spade--the spinning jenny--the steam boat--the railroad--the power loom-- these are the great agencies of modern society through whose instrumentality its greatest achievements are effected. And I fear the inhabitants of the Southern States fall far behind their northern neighbours in the use of these agencies.

Jany: 5th 1845. M_____ cannot have been sincere in the sentiments expressed the other night that we can love whomever we choose. Human nature has great powers of adaptation; but this is laying down the principle a little too broadly. Plato's theory is certainly more poetical than this. But to say that we love a person because we choose to love him, is to solve one difficulty by raising another. Why do we choose to love one person rather than another? Perhaps the idea is that the head selects the object to be loved, & then the heart sets about executing the mandate of the head. But this is to debase the heart into a mere menial. And experience teaches that it is not this docile & tractable thing this doctrine would make it out to be. It has a will of its own, & it as often rebels against the judgement as obeys it. For unhappily those qualities which secure the approval of the judgement seldom touch the heart. In reference to the origin of love in the heart, it seems in many cases inexplicable--I suppose it springs up like any other sentiment. Friendship, for example--with the difference that there need not be that entire sympathy between friends as between lovers. But whatever be its origin, it is certain that it cannot exist without sympathy. There can be no love without the passion be reciprocated--no more than there can be flame without fuel. Many men, I doubt not, have loved sincerely who have not <loved> been loved in return--but then they either believed that they were loved, or hoped that they would be. And

this last is the delusion which has betrayed most to their ruin. But assuming that a man has ascertained that he neither is loved nor will be loved--& then I hold that he should continue to love quite absurd.

Jany: 6th 1845. At the last meeting of the Patric[k] Henry Society, Mr: Crane objected to a deduction which I drew from the principle of increase of population, developed by Malthus.⁴ The deduction which I drew was that the mere laborer can, as a general rule, receive out of the products of his labor, no more than a bare subsistence together with the means of perpetuating his race. It seems to me that the deduction is sound. The principle of Malthus is that there is a tendency in population to outrun the means of subsistence. If there were no countervailing checks to this tendency in population to increase beyond the means of subsistence, it is evident that the world would soon be flooded with a population which it could not subsist. The result would be want--starvation--& incalculable misery. But fortunately there are checks upon this tendency in population to increase, which save mankind from the wretchedness & misery which would necessarily result from its unrestrained action. Man is not the mere slave of instinct--his conduct is always governed in a greater or less degree by prospective considerations. And when he sees the consequence which must result from giving full scope to this tendency to increase--when he sees the wretchedness & misery which it must entail upon his progeny--he is deterred from unlimited indulgence. Thus reason acts as a check upon instinct, & prevents this principle of increase from populating the world with want & wretchedness. But the material question is--how far does this check go. For although this principle of increase may be controuled to a great extent by moral restraints & prudential considerations, yet it is a most powerful instinct, & will have its course

except where it is checked by <considerations> restraints equally strong drawing the other way. Now I admit that in the upper classes & probably in the middle classes, many such restraints are to be found in the artificial wants to which a highly refined state of society gives rise. But I deny that when you come down to the great masses--the working men--those who live by the sweat of the brow--there is any check sufficiently strong to arrest this principle of increase except an absence of the means of subsistence. The difficulty is not to bring human beings into the world, but to feed & clothe & house them when there. Furnish the means of subsistence & you remove the only obstacle to an almost infinite production of population. With many the artificial wants of life act as sufficient checks on the increase of population. But the great masses either do not feel these artificial wants, or they do not feel them with sufficient force to controul this tendency to increase. The only adequate check with them is the want of the means of subsistence. The passions of our nature are universal & inherent--the controlling principles partial & acquired--the former act most powerfully where the latter are unknown. And it is only when capital has been acquired & education & refinement has done its work that these artificial checks appear. There are always to be found in the under strata of society a sufficient number who do not feel the influence of these artificial checks to keep population apace with the means of subsistence--& with whom the only limitation upon the principle of increase is an absence of the means of subsistence. I therefore think that the deduction which I drew from the principle of Malthus is legitimate--that all which the labourer receives from the product of his labour is a bare subsistence together with the means of perpetuating his race.

Jany: 7th 1845. If the question is in reference to the relative merits of free labor & slave labor, I have no hesitation in preferring free labor. But am I therefore in favour of attempting to substitute free labor for slave labor in Virginia? By no means. I prefer a Republican form of government to a despotism, but were I a Russian I would hesitate long before I would advise such a change in that country. There is no plainer truth than that circumstances may render that which is best in the abstract unattainable. And such, in my estimation, is the case with free labor in Virginia. Barriers in their nature almost insuperable prevent the substitution of free labour among us for slave labor. The first which I will mention grows out of the fact, believed to be indisputable, that the only relation which can exist between two races of men, nearly equal in numbers, separated by constitutional differences which are indelible, & inhabiting the same country, is that of master & slave. To change this relation would be to lay the foundation of a civil war which could result only in the expulsion, extermination, or subjection of one of the races. The amount of capital involved constitutes another barrier. I have seen it estimated at a thousand millions of dollars. Other difficulties might be stated, but it is unnecessary. The position is a plain one. Free labor is preferable to slave labor, but slave labor obtains in Virginia--it is the basis upon which her agricultural prosperity rests--it is indissolubly interwoven with the texture of her social & political condition--& therefore circumstances render it unfit that we should attempt to pass from one system of labor to the other.

Jany: 8th 1845. The reason why free labor is more productive than Slave labor is that under a system of free labor the laborer has a motive to exertion which does not exist under a system of slave labor. The great

thing in all the departments of life is to furnish men with motives to labor, & I think it may be safely laid down as a rule admitting of no exception that that system of labor is the best which furnishes the laborer with the strongest motive to exertion. Now the system of free labor furnishes to the laborer the strongest motive to exertion known among men--the hope of gain. It couples subsistence & labour together--makes & the former dependent on the latter--& determines the rewards of labor by the efforts which it makes. Thus the fear of want & the hope of gain--the two great motives which sway the mass of men--unite in pressing them in to effort & exertion. Now a system of slave labour at once annihilates these two great springs of human action, & substitutes in their stead the comparatively insignificant one of corporal punishment. And when we take into the account the chances of escape resulting from humanity on the part of the master & concealment on the part of the slave--this motive to labour can bear no comparison with the ones for which it is substituted. Indeed there can be no comparison in point of productiveness between two systems of labor--in one of which the reward of the labourer is made to depend upon & is ascertained by the exertions of the labourer--in the other there is no relation or dependence between the reward of the laborer & his exertions, but where all receive alike from a common fund to which they have contributed in very different proportions--or to which some perhaps may not have contributed at all. For the purpose of confirming these views--somewhat speculative in their character, I refer to the fact believed to be indisputable, that those states which have adopted free labour have excelled [over] those in which slave labor obtains in the accumulation of wealth. As long as population confined itself to the shores of the Atlantic--notwithstanding the vast phisical advantages enjoyed by the slave states, the free states

surpassed them in the career of improvement & accumulation. Compare New York & Virginia--the largest of the slave & free states--Pennsylvania with Maryland. Going west--look to Ohio & Kentucky. In but one thing do they differ. In one slave labour has been adopted--in the other free labor. In the one labour is degraded by being confounded with the idea of slavery--in the other it is honored by being identified with wealth & improvement. In the one the rewards of labor are in proportion to the degree of its exertion--in the other the rewards of labor are in no wise dependent on its exertion; but every laborer receives the same without any reference to their relative activity & enterprise.

But I am told that the superiority of free labor over slave labor cannot be established unless I prove that a hundred free laborers do more work than a hundred slave laborers. I might well object to this mode of computation; for suppose I show, as I think I can show--that the tendency of slave labor is to keep a large portion of the community in idleness by virtue of the disrepute into which it falls by being confounded with the idea of slavery. If this be so, it might well happen that a hundred slave laborers might perform as much work in a given time as a hundred free laborers, & yet a system of free labor [is] infinitely preferable in an economical point of view. I, therefore, protest against this mode of calculation. But suppose it [is] adopted. Would it condemn free labor? I think not. I know of no means of ascertaining the relative amount of labor performed by a free laborer & a slave laborer except by comparing the amount of production in slave states with that in free states. And if this standard be adopted, the result will be favourable to the free laborer.

Jany: 10th 1845. There is a noble school of poetry growing up in this

country. Longfellow is at the head of it. It seems to have for its object the reconciliation of man with his destiny--whatever it may be--to encourage him--buoy him up--& nerve him for the conflict of life. It is healthy & wholesome; & has a strong spirit of faith breathing through it. It has nothing in common with the sentimentality of []--nor with the morbid passion of Byron. It comes nearer to the standard of Wordsworth--with more strength & vigour.⁵ If it be admissible to illustrate the character of poetry by reference to prose, I would say that there was a strong resemblance between the tendency of American poetry [and] the writing of Carlisle.⁶ They both teach the great doctrine of labor--they both sympathise with labor, & prescribe labor as an antidote for the evils which surround us. Work one bear up--be strong, & then shalt have thy reward--is what Carlisle teaches, & it is what American poetry teaches. In one respect it has the advantage in a philosophical point of view over Carlisle's writings. It inculcates faith & reliance upon providence which will take care of those who do their duty manfully. And the absence of some such religious motive as this is the pervading fault of Carlisle.

Jany: 14th 1845. Should the Legislature of Virginia grant to religious Societies any farther right to acquire property? As the law now stands any devise or conveyance of property to trustees, for the benefit of any religious society, is valid--provided that they do not acquire at any one time more than thirty acres in the country, or more than two acres in any corporate town, & do not hold it for any other use than as a place of public worship--religious or other instruction, burial ground, or residence of their minister. To this extent, then, religious societies may take & hold property in Virginia. Ought any farther right

of acquisition to be extended to them? I say no--if we would be wise, & listen to the experience of the past. Any one who is acquainted with the history of the laws of Mortmain⁷ in England must be convinced of the impolicy of granting to religious societies the right of taking & holding property generally. Such was the thirst for acquisition of the part of the church, & so great was the address of the ecclesiastics in evading the laws, that act after act was passed in vain for the purpose of checking the accumulations of the monasteries. And it was only after a struggle of more than three centuries that the legislature attained the victory over the church. And in the mean time a large portion of the most valuable property in the kingdom had been swallowed up in its insatiate maw. According to the principles of the common law, corporations are allowed to take & hold property without any limitation whatever. But, under the enjoyment of this privilege, during the first three centuries after the conquest in England, so vast were the acquisitions of the church, that it was found necessary that the legislature should interpose in order to prevent the almost entire property of the kingdom from passing into the possession of the religious houses. They did so by prohibiting corporations of all descriptions from acquiring property without a license from the crown.

The same tendency in the church to accumulate property, where there is no restraint upon their right of acquisition, is illustrated forcibly by the condition of France before the Revolution. It is well known that a very large portion of the property of that country had passed into the hands of the clergy, & that this was not the least considerable of those causes which led to the outburst. But it has been said by those who are in favour of throwing open the door of acquisition to the Church that these <cases> are cases where the Roman Catholic church was the offending

party, & that the evil grew out of the peculiar policy of that Church. But has not identically the same thing taken place with the Protestant Episcopal church in England? Has not that church accumulated vast wealth since the Reformation? And has not the result of this accumulation been to corrupt the Church & destroy its primitive purity. But we have an example nearer to home. The Episcopal church in New York has been permitted to take & hold property, & although as yet in its infancy, we are informed that its accumulations have been immense. So this tendency in religious incorporations to accumulate property is, I apprehend, confined to no particular sect, nor the result of any peculiar doctrines, but springs from the very nature of religious associations. In the first place whatever they receive they hold, & upon the principle upon which the miser emasses his wealth--mite by mite--upon which the largest mountains are built with grains of sand laid the one upon the other--these associations in the course of time accumulate immense amounts of property. Nor are their accumulations so very slow. The credulity of the ignorant, the fears of dying men, & an instinctive desire, very prevalent among men, to propitiate the deity by a sacrifice of that wealth in the accumulation of which, perchance, their greatest offences were committed, are powerful agencies at work to draw property into the church. Give them but a point to stand upon, & there is no telling where they will stop. I have great confidence in the intelligence & general information of the nineteenth century; but as long as there is ignorance in the world which can be duped--as long as dying men have fears which can be wrought upon--as long as <there are> benevolent & well-meaning men are influenced by false views of religion & philanthropy--so long will these religious associations exert an influence which will draw to them large accumulations of property. The only way to get rid of the evil is to lay the axe at the root of it.

I shall, therefore, assume that if the religious associations are allowed to acquire property, they will acquire it, & that in time their acquisitions will become great. What, then, will be the effect of large accumulations in the hands of religious corporations? And first upon society at large. The immediate effect of property falling into the hands of these corporations is that it is withdrawn from the general circulations of the country, & is locked up in their custody. This is directly opposed to the commercial policy of every state. The more unfettered it is, & the more freely it circulates from hand to hand in obedience to the laws of trade, the more is its material interest advanced. And so thoroughly is the truth of this proposition understood by modern governments that most of them have laws against perpetuities--that is laws prohibiting the proprietors of property from restrain[ing] those into whose hands it may pass from the right of alienation for an unreasonable time. In Virginia the longest time for which the right of alienation can be taken away is a life or lives in being, 21 years & nine months. I, therefore, hold that the accumulation of property in the hands of religious societies is prejudicial to societies at large, because it tends to fetter its free circulation. I also hold that it is prejudicial to Religion itself. Once allow religious societies to acquire property, & then we shall have the ministers of religion, instead of devoting themselves to the offices of religion--devoting themselves to the acquisition of property for the church. When our Saviour was on earth he selected his disciples from among the humblest & poorest of mankind. And in this I have always thought that he meant to inculcate the lesson that the church which he was then about to institute did not require the adventitious aid of power or wealth, but that its purity, its divinity, & its great adaptation to the wants of men were the pillars upon which it was to rest.

The interest of religion itself--the purity & efficacy of the church requires that it should be kept poor.

This view of the case seems, then, to result in this--that if you allow churches to acquire property they will soon grow rich--& as soon as they grow rich they will grow corrupt. If, therefore, you would keep the church pure you must keep it poor, & if you would keep it poor you must take from it the right to acquire property.

But there are other objections to this scheme. The proposition is to allow religious societies to acquire property. What societies are religious societies? As long as we confine ourselves to the old denominations of Christians--the Catholics--Episcopalians--Methodists--Presbyterians--Baptist[s] &c--we have no difficulty. But these are but a very few of the number of religious sects which exist in the world. There are Mohammedans--Jews--Mormons--&c. Would you incorporate societies of these, & allow them to acquire property? There are also Atheists & Deists--& they are numerous too. Would you call a society of Atheists or Deists a religious society, & incorporate it. In the eye of the law Atheism & Deism are just as much religious as Episcopalianism or Presbyterianism. Atheists & Deists enjoy just the same political rights as Episcopalians & Presbyterians. They are entitled to the same freedom of thought & action--they may build houses--appoint ministers--establish presses--& do whatever the most orthodox sect of christians may do for the purpose of promulgating their peculiar opinions & making converts. If therefore you are to allow religious societies to acquire property, you must either make insidious distinctions, contrary to the spirit of our institutions, or you must extend the same privileges to Mohammedans--Jews--Socrinians--Mormons--Atheists--deists--& thus lend the sanction & countenance of goverment to every evil & frantic scheme which the brain

of any enthusiast--fanatic--infidel or blasphemer in the state may concoct.

Jany: 20th 1845. It was argued by one of the gent: at the last meeting of the Society that this tendency to accumulation was the growth of the dark ages, when ignorance & superstition held the minds of men in subjection. But that now times had changed, ignorance & superstition had left the world, & that we were living in the broad day light of the nineteenth century. It was very well replied by another gentleman that although times had changed <man> the nature of man had not changed--that the human heart with its frailties & its passions were still the same. And that as long as there were such things in the world as ignorance & credulity--as long as dying men have fears, & benevolent men false views of benevolence so long will there be ample material for an ingenious & artful priesthood to work upon--so long will these accumulations go on in the hands of religious societies. The light & intelligence of the present may act as powerful checks upon these accumulations, but they can never arrest the evil. The only way to effect this is by laying the axe at the root of it.

But it is said that we may prevent these religious societies from acquiring an inordinate amount of property by limiting their right of acquisition to some given amount. But would any such limitation as this be effective? Suppose you say that any religious society shall not acquire at any one time more than a given amount of property. Yet would it not be in the power of any denomination of Christians, by multiplying its religious societies, to evade this limitation entirely. Certainly! And no limitations which human ingenuity can devise will be effective. The devices of the ecclesiastics will discover some means of evading them. Such is the experience of the past. For more than three centuries the

the Parliament of England was engaged in an effort to limit the acquisitions of the monasteries before it succeeded. As fast as the parliament would pass laws, the ingenuity of the priesthood would set them at defiance. And such would probably be the case in Va--were the legislature to throw open the door of acquisition to religious Societies in this state.

Jany: 21st 1845. An agricultural convention met this evening in the Hall of the house of delegates--& formed an Agricultural Society called the Virginia State Agricultural Society. After adopting a Constitution, resolutions were passed directing an application to the legislature for an act of incorporation & also for a donation of ten thousand dollars. After the business of the evening had been despatched, Professor Rodgers⁸ addressed the convention in behalf of agriculture. His address was very good. His manner of speaking, I think, very fine. It is distinct--finished--with no great deal of action, & with none of the tricks or grimaces of the sudo-orator. The objection to his style is that it is too verbose & ornate. His thoughts might be conveyed to much greater advantage in fewer & simpler words. During the course of his remarks, he stated that it was a general impression that the population of towns were more intellectual than that of the country. He partially discented from this opinion. He stated that the towns were continually replenished by accessions of intellect from the country, & that but for these accessions they would soon become, if not stagnant pools, at least great masses of morbid & excited mind. It was the action of the country on the towns which kept the intellect of the towns healthy. He stated that the great men of the nation--those who have served it most signally in the co[u]ncil & in the field--have been from the country. He spoke eloquently of the dignity of agriculture. He said that it was usual to contrast the

intelligence of the farmer with that of the members of the learned professions--to the great disparagement of the former. But he considered this a popular error, & then proceeded to draw a glowing picture of the multifarious departments of human knowledge falling legitimately within the sphere of the farmer. The answer to this part of his address is--that although all these departments of knowledge fall legitimately within the sphere of the farmer, yet the fact is that very few farmers have actually mastered them--whereas the members of the learned professions have actually acquired, to a greater extent, the information falling within the range of this profession. Farmers, if possessed of all the information appertaining to their calling--might be more learned than the members of the professions. The fact is, the members of the professions are more learned than the farmers. He spoke with merited contempt of the distinction taken between theoretical farmers & practical farmers. The best theoretical farmer is always the best practical farmer & the best practical farmer the best theoretical farmer. And the surest way to make a good practical farmer is to master thoroughly the theory of farming.

Jany: 24th 1845. There were two large & brilliant parties last night--one at Archer's--the other at Haxall's. Mr: & Mrs Jones (Miss Nannie Marshall) reached the City on Tuesday from Glostcester, where the marriage took place--& the party at Archer's was given them. She is one of those women who manage to attract a great deal of attention in Society without those endowments which are generally deemed indispensable to admiration. Without any pretensions to beauty--indeed below the average in this respect--she has always succeeded in drawing around her a train of admirers. Nor have I ever been able to discover that she possessed

in any transcendant degree those graces of manner & that tact in society which so amply compensate for the absence of personal beauty. When you say that she has strong good sense--a command of tolerable language, & some knowledge of the world, you have exhausted the catalogue of her <claims> virtues. And yet with no other claims than these she attracts attention where ever she goes. I had forgotten to accord to her a sweet temper & an equable flow of spirit. Perhaps in these qualities lie her attractions. She is some times spoken of in connection with Miss Ellen Clarke; but in only one respect can I trace any resemblance between them. They are both women of strong sense--but in this Miss Ellen is infinitely her superior. Indeed, in every respect is she her superior, except in honesty of purpose. I give Miss Nannie credit for great sincerity & directness--Miss Ellen for great insincerity & indirection. You cannot place confidence in what she says or does. He who watches her closely will often find reason to believe that she is influenced by motives & has objects in view different from those which appear on the surface of her conduct. And were it not that she sometimes overacts her part, she would be a dangerous woman--as it is she is a most seductive one. Apparently as harmless as the dove, she is as wise as the serpent. With all her show of artlessness & simplicity--trust her not. It is but a mask. She has some object in view which you may not relish. She is too plausible to be true.

Jany: 25th 1845. A statement of the arguments urged at the last meeting of the P.H.S. in favour of an extension of the right of religious societies to acquire property, & my answers to those arguments. First. Why should not <religious> men associated together for the purpose of advancing religion in the world have the same privileges extended to them

which are extended to men associated for other purposes. You incorporate banking companies--canal companies--railroad companies--why not incorporate religious companies. It cannot be that the end proposed by these companies is more praiseworthy, or more deserving of the patronage of government than the end proposed by religious associations of men. Why then should not govermt extend the same assistance to religious societies which it extends to these companies? This is the argument. I shall never deny that the ends proposed by religious societies is not as meritorious--aye--more meritorious than the end proposed by banking companies--rail road companies--canal companies or any other companies. But I do deny that the acquisition of property is as direct a means to accomplish the ends for which religious societies are organized as it is to accomplish the ends for which banking companies--railroad companies & canal companies are organized. The \langle object \rangle ends of banking companies--canal companies & rail road companies are to carry on banking--dig canals & erect railroads--& it is impossible that banking can be carried on--canals dug--& rail roads erected without property. On the other hand the \langle object \rangle end of religious societies is to propagate religion in the world. Now religion may be propagated in the world without granting to religious societies the right to acquire property, &, in my judgement, more successfully propagated. I have already expressed the opinion that the purity & efficacy of religion is advanced by keeping the church poor, & that therefore, the acquisition of property, so far from being a means for accomplishing the ends for which religious societies are instituted, is instrumental in defeating those ends. No man living has a higher regard for the ministers of religion than I have; but when we are in the halls of legislation & are about to make laws for the government of this highly respected & venerated portion of our fellow-citizens--we must

not forget that they are men & that they have the passions & are influenced by the motives of men. Religion may modify their natures, but it cannot change them. Now it cannot be denied that the acquisition of property is perhaps the most powerful motive known among men, & wherever they have influence they will use it to attain this end--with very rare exceptions. Now allow religious societies to acquire property, & religious men--sharing in common with all mankind this desire to acquire property, will use the influence which they derive from religion for the purpose [of] accumulating wealth for the religious society of which they may be members. And this prostitution of religious influence to <the> temporal purposes is sanctified, in the eye of the religious devotee, by the reflection that the object which he has in view is sacred & holy--the advancement of religion--& that the end justifies the means. It must be admitted that the temptation is most dangerous. First you expose the clergy to the full influence of [the] most powerful passion known in the world--the desire to accumulate property. In the next place you entrust them with religious influence as a means of gratifying this passion, & lastly, in the eye of the minister & of the world you sanctify this prostitution of religious influence by the meritorious nature of the end arrived at. A few strong natures, which have no taint of weakness about them, may stand up in the face of this temptation, but the masses, who are made out of common clay, will fall before it. And I reiterate the opinion which I have already expressed--that if the legislature allows religious societies to acquire property--the ministers of the gospel in Virginia, instead of being pure & good men that they now are--instead of confining themselves to the holy offices of religion & being messengers of love & hope & consolation to dying men, will, sooner or later, be substantially converted into so many agents of the church stationed at

convenient points throughout the commonwealth for the purpose of collecting money for the church by imposing on the credulity of the ignorant--by <appealing> addressing the fears of the timid--by appealing to the charity of the benevolent & by putting into requisition all that potent religious machinery by which an artful & ingenious clergy have always managed to hold the minds & the purses of the laity in subjection.

I do not say that the church would be instantaneously corrupted by the passage of such a law as this. Corruption is not generally the work of an hour--or a day or a year. In the case of the individual it is a process extending itself through many ages. But still the process will go on the while--the Church will become more corrupt every year, & in the end our worst apprehensions will be realized. I therefore stand to the opinion that if you wish to keep the church pure you must keep the church poor, & that the only way to keep the church poor is to prohibit it from acquiring property. This, then, is the answer which I make to the argument that as other societies are allowed to acquire property the same privilege ought to be extended to religious societies. The acquisition of property is a necessary means for the accomplishment of the ends for which such societies are organized, & there is no good reason to apprehend any danger to the state from granting them this privilege--on the other hand the acquisition of property is not a necessary means for the accomplishment of the ends for which religious societies are instituted, & experience warns us that much harm may result from extending to them this privilege--I trust therefore that we shall hear no more about any ear-mark being set upon the clergy--about their being set apart from out the whole community as objects of persecution & the like. Mr. B. argued very earnestly that unless Religious societies were allowed to acquire property the Bill of Rights would be violated--the Constitution

trodden under foot--& democracy itself a vain delusion. Now if the Legislature of Virginia shall believe that the interest of the community will be prejudiced--& the cause of religion damaged by allowing religious societies to acquire property--I know of nothing in the Bill of Rights--the constitution or democracy itself which makes it obligatory upon them to accord this privilege.

Second. It has been very ingeniously assumed by those on the affirmative of the question that the propagation of religion in the world required that religious societies should have the right to acquire property, & thus identifying their position with the cause of religion itself. Indeed it has been argued by some as if this were a question of religion or no religion. This was substantially the argument of Capt: D. He told us--in eloquent terms, what a good book & what a marvelous book the bible is--but that it is not every one who can understand it, & that it is necessary that a class of men should be set apart whose duty it should be to expound its mysteries--that these men must be supported in a becoming manner, & therefore religious societies should be allowed to acquire property. Now I hold that there is a palpable non-sequiter in this argument. I agree that the bible is a good book--that it needs explanation--that a class of men should be set apart whose duty it shall be to expound it--& that this class of men should be supported with becoming decency. But I do not hold that therefore religious societies should be allowed to acquire property. The result of the experiment of the voluntary system in this country shows that it is not necessary that there should be any permanent fund set apart for the support of the clergy. It shows that a conviction of the utility of public worship is so general, & the hold which religion has upon the affections of men so strong--that there is no need for permanent endowments for ministers. I venture to affirm that

in no country upon earth, possessing equal means, is religion more generally propagated than in the United States. I am informed that in most of the States religious societies have been allowed to acquire property. This does not alter the case. They have not as yet acquired any large accumulations of property, & the clergy are in fact sustained by voluntary contributions. Whatever religion has accomplished in the United States, it has accomplished under the voluntary system. And I hold that it has accomplished enough to demonstrate that religion may be propagated in the world without permanent endowments for the clergy. And if religion can be propagated by voluntary contributions, I hold that it is much better that it should be thus propagated than by a system of endowments. I have great confidence in the principle of accountability. Let the minister understand that he is accountable to his congregation, & that his zeal & merit constitute the tenure by which he holds his office, & you have the best possible guarantee for his fidelity & efficacy. Upon the other hand isolate the minister by an endowment from a permanent fund, make him independent of his congregation, & thus relieve him of accountability, & to say the least, you remove one of the strongest motives to the faithful discharge of duty. You remove the motive of self-interest, & leave nothing but a sense of duty to sustain him. But it is unnecessary to enlarge on this point. The answer to Capt. D's argument is that his premises do not sustain his conclusion. What he says of the bible is true--it is also true that there should be a clergy to expound the bible to the laity, & that this clergy should be supported. But it does not therefore follow that religious societies should be allowed to acquire property in Va. The clergy may be supported by voluntary contributions, & if so, it is much better to support them by voluntary contributions than by a system of endowments. To sustain this opinion I instance the voluntary system in America.

Third. Some, while they oppose a general law allowing religious societies to acquire property, are in favour of a farther extension of their right with limitations upon the amount of their acquisitions. In the first place, I am opposed to any farther extension whatever, were it practicable without opening the door to general acquisition--as I believe it is not. As the law now stands they are allowed to hold a place of public worship--a residence for their minister & a burial ground. And if you extend their right of acquisition beyond these primary wants, any limitation which you can fix will be purely arbitrary. I hold any farther acquisitions of property by the churches--make whatever limitations you please, pro tanto⁹ an evil. But the principal objection to this view of the question is that every such limitation will prove in the end ineffectual. Legislative wisdom can devise no limitation which ecclesiastical ingenuity will not discover the means of evading. This is the experience of the past, & if we make the experiment, it will be the experience of the future. In the eloquent language of Judge Tucker in his decision in the case of Selden & others against the overseers of the poor of London, in which the constitutionality of the law [of] confiscation to public uses [of] the old glebe lands, "When has the state yet said with success to the church--"Thus far shalt thou go & no farther."¹⁰ May we not rather say--in the language of Archimedes, ["]give them but a point to stand upon & they can move the whole earth."¹¹

Fourth. An effort was made during the whole of the debate to identify those who favoured this grant with the cause of religion, & to confound those who oppose it with an opposition to religion. I enter my solemn protest against this injustice. It is in the name of Religion that I oppose this grant. I believe the Church is just as much interested in defeating it as the State. In a religious point of view of course--I

mean. It is because I would not have the church lose its integrity, nor our clergy their present purity & zeal--that I oppose this grant. Let it not then be said that in resisting this extension of right, we are engaged in any opposition to religion.

Fifth. It is asked why it is that, if the acquisition of wealth is to corrupt the clergy, it does not also corrupt other individuals & why they should not also for this reason be prohibited from acquiring property. What we mean when we say that if you allow clergy to acquire property, they will become corrupt is--that their attention & their energies--instead of being confined to the holy offices of religion--will be directed to the accumulation of property. To divert the energies of the clergy from the duties of religion to the acquisition of property is to corrupt the clergy, & such will be the effect of allowing them to acquire property. But I take broader ground. I contend that the pursuit of wealth has, in the case of the great mass of men, a demoralizing influence. Ninety nine hundredth of the crime in the world is committed in the pursuit of property gain. But notwithstanding this we must encourage the great mass of mankind in the acquisition of property in order that our fields may be cultivated--our mouths fed, & our bodies clothed. We must take the good & evil mixed together. Not so with religious societies. The ends of their institution can be attained without granting to them the right to acquire property. And the more you withdraw the clergy from all concern with temporal affairs, & confine them to their spiritual calling--the purer & higher will be their own characters, & the more rapidly will true religion be propagated in the world.

Jany: 30th 1845. There is a great difference between the love of a man

at twenty & at thirty. At twenty it is a passion--at thirty it is a sentiment. By that time most men have learned something of life. Their experience has taught them what <the> moralists have attempted in vain to teach them--that all is vanity--& they begin to look to this source for sympathy & consolation. It is only he who has been to sea & has been a little tempest-tost who knows the value of a calm & quiet harbour.

Jany: 31st 1845. In construing contingent limitations in a deed the first thing is to determine whether the limitation can be sustained as a contingent remainder.¹² If it be a good contingent remainder in its creation, it must continue a contingent remainder throughout, subject to be defeated by those contingencies which defeat contingent remainders. But if the limitation cannot be sustained as a contingent remainder, & the deed be one which derives its effect from the Stat: of uses, the next inquiry is whether it can be sustained as a contingent, shifting, or springing use.¹³ Our Stat: only transfers the possession to the bargaine, coveventee & releasee, & any ulterior limitation declared upon the statutory possession of the bargaine, releasee & coveventee would be merely a trust estate. But there is no reason why a man should not be a bargaine of a future--springing, or contingent use--& if so, his estate is a legal estate. Of a future use--as where A--in consideration of money paid to him by B, bargains & sells his lands to him after ten years. Of a springing use, as where, for a valuable consideration, A bargains & sells his lands to A & his heirs until some particular event should happen & then to B & his heirs. Of a contingent use--as where A, for a valuable consideration bargains & sells lands to A & his heirs, & if B returns from Rome in ten years, then to B & his heirs. In reference to contingent uses limited to persons unborn or unascertai[ne]d it may

be difficult to bring them within the definition of bargainees so as to make the conveyance take effect. But it is thought that if a man bargains & sells to A for life, remainder to his first son (such son being unborn at the time of the execution of the deed), the consideration paid by A would be extended to his son, & constitute him a bargainee of the remainder.

[Undated]. Is it constitutional for Congress to admit Texas by Joint Resolution? There are two modes in which Congress may acquire Texas by Joint Resolution to which I can see no constitutional objection.

First. It may admit Texas as a State under the clause in the constitution which says "New States may be admitted by Congress into this Union." There are but two limitations in the constitution upon this general grant of power. They are--that no new state shall be formed by <any> a severance of any one of the old states, nor by a union of any two of the old states without the consent of the legislatures of the States concerned, as well as of Congress. These are the only limitations to be found in the constitution upon the general grant of power to Congress to admit new States into the Union. Now it is an indisputable rule of construction that where there is in the first place a general grant, & then there are specified exceptions made to this general grant, that these specified exceptions are the only exceptions to which the general grant is subject. Now so to construe this clause in the constitution as to confine it to states formed out of domestic territory would be a violation of this fundamental rule of construction. If, therefore, in construing this clause, we confine ourselves to the letter of the constitution itself, it must be held to embrace foreign as well as domestic territory. If we look beyond the mere reading of this clause into the history of its insertion in the constitution, this same conclusion is made to appear more distinctly.

It appears from Elliots debates that Mr. Randolph¹⁴ submitted a proposition to the convention in which provision was made for the admission of States lawfully arising within the limits of the U.S. This proposition was voted down, afterwards. The same proposition in substance was submitted to the convention by a committee of five appointed to report a draught of a constitution. The only substantial difference between the clause reported by the committee & the clause as it stands in the constitution is that the clause reported by the committee confines the power of admission to States arising within the then limits of the U.S.--while in the present clause there is no such limitation. And the clause reported by the committee, was voted down, & the clause without the limitation adopted. That clause is general--the power granted unlimited, & I know no right which any one has to place limits upon. Its only limits are the discretion of Congress, & the guarantee, elsewhere given, that every new state shall have a republican form of govment. If it was the intention of the convention to confine the power of congress to the admission of new states formed out of domestic territory, why was the propositions of Mr. Randolph, & of the committee voted down? Second. I hold that it is competent for congress to acquire Texas by joint resolution as foreign territory. The argument against the exercise of this power by Congress is that the President & the Senate have the right to make treaties--& every arrangement with a foreign nation is a treaty. I deny that every arrangement with a foreign nation is a treaty. There are five modes by which the general goverment can acquire foreign territory--treaty & alliance--confederation--agreement & compact. Now only one of those modes of acquisition--that by treaty--belongs to the President & Senate. Any acquisition by <treaty> alliance--confederation or compact must be by congress.

March 21st 1845. Tayloe vs Smith. This is an action of ejectment brought for the recovery of a lot. In what I have to say, I shall do little else than present a brief summary of the plaintiffs' title, together [with] those principles of law on which that title rests. I deem it unnecessary to do more until I shall have learned from the defendant's counsel in what manner it is he expects to defeat that title. The grounds upon which the defendant rests his right to recover are as simple as they are, in my judgement, impregnable. In the first place--by the decree of Chancellor Wythe¹⁵ was fixed in John Tayloe--the ancestor of the plaintiffs--on the 17th of Sept: 1794. It was then expressly adjudged to be his property. From 1794 to 1818 Col: Tayloe allowed it to remain unoccupied--as was generally the case, at that time, with the proprietors of lots in Manches-ter & Richmond, drawn as privies in Byrd's lottery--when the proprietors resided at a distance from those towns. From 1794 to 1818, then, Col: Tayloe allowed this lot to remain unoccupied. During this interval, how- ever, I beg you distinctly to remember, no one pretended to set up any title adverse to the title of Col: Tayloe. And in the year 1818 he took quiet & peaceable possession of it--through his agent Archibald Freeland-- no one gainsaying his right to do so. It thus distinctly appears that in the year 1818 Col: T. was in the undisputed possession of this lot, which in the year 1794 had been expressly adjudged to be his property by Chancellor Wythe. At this date we hear nothing of the title of Edward Smith. It farther appears from the deposition of Mr: Freeland that having thus taken possession of this lot as the agent of Col: Tayloe, he had it enclosed & entered on the comm's book in his name.

I have now proved beyond all doubt that in the year 1818, the title to this lot was in the pliffs, & that at this time the deft had no title-- & did not even pretend to have a title to it. Now what is its history

from that period up to the present. Why the evidence of Mr: Freeland is that--having taken possession of this lot as the agent of Col: T. he allowed a certain I. Hooper to occupy it as his tenant for the purpose of cultivation--that he afterwards extended the same privilege to his widow Mrs: Hooper--& she was permitted--with the express consent of Mr: F. acting as the agent of Col: T. to rent it [to] E. Smith the deft in this action. (Read Deposition). Thus it was that the defendant came into the possession of this lot, which he now refuses to surrender. He entered in the first instance as the subtenant of Col: T. & has held possession from that hour to this as his subtenant--& by no other title under heaven. Under these circumstances it cannot be necessary for me to argue that Smith can have no title paramount to Col: T. But for the purpose of exposing the utter imbecility of the defendants claim, I will suppose he had a title paramount to the plff's. There is no principle better settled in law than that it could avail him nothing in this action. Be his title ever so good he must be inevitably defeated. I have already shown to you that the deft entered as the subtenant of Col--T. Now the settled law is that where the deft: has entered under the plff's title--whether as tenant--subtenant or in any other manner--he will not be permitted to set up any title, either in himself or a third party--adverse to the title under which he entered. That is, if the deft Smith entered as the tenant--subtenant--or in any other manner under the plffs title--he will not be permitted to set up a title either in himself or in any one else, adverse to the title in which he entered--without first surrendering the possession which he had acquired on the faith of these relations. (Here read 1 Rob: Prac: p: 246). The settled law then, is that Smith having entered under the title of the plff's, will not be permitted to set up a title in him self adverse to theirs without first

restoring them their possession which he acquired upon the faith of this relation. How utterly impotent then is the deft's claim. In the first place--he can establish no title in himself. In the second place, if he could establish a title in himself, he could not use it in this action. This is the settled law of the land.

But it seems that comm's were appointed to sell the property of a Certain E. W. Trent, & that, there being found among his papers, a list of several lots--among which was lot No. 7--the Chancellor ordered this lot to be sold, & that Smith became the purchaser. You will also bear in mind that Mr F--acting as the agent of Col: T--& being apprized of this contemplated sale--attend[ed] at the place & on the day of the sale--gave public notice of Col: T.'s title--produced the evidence of that title--& protested in the most formal manner against the sale. (Read the deposition). Under these circumstances Smith, being already in the possession of the lot as the subtenant of Col: T--& expecting, no doubt--to turn that possession to some account--became the purchaser for \$3. The question for you to decide is--whether this purchase gives Mr: Smith any title to the lot. I dont think you can have much difficulty in solving it. It cannot be necessary for me to inform you that the fact that this sale was made under an order of Court in no manner affects the title which the purchaser acquired. It is not pretended that the question of title was adjudicated between Tayloe & Trent--in the case in which this order was made--for Col: T. was not even party to the Suit. I therefore, repeat that the fact that this sale was made under an order of Court is no sort of guarantee for the soundness of the title conveyed. It is every respect strictly analagous to a Sheriffs sale. You all know that a purchaser at a Sheriffs sale purchases at his own risk. There is no warranty of this title. He gets the title of the deb[t]er whose

propertey has been seized, & none other. If there be a paramount title--
outstanding in a third party--that title is not divested by the sale.
The real owner can recover immediately either the property itself or
its value in damages. Now the sale at which Smith became the purchaser
stands on identically the same footing. Smith acquired Trent's title &
none other. If there was an outstanding title in the plffs--as I have
proved to you there was--that title was in no manner affected by the
sale. The more especially is this the case where the purchaser purchases
with a \langle full \rangle knowledge of this paramount title in a third party--& there
is every reason to believe that Smith had full knowlge of Col T's title--
for in the first place, he occupied it as his subtenant--& in addition
to this the agent of Col: T. gave full notice of his title at the time
of the sale in consequence of which Smith purchased it for the pitance
of \$3. The plff's title then is in no manner invalidated by this sale.
And if the defft wishes to establish a title in himself, he must prove
that Trent had a valid title--inasmuch as it was from him that he pur-
chased & derives whatever of title he has to this lot. But I do not be-
lieve that it is even pretended that Trent had any title to the lot.
Under these circumstances, I submit to you confidently that the defft
has utterly failed to establish a title in himself. But you will also
remember that, even had he succeeded in establishing a title in himself,
he could not have used it in this action--because having entered under
the plffs title, the law will not permit him to set up a title in him-
self adverse to that under which he entered--without first restoring to
the plffs their possession.

It is unnecessary to say more. In 1794 this lot was expressly ad-
judged to be the property of Mr Tayloe. In 1818 he took quiet & peace-
able possession of it through his agent--no one disputing his right to

do so. Being thus the indisputable proprietor of this lot--he allowed the deft: E. Smith to occupy it as his subtenant, who now refuses to surrender it. We ask that you will make him surrender it.

April 4th 1845. Should foreign imigration be checked? How checked? Upon this point the question is silent. No one is in favour of entirely excluding foreigners from this country. Those who are most decided in their opposition to foreign imigration have never gone farther than to require a probation of twenty one years for all aliens coming to our shore before they shall be entitled to the privileges of citizenship. This is the extent to which Mr: Archer¹⁶ has gone, who has placed himself at the head of this movement. None as yet have advocated entire exclusion. If then, foreigners are not to be entirely excluded from our country--how is it proposed that foreign imigration shall be checked? Is it by subjecting all foreigners coming to our shores to conditions. If so, it is impossible for me or any one else to say whether he is in favour of checking foreign imigration in this manner, until he first learns what those conditions are to which foreigners are to be subjected. I can only say that if it is proposed to check foreign imigration by materially enlarging the present period of naturalization; I am opposed to it. For this opinion I have several reasons. I will only mention one. I think it impolitick & dangerous to have in the bosom of any community a numerous class of men excluded from privileges & immunities enjoyed by the rest of the community. They form a ready nucleus around which all the elements [of] disaffection & disorganization may collect. If we are to have this class of men in our midst, instead of vexing [and] irritating them by a denial of privileges enjoyed by every one else, our policy is to <enlist> bind them as closely to their adopted country as

possible by all the ties of interest & patriotism--& this can only be accomplished by extending to them freely every right & privilege which is compatible [] the public safety.

The principles upon which the naturalization laws of this country should be modeled seem to me to be plain. Upon the one hand, entirely to exclude foreigners from the country is obvi[o]u[s]ly impolitic. Upon the other hand, to admit them to the full enjoyment of American citizens before they have had time to acquaint themselves with our institutions, & to accomodate themselves to their new position, is equally impolitic. The true line of policy lies between these extremes. The period of naturalization should be so fixed as to give [a] resident alien full time to become acquainted with our <government> institutions & to prepare himself for the intelligent exercise of the rights of an American citizen, & at the same time not so remote as to deprive [him] from the anticipation of soon being in the possession of privileges enjoyed by the rest of the community. We thus avoid on the one hand, the evil of placing power in the hands of men who in the nature of things cannot exercise it intellig[e]n[t]ly, &, on the other hand, the danger of giving dissatisfaction to a numerous class by excluding from them rights & privileges enjoyed by <the other members> all the rest of the community of which they are members. These seem to be the principles on which the naturalization laws should be modelled. And if they be correct, I do not think that the present term of naturalization can be improved. Five years gives the alien ample time to be acquainted with our institutions & at the same time leaves open to him the prospect of soon coming into the enjoyment of all the rights of an American citizen.

But there is another reason why the term of naturalization should not be enlarged, which has some weight. The Supreme Court has decided

that the exclusive right of naturalization is vested in Congress. Our Court of Appeals, on the [other] hand, has decided that although the exclusive right of naturalization is vested in Congress, the States have the right to confer on aliens resident within their territory, <all the> by special acts of legislation, almost all the rights which are incident to citizenship. They may confer on resident aliens the right to vote--to purchase lands--to inherit lands--to transmit inheritances--& the like. But, says the Court of Appeals, these rights are not enjoyed as incidents of citizenship. They are enjoyed by resident aliens under special acts of legislation conferring them on them. Now, if the term of naturalization is enlarged, the inevitable consequence must be an increase of this anomalous class of inhabitants, who enjoy almost all the rights & privileges of citizens, but yet [are not] bound to the country by the tie of citizenship. And the conditions upon which the different states will confer on resident aliens these privileges will be as various as in the number of the states. And thus while the evil sought to be corrected will still exist in all its force, all the advantages of a uniform naturalization law will be lost.

NOTES

BIOGRAPHY

¹Tyler's Quarterly Historical and Genealogical Magazine, IV (1922), 135; Virginia Magazine of History and Biography, XXII (1914), 438; William and Mary Quarterly, 1st Ser., VIII (1899-1900), 75.

²Lawrence Washington to Cynthia B. T. Washington, Sept. 29, 1858, Tucker-Coleman-Washington Papers, box V, folder 6, Swem Library, College of William and Mary, Williamsburg, Va. [hereafter cited as T-C-W Papers].

³J. Johns, Memoir of Henry Augustine Washington, Late Professor of History, Political Economy, and International Law in William and Mary College, Virginia (Baltimore: James Young, 1859), 4-5; W. A. Little to Henry A. Washington, Oct. 4, 1839, Henry A. Washington Papers, folder 2, Swem Library, College of William and Mary, Williamsburg, Va. [hereafter cited as HAW Papers].

⁴Johns, Memoir, 5; Dictionary of American Biography, s.v. "Lomax, John Tayloe."

⁵Tucker-Coleman Papers, uncataloged, Swem Library, College of William and Mary, Williamsburg, Va. [hereafter cited as T-C Papers].

⁶Johns, Memoir, 7.

⁷Virginia Gazette (Williamsburg), Jan. 8, 1857; Lawrence Washington to HAW, undated, HAW Papers, uncataloged.

⁸Johns, Memoir, 7. An advertisement in the Richmond Enquirer, Feb. 1, 1842, noted that HAW also practiced in the superior and inferior courts of Chesterfield, Goochland, and Caroline counties.

⁹Agnes M. Bondurant, Poe's Richmond (Richmond: Garrett & Massie, 1942), 16, 29, 50.

¹⁰F. N. Boney, "Rivers of Ink, a Stream of Blood," Virginia Cavalcade, XVIII (1968), 33-39; Lester J. Cappon, Virginia Newspapers, 1821-1935 (New York: D. Appleton-Century Co., 1936), 11.

Encouraged by Thomas Jefferson, Thomas Ritchie (1778-1848) founded the Richmond Enquirer in 1804. He soon became a political power, both in Richmond and in the nation, because of his influence in the inner circle of the Democratic party. During his long tenure at the Enquirer, Ritchie espoused the cause of female education, worked for public schools and internal improvements, and called for the gradual emancipation of the slaves. Charles H. Ambler, Thomas Ritchie: A Study in Virginia

Politics (Richmond: Bell, Book & Stationery Co., 1913); Robert W. Hughes, Editors of the Past (Richmond: W. E. Jones, 1897).

A graduate of the College of William and Mary, John Hampden Pleasants (1797-1846) moved to Richmond in 1824 and founded the Constitutional Whig, which he published under varying titles for most of the period 1824-1846. Pleasants's career as a political journalist was rivalled only by that of Ritchie, whose son Thomas, Jr., killed Pleasants in a duel in 1846. Boney, "Rivers of Ink," Va. Cavalcade, XVIII (1968), 33-34; Hughes, Editors of the Past, 14-16; Carl R. Osthaus, "The Ritchie-Pleasants Duel and the Press," Va. Cavalcade, XXVI (1977), 110-123.

¹¹Howard Braverman, "The Economic and Political Background of the Conservative Revolt in Virginia," VMHB, LX (1952), 287; Henry H. Simms, The Rise of the Whigs in Virginia, 1824-1840 (Richmond: William Byrd Press, 1929), 118.

¹²Charles Henry Ambler, Sectionalism in Virginia from 1776 to 1861 (Chicago: University of Chicago Press, 1910), 231-232; Boney, "Rivers of Ink," Va. Cavalcade, XVIII (1968), 36; Richmond Enquirer, Nov. 5, 1844.

¹³In 1849 a friend wrote to HAW that "the old P.H.S. is no more. It died with the departure of the old friends who so vigilantly moved it." W. F. Watson to HAW, Oct. 6, 1849, HAW Papers, folder 2. For an intriguing portrait of Daniel (1825-1865) and his relationship with the society's members, see Hughes, Editors of the Past, 17.

¹⁴See diary entries for June 3, 1842, Oct. 28, 1844, Jan. 5, 1845. These entries and those that follow are from HAW Papers, folder 10.

¹⁵HAW and Daniel were particularly close. For Daniel's confidential description of a duel in which he participated, see J. M. Daniel to HAW, undated, HAW Papers, folder 6.

¹⁶John P. Little, History of Richmond (Richmond: Dietz Printing Co., 1933 [orig. publ. in Southern Literary Messenger, 1851-1852]), 205-206.

¹⁷Diary entry for Jan. 25, 1842.

¹⁸Diary entry for Nov. 2, 1844.

¹⁹Undated draft of speech, inserted into diary entry for Jan. 25, 1842.

²⁰Richmond Enquirer, Oct. 17, 1843.

²¹Ibid., Feb. 27, 1844. One Richmond citizen later wrote that in 1844 "all the papers were full of politics . . . It was difficult to spare room for funeral notices and advertisements from the political effusions. Every little political meeting in the county was described in detail, and ten and twenty columns of addresses to the voters came with almost every paper." W. Asbury Christian, Richmond: Her Past and Present (Richmond: L. H. Jenkins, 1912), 149.

²²Diary entry for Nov. 2, 1844.

²³Diary entry for Oct. 24, 1844.

²⁴Diary entry for Nov. 9, 1844. The Richmond Enquirer, Nov. 5, 1844, reminded its readers that "the Richmond Whig said the other day, if they are beaten this time, they cannot rally again. Let us then give them a blow, from which it will be impossible for them to recover."

²⁵Diary entry for June 17, 1843.

²⁶Diary entry for Nov. [], 1843. As a young man, HAW apparently was a great admirer of Thomas Jefferson. Silas Totten Papers, book 5, Swem Library, College of William and Mary, Williamsburg, Va.

²⁷Undated diary entry.

²⁸J. Stephen Knight, Jr., "Discontent, Disunity, and Dissent in the Antebellum South: Virginia as a Test Case, 1844-1846," VMHB, LXXXI (1973), 440-441.

²⁹Ibid., 441, 443.

³⁰See Richmond Enquirer, May 5, 8, Sept. 25, 1845, Aug. 6, 1846; and Richmond Whig, Feb. 3, Apr. 6, June 17, Nov. 4, 14, 1845.

³¹Knight, Jr., "Discontent, Disunity, and Dissent," VMHB, LXXXI (1973), 445, 447.

³²Ibid., 446-447.

³³Diary entries for Dec. 26, 1844, Jan. 2, 1845. There is no evidence that these views were publicly known; however, HAW's essay on "The Social System in Virginia," published in 1848 (see n. 37), contained similar opinions.

³⁴Diary entry for Dec. 26, 1844.

³⁵Diary entries for Dec. 26, 1844, Jan. 7, 1845.

³⁶HAW to Lawrence Washington, Nov. 1, 1847, HAW Papers, folder 2; legal deposition, Dec. 28, 1850, signed by John Tayloe, H. A., and Lawrence Washington, ibid., uncataloged. In 1850 HAW sold his share of the farm and stock to Tayloe.

³⁷Henry A. Washington, "The Social System of Virginia," Southern Literary Messenger, XIV (1848), 65.

³⁸Ibid., 73, 75-79. Although it is not clear how HAW's contemporaries reacted to these views, Benjamin B. Minor, editor of the Southern Literary Messenger from 1843 to 1847, wrote much later that HAW's "paper on 'The Social System of Virginia' changed his career. It led to his election to the Chair of History in William and Mary College." This would seem to indicate that HAW's work had brought him recognition in academic circles. Benjamin Blake Minor, The Southern Literary Messenger, 1834-1864 (New York: Neale Publishing, 1905), 163.

³⁹Lyon G. Tyler, "Early Courses and Professors at William and Mary," address delivered Dec. 25, 1904, before Phi Beta Kappa Society, William and Mary College, Williamsburg, Va., 11.

⁴⁰Lyon G. Tyler, The College of William and Mary in Virginia: Its History and Work, 1693-1907 (Richmond: Whittet & Shepperdson, 1907), 79.

⁴¹John Rutherford to John Tyler, Nov. 18, 1848, T-C Papers, box 53.

⁴²William Boulware to HAW, Dec. 7, 1848, HAW Papers, folder 2; HAW to Lawrence Washington, Jan. 11, 1849, Faculty-Alumni Files, s.v. "Washington, Henry A.," Swem Library, College of William and Mary, Williamsburg, Va.

⁴³See, for example, diary entries for Oct. 26, Nov. 19, 1844, Jan. 6, 10, 1845.

⁴⁴Johns, Memoir, 12, 9; Ida Trosvig, "The Study and Teaching of History in the College of William and Mary" (M.A. thesis, College of William and Mary, 1935), 91.

⁴⁵Johns, Memoir, 14; Williamsburg Weekly Gazette, Mar. 17, 1858.

⁴⁶Lew _____ to HAW, June 15, 1852, HAW Papers, folder 4; John M. Daniel to HAW, [June] 1852, ibid. During HAW's stay in Richmond, Lawrence Washington had written to him, "How do you come on with Miss L. P.? It is time you were looking out and we have a high opinion of that lady. I think you had better keep a look out. But I never expect to see you married." Lawrence Washington to HAW, undated, ibid., uncataloged.

⁴⁷Diary entry for Oct. 29, 1844.

⁴⁸Diary entry for Jan. 30, 1845.

⁴⁹Cynthia Tucker wrote to her father that she had met HAW on a trip to Martinsburg, Va. "He was here 'they say' on a visit to Miss Smith. . . . If she will come [to Williamsburg] she will have a good opportunity to captivate Mr. Washington if she has not done so." Cynthia B. Tucker to Nathaniel Beverley Tucker, Sept. 6, 1850, T-C Papers, box 54.

⁵⁰Cecil D. Eby, Jr., ed., "'Porte Crayon' in the Tidewater," VMHB, LXVII (1959), 444.

⁵¹John M. Daniel to HAW, [June] 1852, HAW Papers, folder 4. HAW and Cynthia Tucker married on July 8, 1852.

⁵²Cynthia B. T. Washington to HAW, undated, T-C-W Papers, box XII, folder 4. For a detailed study of the Washington marriage, see Doris C. Sturzenberger, "The Southern Lady Ideal in the Life of Cynthia Beverley Tucker, 1840-1870" (M.A. thesis, College of William and Mary, 1979).

⁵³Committee of the Graham Philanthropic Society of Washington College, Lexington, Va., to HAW, Feb. 3, 1849, HAW Papers, folder 2; William P. McKenney to HAW, May 4, 1852, ibid., folder 4.

⁵⁴Library of Congress Manuscript Division, Index to the Thomas Jefferson Papers (Washington, D.C.: Library of Congress, 1976), ix-x; J. M. Mason to HAW, Mar. 6, 1850, HAW Papers, uncataloged.

⁵⁵Library of Congress, Index to Jefferson Papers, xi. Washington assured the committee that "the whole mass of the manuscript, which I received from the State Department, has been carefully examined by me, & every thing deemed worthy of preservation, has been selected, & . . . digested, arranged, & indexed." HAW to James A. Pearce, June 30, 1854, HAW Papers, uncataloged.

⁵⁶Ralph L. Ketcham, "William Cabell Rives: Editor of the Letters and Other Writings of James Madison," VMHB, LXVIII (1960), 132.

⁵⁷Henry A. Washington, ed., The Writings of Thomas Jefferson (Washington, D.C.: Taylor & Maury, 1853-1854), I, iii.

⁵⁸New York Herald clipping, Jan. 1, 1854, and New York Times clipping, Jan. 7, 1854, HAW Papers, uncataloged. There must have been some favorable response to the Writings, because HAW's printer wrote that "the compliment the first volume has received is very gratifying to the publisher and I hope it is to the Editor." John C. Riker to HAW, Oct. 1, 1853, ibid. Curiously, the Southern Literary Messenger contained no review of the work.

⁵⁹New York Times clipping, Jan. 7, 1854, ibid.

⁶⁰HAW to Riker, Thorne, & Co., Jan. 1854, ibid.

⁶¹Library of Congress, Index to Jefferson Papers, xiii. The Joint Committee supported Randolph's proposal but because it could not convince Congress to do so, the editorial project was never begun. Randolph died four years later.

⁶²Johns, Memoir, 13; Silas Totten Papers, book 5.

⁶³Thomas Dew, A Digest of the Laws, Customs, Manners, and Institutions of the Ancient and Modern Nations (New York: D. Appleton, 1853), iii; Stephen Mansfield, "Thomas Roderick Dew at William and Mary: 'A Main Prop of that Venerable Institution,'" VMHB, LXXV (1967), 432-433; Southern Literary Messenger, XIX (1853), 256.

⁶⁴Virginia Gazette (Williamsburg), Feb. 1, 1855.

⁶⁵Henry A. Washington, "The Races of Men," Southern Literary Messenger, XXX (1860), 251-260. In reviewing this lecture the Richmond Enquirer, Jan. 19, 1855, declared that "we have always regarded Prof. Washington as one of the first intellects of our country. Ever since his essay on the Social System of Virginia, we have held that opinion and it has been confirmed by all his subsequent efforts."

⁶⁶Virginia Gazette (Williamsburg), Feb. 1, 1855.

⁶⁷Johns, Memoir, 18-28.

⁶⁸Ibid., 28-32; newspaper clipping dated Apr. 3, 1858, sent to Cynthia B. T. Washington, T-C Papers, box 55.

⁶⁹Cynthia B. T. Washington to Fanny Bland Coalter, Apr. 22, 1858, ibid.

⁷⁰Silas Totten Papers, book 5.

⁷¹Johns, Memoir, 12.

1842

¹The Exchange Hotel, which opened in 1841, was located on the corner of Fourteenth and Franklin streets and was considered Richmond's finest hotel. Public dances, concerts, lectures, and meetings were often held there. Randolph W. Church, "Charles Dickens Sends His Sympathy," Va. Cavalcade, XXI (1971), 44.

²A contingent fee is a fee stipulated to be paid to an attorney for his services in conducting a forensic proceeding only in case he wins it. A remainder is the remnant of an estate in land, depending upon a particular prior estate created at the same time and by the same instrument.

³Robert E. Scott (1808-1862) represented Fauquier County for many years in the Virginia state legislature. Lyon Gardiner Tyler, ed., Encyclopedia of Virginia Biography (New York: Lewis Historical Publishing Co., 1915), III, 43-44 (hereafter cited as Ency. Va. Biog.). John Z. Holladay (1806-1842), who represented Louisa County, served in the sessions of 1840-1841 and 1841-1842, and was considered among "the ablest and most amiable and most promising men." Richmond Enquirer, Oct. 18, 1842.

⁴Ellen Carter Bruce (1820-1862) and Sarah Bruce (1822-1882) were the daughters of James Bruce (1763-1837), who was considered the wealthiest man in Virginia. Ellen was renowned for her beauty, while Sarah was "distinguished for wit, vivacity, and charm." "The Bruce Family," VMHB, XI (1904), 442; Alexander Brown, The Cabells and Their Kin: A Memorial Volume of History, Biography, and Genealogy (Richmond: Garrett & Massie, 1939), 361-362.

⁵This entry contains two lengthy essays on the subject of party spirit. The writings are substantially similar--in many places the second piece contains verbatim extracts from the first--but since the second essay is somewhat longer and more eloquent, it was chosen to be reproduced here.

⁶Written above this line in the MS: "in all the grandeur in which nature has arrayed it with its lakes & woods."

⁷Written above this line in the MS: "to our doors."

⁸Written above this line in the MS: "such cases do exist in hypothesis & may exist in reality."

⁹Written above this line in the MS: "where the govement is made up [of] seperate independent branches."

¹⁰Written above this line in the MS: "one <most> loudest in defence [of] liberty--who battles under the proud spread banner of equal rights--who [] the [] the consti[tu]tion [] upon the brow."

¹¹Al-Hakim ibn-Otta, called Al-Mocanna (meaning "the veiled one"), was an imposter who appeared as a prophet in northeast Iran in 774. He killed himself to avoid capture by the caliph Mahdi's troops. The New Century Cyclopedia of Names (New York: Appleton-Century-Crofts, 1954), II, 1884.

¹²Written above this line in the MS: "Trust them not. They look like the innocent flour but are serpent under."

¹³Written above this line in the MS: "all to gain, nothing to loose."

¹⁴Written above this line in the MS: "affecting to dispise the virtues which he cannot emulate."

¹⁵Here follows a phrase of approximately seven illegible words.

¹⁶"In the corrupted currents of this world/Offense's gilded hand may shove by justice,/And oft 'tis seen the wicked prize itself/Buys out the law." Hamlet, act 3, sc. 3, lines 60-63.

¹⁷This is probably a reference to Thomas Ritchie. Although this essay may have been intended for publication in the Richmond Enquirer, there is no evidence of its having appeared there.

¹⁸In Greek mythology, Scylla was a perilous rock opposite the whirlpool Charybdis in the Strait of Messina. Century Cyclopedia, III, 3539.

¹⁹Upas was a poisonous tree, alleged to have existed in Java, that was so deadly that it destroyed all life for miles around.

²⁰Balm of Gilead is a resinous substance esteemed since antiquity for its supposed value as a medicinal ointment.

²¹On the MS page immediately following this entry is an entry dated Apr. 27, 1844, which has been moved here to its proper chronological position.

²²During the War of 1812, Andrew Jackson declared martial law in New Orleans and refused to relax his vigilance until he was officially informed of peace. He arrested a member of the legislature for writing an objectionable letter, and when the prisoner requested a writ of habeas corpus, it was granted by Judge Dominick Hall (ca. 1765-1820), judge of the district court of the territory. In return, Jackson ordered Hall's arrest. When he received the official news of peace, Jackson revoked martial law, and Hall summoned the general into court to show why he should not be held in contempt for his refusal to recognize the writ of habeas corpus. Jackson was tried, convicted, and fined \$1000. In Mar. 1842 a bill was introduced in Congress to remit the fine; this action was approved in Feb. 1844. John Spencer Bassett, The Life of Andrew Jackson (n.p.: Archon Books, 1967), 208-230, 745.

²³Written upside down underneath this paragraph is the notation "Cashier of the Farmer's Bank of Virginia pay to Gasbar Garnier."

²⁴This topic appears to have been of particular interest and importance to HAW, for the matter in this entry is paraphrased in the third paragraph of the entry for Nov. 25, 1843.

²⁵As a lawyer, clergyman, and historian, Robert Reid Howison (1820-1906) pursued a multi-faceted career. After practicing law in Richmond for one year, he attended Union Theological Seminary and graduated in 1844. He then served as a pastor in Staunton for two years but returned to Richmond to resume his legal practice. In 1870 he reentered the ministry, and in 1894 he was appointed professor of American history at the College of Fredericksburg. Howison was the author of The History of Virginia (1846-1848), which HAW reviewed in the Southern Literary Messenger, XIV (1848), 65-81. National Cyclopedia of American Biography, XIX (New York: James White, 1926), 302-303.

²⁶A prominent figure in HAW's diaries, James Alexander Seddon (1815-1880) was a leading Richmond lawyer. A University of Virginia graduate, Seddon began his practice in the state capital in the early 1840s and soon advanced to a prominent position in the highly competitive Richmond bar. He married Sarah Bruce in 1845 and served as a Democratic congressman from 1845 to 1847 and 1849 to 1851. Seddon was an ardent follower of Calhoun and the states rights school, and he advocated Southern expansion. He served as Confederate secretary of war from 1862 to 1865. Roy Watson Curry, "James A. Seddon: A Southern Prototype," VMHB, LXII (1955), 123-150.

²⁷Robert W. Carter represented Stafford, King George, Westmoreland, Richmond, Lancaster, and Northumberland counties in the Virginia state senate during the session of Dec. 6, 1841-Mar. 26, 1842. Earl G. Swem and John W. Williams, A Register of the General Assembly of Virginia, 1776-1918 (Richmond: n.p., 1918), 153.

²⁸Richmond lawyer Robert Craig Stanard (1814-1857) was a state senator and a member of the Constitutional Convention of 1851. He was the son of Robert Stanard (1781-1846), distinguished judge of the Virginia Supreme Court of Appeals. Horace Edwin Hayden, Virginia Genealogies (Wilkes-Barre, Pa.: E. B. Yordy, 1891), 279.

²⁹James Marion Morson (1817-1868), a cousin of James A. Seddon, was educated at the University of Virginia and at Judge Lomax's Law School in Fredericksburg. He married Ellen Carter Bruce in 1843, and they moved to "Dover" plantation in Goochland County the next year. Morson, who held over eight hundred slaves, also owned and managed sugar plantations in Louisiana. Brown, Cabells and Their Kin, 361.

³⁰Edward Bulwer-Lytton (1803-1873) was an English novelist, poet, and dramatist. His most famous work was The Last Days of Pompeii (1834). Century Cyclopedia, I, 711.

³¹Renowned for his oratorical eloquence, Chapman Johnson (1779-1849) had an extensive Richmond law practice and was influential in the

court of appeals for 25 years. He led the western radical party in the Virginia Constitutional Convention of 1829-1830 and also served in the state senate and the house of delegates. DAB, s.v. "Johnson, Chapman."

³²William Norwood (d. 1887) came to Richmond in 1837 to serve as rector of Monumental Episcopal Church. In 1841 he directed the building of St. Paul's Church and became its first rector. Christian, Richmond, 406.

³³Henry Pelham, hero of Bulwer-Lytton's novel Pelham, or the Adventures of a Gentleman (1828), endeavors to realize the ideal of "a complete gentleman who dresses well, dances well, fences well, has a genius for love letters and an agreeable voice." Helen Rex Keller, The Reader's Digest of Books (New York: Macmillan, 1954), 660-661.

³⁴Morson and HAW had been fellow students at Judge Lomax's Law School. For word portraits of HAW and his classmates see HAW Papers, folder 7.

³⁵"Adm'r" is the legal abbreviation for "administrator."

³⁶Episcopal clergyman John Johns (1796-1876) was consecrated assistant bishop of Virginia on Oct. 13, 1842. He served as president of the College of William and Mary from 1849 to 1854. During this time he became a close friend of HAW, at whose marriage he presided in 1852. Johns became bishop of Virginia in 1862. DAB, s.v. "Johns, John."

³⁷James Mercer Garnett (1770-1843) served several terms in the Virginia House of Delegates and in the U.S. House of Representatives. He was president of the Fredericksburg Agricultural Society for 20 years. Tyler, ed., Ency. Va. Biog., II, 108-109.

³⁸A writ of right is a writ that is grantable as a matter of right, as opposed to a "prerogative writ," which is issued only as a matter of discretion.

³⁹An ejectment is a form of action by which possessory titles to inheritable objects may be tried and possession obtained.

⁴⁰Adverse possession is a method of acquisition of title by possession for a statutory period under certain conditions.

⁴¹A conveyance is a transfer of legal title to land.

⁴²Estoppel is an impediment preventing a party from asserting a fact or claim inconsistent with a position he previously took.

⁴³This entry begins a new booklet.

⁴⁴A Presyterian clergyman, educator, and author, Archibald Alexander (1772-1851) was a senior professor at the Princeton Theological Seminary from 1812 until his death in 1851. He published numerous theological essays, reviews, tracts, and sermons, and was known as a great pulpit orator. DAB, s.v. "Alexander, Archibald."

⁴⁵English satirist and man of letters Jonathan Swift (1667-1745) was particularly concerned with Irish social conditions and politics. Century Cyclopedia, III, 3768-3769.

⁴⁶The references are to Bulwer-Lytton's novels Ernest Maltravers (1837), Alice (1838), and Paul Clifford (1830). Keller, Reader's Digest of Books, 270, 656-657.

⁴⁷The historical novels and romantic tales of Sir Walter Scott (1771-1832) are marked by clarity, vivid descriptions of natural scenes, and swift narrative. Century Cyclopedia, III, 3535.

⁴⁸A commonplace book is a book in which the writer records important literary passages to be remembered. HAW had kept commonplace books since his youth; see Additions to Tucker-Coleman Papers (Dec. 1977), Swem Library, College of William and Mary, Williamsburg, Va.

⁴⁹John Mercer Patton (1797-1858) served in Congress from 1830 to 1838 and later was elected to the Executive Council of Virginia. Upon the resignation of Thomas Walker Gilmer, he served as acting governor from Mar. 18, 1841, until Mar. 31, 1841. Joanne L. Gatewood, "Richmond during the Virginia Constitutional Convention of 1829-1830," VMHB, LXXXIV (1976), 299.

⁵⁰"From the necessity or urgency of the case."

⁵¹Personalty is personal property.

⁵²A surety is a person who has contracted to be answerable for another.

⁵³James M. Wickham, a Richmond lawyer, was also commissioner of streets and a member of the city council. H. K. Ellyson, Ellyson's Business Directory and Almanac, for the Year 1845 (Richmond: H. K. Ellyson, 1845), 6.

⁵⁴Philip Norborne Nicholas (1775?-1849) was appointed judge of the general court in 1823, and in 1837 was elected judge of the Richmond and Henrico circuit court. Gatewood, "Richmond," VMHB, LXXXIV (1976), 316.

⁵⁵H. L. Brooke practiced law in Richmond. Ellyson, Ellyson's Business Directory, 16.

⁵⁶"Cognizable" means capable of being tried before a designated tribunal.

⁵⁷Joseph Mayo (1785-1872) served as commonwealth's attorney from 1822 to 1852 and as mayor of Richmond from 1853 to 1865. Valentine Museum, Richmond Portraits in an Exhibition of Makers of Richmond, 1737-1860 (Richmond: William Byrd Press, 1949), 128.

⁵⁸In Apr. 1840 more than \$500,000 was removed from the Bank of Virginia. W. B. Dabney, the first teller, was accused and fled the city. He later returned, claiming he had no money, and surrendered as state's witness against his accomplice, Ben Green. Dabney maintained

in his trial that he had merely consented to cover up Green's defaulting. Their case was later dismissed. Christian, Richmond, 141. The case is cited in Conway Robinson, Reports of Cases Decided in the Supreme Court of Appeals, and in the General Court of Virginia, I (Charlottesville, Va.: Michie Co., 1902), 431-436.

⁵⁹"From another source."

⁶⁰A warrant of attachments is a process of apprehending persons or property by virtue of a judicial order and bringing the same into the custody of the law.

⁶¹This appears to be a slip of the pen; HAW is probably referring to Ben Green, Dabney's accomplice.

⁶²A William and Mary graduate, Robert Gomain Scott (b. 1791) moved to Richmond in 1812, where he became a well-known lawyer. He gained the reputation of a brilliant orator and spent much time speaking on behalf of the Democrats of the city. In 1853 he was appointed consul to Rio de Janeiro. James M. Owens Collection of Madison Family Material, box 2, folder 14, Swem Library, College of William and Mary, Williamsburg, Va.

⁶³On July 16, 1842, the worst flood in forty years occurred along the James River. Millions of dollars' worth of damage was done to the canal and other property. Christian, Richmond, 145.

⁶⁴For a detailed discussion of James French's experiments and the controversy they engendered, see Richmond Enquirer, Aug. 26, 30, 1842.

⁶⁵Thomas Ritchie's daughter Margaret conducted several mesmeric experiments in the Ritchie home. Ibid., Sept. 9, 1842.

⁶⁶This entry begins a new booklet.

⁶⁷See Richmond Enquirer, Aug. 23, 26, Sept. 2, 1842. The paper recommended Dr. Meucci as "one whose fine talents and polished address will lend power and grace to the novel subject he intends to discuss. He possesses all the fire and eloquence of his native land. . . . His exhibition of the various Temperaments of Man, by throwing the muscles of his own face into an appropriate imitation, was admirable and striking."

⁶⁸See p. 205, n. 10.

⁶⁹James Lyons (1801-1882) was considered one of the foremost citizens of Richmond and "one of the most elegant and accomplished gentlemen in the Commonwealth." A wealthy lawyer, he served in the state senate and in the house of delegates as a states rights Whig. Lyons was a delegate to the Constitutional Convention of 1851 and a member of the Confederate House of Representatives. Valentine Museum, Richmond Portraits, 108.

⁷⁰That is, hoaxed.

⁷¹For a detailed account of the Van Buren hoax and the resulting

controversy between the Richmond papers--including the Whig's description of Rit⁷² "English the old mesmerized driveller"--see Richmond Whig, Sept. 1, 5, 1842, and Richmond Enquirer, Sept. 2, 1842.

⁷²English novelist Charles Dickens arrived in Richmond on Mar. 17, 1842, after touring Boston, New York, Philadelphia, and Washington. On Mar. 18 a "petite souper" attended by 100 persons was held for him at the Exchange Hotel, with Thomas Ritchie presiding. Church, "Charles Dickens," Va. Cavalcade, XXI (1971), 42, 44; Christian, Richmond, 144-145.

⁷³John Young Mason (1799-1859) had a long career in public service. After attending the Constitutional Convention of 1829-1830, he was elected to Congress and served until 1837, when he was appointed judge of the U.S. district for Virginia. He later was secretary of the navy (1844-1845, 1846-1849), U.S. attorney-general (1845-1846), and minister to France (1853-1859). Tyler, ed., Ency. Va. Biog., II, 118.

⁷⁴George Goode was the former law partner of James Seddon. In May 1842 their practice had been dissolved, whereupon Seddon associated with his cousin James Morson. Richmond Enquirer, May 3, 1842.

1843

¹This entry begins immediately underneath the piece for Sept. 15, 1842, implying that HAW wrote nothing between those dates.

²On Mar. 20, 1843, Secretary of State Daniel Webster wrote to Edward Everett, minister to the court of St. James: "I read with interest what you said in a late private letter, respecting the practicability of a commercial treaty. It would be an immense object to this country to obtain a considerable reduction of the duties on tobacco and rice, the abolition of the impost of raw cotton, and the admission of Indian corn into England at a moderate fixed rate of duty. . . . If with some abatement of rates the tariff could be made permanent for ten or fifteen years, it would be a great gain, in my opinion, to our own manufacturers. . . . I beg you therefore to bring out the British government on this whole matter." Fletcher Webster, ed., The Private Correspondence of Daniel Webster (Boston: Little Brown, 1857), II, 170-171.

³The reference is probably to the Patrick Henry Society. See p. 5.

⁴Apparently, HAW neglected to cross out the phrase "it is desirable that the transition" and insert the words "a sudden transition," which are written above the line in the MS.

⁵Morson married Ellen Carter Bruce on Sept. 13, 1843. "The Bruce Family," VMHB, XI (April 1904), 442.

⁶John Minor Botts (1802-1869), a Whig congressman from 1839 to 1843 and 1847 to 1849, was famous for his violent oratory. He denounced the Democrats as a party of disunion and sided with them only in opposition to abolitionism. He considered John Tyler guilty of treachery to the

Whigs and tried to have him impeached. Botts resumed his Richmond law practice in 1852 and later worked to prevent secession. DAB, s.v. "Botts, John Minor."

⁷Thomas Wilson Dorr (1805-1854), a member of the Rhode Island legislature from 1833 to 1837, took a leading part in agitation for wider manhood suffrage in the state. His People's Party drafted a new constitution and chose Dorr governor, while another governor was elected at the regular state convention. The "rebellion" was put down by state troops, and Dorr was convicted of treason. In 1845 an amnesty act was passed and Dorr was freed. Ibid., s.v. "Dorr, Thomas Wilson."

⁸The paragraph ends here.

⁹The reference is probably to Thomas Macaulay's essay "Utilitarian Theory of Government," in which he disputes the "greatest happiness" principle of the Utilitarians. See his Critical and Miscellaneous Essays, new and rev. ed., V (New York: D. Appleton, 1856), 336-366.

¹⁰The entry ends here, at the bottom of the MS page. It appears that any further pages for the year 1843 have been lost.

1844

¹This entry was originally written on a half sheet following the entry for Mar. 9, 1842.

²This entry begins a new booklet, entitled "Essays."

³The brackets in this entry indicate matter missing because of mutilation.

⁴An obligee is the person in favor of whom some obligation is contracted. An assignee is the person to whom property is transferred.

⁵Offsets and discounts are counter demands that the defendant holds against the plaintiff. An obligor is a person who has engaged to perform some obligation. An assignor is a person who transfers property to another.

⁶Auguste D'Avezac (1780-1851), a New Orleans lawyer, served as personal aide to Andrew Jackson in 1814. Jackson appointed him diplomat to The Hague, Sicily, and Naples in 1829, and he remained in Europe for the next 10 years. He was elected to the New York legislature in 1843. DAB, s.v. "D'Avezac, Auguste."

⁷Date obliterated by a hole.

⁸A distinguished Virginia judge, John Bacon Clopton served as a delegate to the Constitutional Convention of 1829-1830 and helped found the Virginia Historical Society. In 1851 he was elected judge of the circuit court of the Sixth District. Christian, Richmond, 112, 120.

⁹The term "quaere" indicates that a particular statement is considered open to question.

¹⁰Date obliterated by a hole.

¹¹A lawyer, statesman, and jurist, Benjamin Watkins Leigh (1781-1849) served three terms in the Virginia legislature, played a prominent role in the Constitutional Convention of 1829-1830, and in 1834 was elected to the U.S. Senate. Tyler, ed., Ency. Va. Biog., II, 92.

¹²Date obliterated by a hole.

¹³The economic theories of David Ricardo (1772-1823) were followed by economists throughout the 19th century. His theoretical approach to the field of currency and banking led to a more scientific study of economics. His influential theory of value is based on the principle that under free competition, the amount of labor involved in production determines the exchange value of the product. Scottish economist Adam Smith (1723-1790) argued that labor is the real source of a nation's wealth. His book The Wealth of Nations (1776) is considered the first complete work on political economy. Century Cyclopedia, III, 3350, 3630.

¹⁴English clergyman and essayist Sydney Smith (1771-1845) was one of the founders of the Edinburgh Review. He was noted as a brilliant critic and wit. Ibid., 3636.

¹⁵Thomas Babington Macaulay (1800-1859), English historian, essayist, and politician, was best known for his History of England from the Accession of James the Second, in which he used the techniques of the historical novel to vividly portray the period. Ibid., II, 2553.

¹⁶General James West Pegram (1804-1844), president of the Bank of Virginia, lost his life in rescuing a woman and her children after the explosion of the steamboat Lucy Walker, on Oct. 23, 1844. "Origin of the Pegram Family in the United States," William and Mary Quarterly, 2d Ser., II (1922), 68.

¹⁷A prominent Richmond lawyer, William H. McFarland was president of the Farmers' Bank. Tyler, ed., Ency. Va. Biog., III, 42.

¹⁸Richmond lawyer John Samuels Caskie (1821-1869) served as judge of the Richmond and Henrico circuit and later as a Democratic congressman from 1851 to 1859. Ibid., II, 102-103.

¹⁹William H. Roane (1788-1845), son of the eminent jurist Spencer Roane, served as a Republican congressman from 1815 to 1817 and as a Democratic senator from 1837 to 1841. Ibid., 93.

²⁰William F. Ritchie and his brother Thomas, Jr., assumed the editorship of the Richmond Enquirer in 1845, when their father took over the Washington Union. Osthaus, "Ritchie-Pleasants Duel," Va. Cavalcade, XXVI (1977), 111.

²¹John Ramsay McCulloch (1789-1864), an English statistician and political economist, was influenced by Adam Smith and David Ricardo. Dictionary of National Biography, s.v. "McCulloch, John Ramsay."

²²The matter in this paragraph is paraphrased from a segment of John C. Calhoun's speech on the bill authorizing the issue of treasury notes, delivered in the U.S. Senate on Sept. 19, 1837. See Richard K. Cralle, ed., The Speeches of John C. Calhoun, III (New York: D. Appleton, 1853), 84.

²³Enough anti-slavery Whigs in New York voted for James G. Birney, the anti-slavery candidate, to give Polk a slight edge, and New York's electoral vote was pivotal to the victory of Polk and George M. Dallas. Samuel Eliot Morison et al., The Growth of the American Republic, 6th ed. (New York: Oxford University Press, 1969), I, 546.

²⁴William Segar Archer (1789-1855) was a member of the Virginia House of Delegates (1812-1819), the U.S. Congress (1820-1835), and the U.S. Senate (1841-1847). DAB, s.v. "Archer, William Segar."

²⁵"Tam o' Shanter" (1790) is a poem by Robert Burns.

²⁶Charles XIV of Sweden and Norway (1763-1844) was a French general and marshal before his election as crown prince of Sweden in 1810. He later changed his allegiance and commanded the Army of the North against Napoleon. The reign of his son and successor, Oscar I (1799-1859), was marked by a moderate liberalism and careful attention to Sweden's economy. Century Cyclopedia, I, 906, III, 3044.

²⁷Frederick William III of Prussia (1770-1840) declared war against France in 1806, signed the Treaty of Tilsit in 1807, joined France against Russia in 1812, and joined the War of Liberation against Napoleon in 1813. Ibid., II, 1634.

²⁸In Greek legend, Paris, the son of the king of Troy, chose Venus as the fairest goddess. In return, she helped him abduct Helen from Sparta, giving rise to the Trojan War. Ibid., III, 3090-3091.

²⁹The Isthmus of Tehuantepec is located in southeastern Mexico, between the Bay of Campeche on the north and the Gulf of Tehuantepec on the south.

³⁰An undetermined number of words is missing from the MS here.

³¹"With respect to."

³²Cardinal Richelieu (1585-1642) established the Académie Française in 1635 for the purpose of controlling the French language and regulating literary taste. Century Cyclopedia, II, 1640.

³³French novelist and essayist Madame de Staël (1766-1817) was best known for her work Germany (1810). Madame Roland (1754-1793), a French revolutionist, established a Parisian salon that became the headquarters of the Girondists. Ibid., III, 3686, 3391.

³⁴English novelist Fanny Burney (1752-1840) was a member of the leading literary sets of her time. Her journals and letters give insight into court life and the circle of Samuel Johnson (1709-1784), the renowned poet, lexicographer, and conversationalist. Charles

Maurice de Talleyrand-Périgord (1754-1838) served as French envoy to England in 1792 and later took a leading part in carrying out Napoleon's foreign policy. Louis de Narbonne-Lara (1755-1813) was a French general and diplomat. William Windham (1750-1810), a scholar and statesman, was an intimate friend of Dr. Johnson. English author and social leader Elizabeth Montagu (1720-1800) conducted a famous Mayfair salon. Hester Thrale (1741-1821) left anecdotes about and correspondence with her friend Dr. Johnson. Ibid., I, 726, II, 2206, III, 3787-3788, 2888; DNB, s.v. "Windham, William"; Century Cyclopedia, II, 2797, III, 2852. This section of the entry is paraphrased from Macaulay's essay "Madame D' Arblay," in his Critical and Miscellaneous Essays, V, 52.

³⁵In Greek mythology, Aesculapius was the god of medicine. The common offering to him was a cock. Century Cyclopedia, I, 52.

³⁶Thales (ca. 640 B.C.-ca. 546 B.C.), a philosopher and astronomer, was one of the seven wise men of ancient Greece. An Athenian lawmaker, Solon (ca. 638 B.C.-ca. 559 B.C.) improved the condition of the debtors, reorganized the popular assembly, and carried out numerous political and economic reforms. Ibid., II, 3831, 3649-3650.

³⁷See T[homas] Babington Macaulay, "Lord Bacon," in his Critical and Miscellaneous Essays, II (Philadelphia: Carey & Hart, 1841), 286-402. The philosophy of English essayist Francis Bacon (1561-1626) was materialistic and was based on conclusions reached through an inductive collection and observation of the data of natural history. Century Cyclopedia, I, 297.

³⁸The Sophists were a group of Greek professional writers, lecturers, and teachers in the 5th and 4th centuries B.C. who travelled through the Greek-speaking world instructing young men. Encyclopaedia Britannica, 15th ed., s.v. "Sophists."

³⁹Xenophon (ca. 430 B.C.-after 357 B.C.) was a Greek historian, essayist, and disciple of Socrates. English man of letters James Boswell (1740-1795) was notable as a diarist and as the biographer of Dr. Samuel Johnson. Century Cyclopedia, III, 4188, I, 593.

⁴⁰In Greek legend Acastes, son of the Sicilian river god Crimisus, fought in the Trojan War. He appears in Virgil's Aeneid. Ibid., I, 27.

⁴¹The correct year was 1791.

⁴²The correct year was 1789.

⁴³The correct date was June 20-21, 1791.

⁴⁴Called "the man of August 10th," Georges Jacques Danton (1759-1794) led the movement that established the revolutionary Commune of Paris and resulted in the suspension of the monarchy. Century Cyclopedia, I, 1187.

⁴⁵Pierre Vergniaud (1753-1793), president of the Legislative Assembly, was a Girondist leader and orator. Ibid., III, 4007.

⁴⁶Vendée, a department in western France, was the center of royalist insurrections during the Revolution. Ibid., 4000.

⁴⁷French general Charles Dumouriez (1739-1823) conducted expeditions against Austrian troops in the Netherlands. On Mar. 18, 1793, he was defeated by them at Neerwinden, in eastern Belgium, and soon afterwards he went over to the enemy. Ibid., I, 1357.

⁴⁸An outstanding tactician and an efficient politician, Maximilien Robespierre (1758-1794) led the Committee of Public Safety in instituting a series of drastic measures that initiated the Terror. Eventually, division within the Committee led to an anti-Robespierre movement, culminating in the execution of Robespierre and his associates on July 28, 1794. François Furet and Denis Richet, French Revolution (New York: Macmillan, 1970), 196-214.

⁴⁹Jacques Hébert (1755-1794), an influential journalist and a leader of the most violent faction in the Commune, organized the ultrarevolutionary group known as the Hébertists or enragés ("madmen"). Century Cyclopedia, II, 1954-1955.

⁵⁰Louis Saint-Just (1767-1794) and Georges Couthon (ca. 1755-1794) were associates of Robespierre and helped him bring down the Girondists, Hébertists, and Dantonists. Ibid., III, 3454, I, 1110.

⁵¹French statesman Emmanuel Sieyès (1748-1836) served as a member of the National Assembly, the National Convention, the Council of Five Hundred, and the Directory. He was a chief organizer of the coup d'état of 18th Brumaire, which placed Napoleon Bonaparte at the head of the government as first consul. Ibid., III, 3603.

⁵²As commander of the government's forces during the uprising of 1795, Paul Barras (1755-1829) summoned Bonaparte to Paris and placed him in charge of the troops. Ibid., I, 361.

⁵³A leader of the coup d'état of Sept. 4, 1797, Pierre Augereau (1757-1816) later served as a marshal under Napoleon. Ibid., 265.

⁵⁴The reference is to Alexander Hamilton's essay no. XXXII in The Federalist (New York: E. P. Dutton, 1911), 153.

⁵⁵This paragraph summarizes a segment of James Madison's essay no. XLII in ibid., 217.

⁵⁶The brackets here and in the remainder of this entry indicate the places where the MS is either mutilated or so faded that certain words are illegible.

¹This entry begins a new booklet, entitled "Essays."

²This apparent contradiction in terms may be better understood by assuming that HAW was referring to the Caucasian race in general as the "privileged order" in the South. Thus, the Southern aristocracy (that is, white society) had the disadvantage of having many poor members.

³That is, the Southern people.

⁴English political economist Thomas Malthus (1766-1834) theorized that population increases in a geometrical ratio while the means of subsistence increase in an arithmetical ratio. Century Cyclopedia, II, 2594.

⁵Best known for his long narrative poems, Henry Wadsworth Longfellow (1807-1882) was the first American poet to achieve widespread recognition abroad. His work was lyrical, easily understood, and idealistic and moral in tone. George Byron (1788-1824) and William Wordsworth (1770-1850) were in the forefront of the romantic movement. Although Byron was noted for his technical virtuosity, many critics preferred Wordsworth's more serene poetry, which was praised for its simplicity of meter and language. Ibid., II, 2505-2506, I, 743-744, III, 4169.

⁶Scottish essayist and historian Thomas Carlyle (1795-1881) conceived of history as an interpretation of the past for the guidance of mankind. He attacked corruption and materialism in human society, and his work is considered unsurpassed in vividness of portraiture. Ibid., I, 822.

⁷Laws of mortmain are acts preventing lands from coming into the possession of religious corporations.

⁸William Barton Rogers (1804-1882) enjoyed a long and prestigious academic career. During the 1820s he was professor of mathematics, natural philosophy, and chemistry at William and Mary, and during the period 1835-1853 he taught at the University of Virginia. Rogers helped found the Massachusetts Institute of Technology in 1861 and served as its first president. Tyler, ed., Ency. Va. Biog., II, 222-223.

⁹"To such an extent."

¹⁰The reference is to St. George Tucker's edition of Blackstone's Commentaries (Philadelphia: William Birch Young & Abraham, 1803).

¹¹Greek mathematician and physicist Archimedes (ca. 287 B.C.-ca. 212 B.C.) discovered the laws of the lever and the pulley. He is said to have declared, "Give me a place to stand on, and I will move the earth." Century Cyclopedia, I, 201.

¹²A contingent remainder is an estate in remainder which is limited to take effect either to a dubious and uncertain person, or upon a dubious and uncertain event.

¹³The term "use" refers to a state of being employed. A contingent use is a use limited to take effect upon the occurrence of some future contingent event. A shifting use is a use that is so limited that it

will be made to transfer itself from one beneficiary to another upon the occurrence of a certain event after its creation. A springing use is a use limited to arise on a future event where no preceding use is limited.

¹⁴Edmund Randolph (1753-1813), a Virginia delegate to the Constitutional Convention in 1787, proposed the Virginia Plan, which called for representation in Congress apportioned according to population. Century Cyclopedia, III, 3304-3305.

¹⁵In 1788 the Virginia state judicial system was reorganized and George Wythe (1726-1806) became sole chancellor. He held the office until 1801, when three chancery districts were created; Wythe then continued to preside over the Richmond district. DAB, s.v. "Wythe, George."

¹⁶See p. 219, n. 24.

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A NOTE ON THE SOURCES

The study of the life of Henry A. Washington is a difficult but challenging one because there are no secondary sources covering his career in any depth. Thus, the account must be pieced together chiefly from his diaries and correspondence. These principal source materials are located in the Henry A. Washington papers, a group of 280 pieces, dated 1835-1859, consisting of letters, addresses, essays, and the diaries. Curiously, there is no correspondence at all for the years 1842-1845; therefore, the diaries are of particular importance for this period. The majority of the correspondence in the collection is composed of business letters addressed to Washington. Also of significance is the Memoir of Henry Augustine Washington (1859), written by Bishop John Johns, president of William and Mary from 1849 to 1854. Johns collaborated with Cynthia B. T. Washington in the preparation of the work. Nevertheless, although the memoir is helpful in its description of the highlights of Washington's life, it is obviously a eulogistic piece and therefore must be used with care.

In addition to these sources, the Tucker-Coleman-Washington Papers are also of importance. Boxes 5, 8, 9, 11, 12, 15, and 16 contain Washington's lectures and numerous letters from his parents and siblings to him and to Cynthia B. T. Washington. The Cynthia B. T. Washington Coleman Papers are invaluable for correspondence between Washington and his wife.

All the sources noted above are located in the Manuscripts Department, Swem Library, College of William and Mary, Williamsburg, Virginia.

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