

society has a sufficient number of suitable characters to supply the great number of vacancies which would be made by such a rotation, I can see no objection to it. These persons may be allowed to serve for three years, and then be excluded three years, or for any longer or shorter term....

If the colonies should assume governments separately, they should be left entirely to their own choice of the forms; and if a continental constitution should be formed, it should be a congress, containing a fair and adequate representation of the colonies, and its authority should sacredly be confined to these cases, namely, war, trade, disputes between colony and colony, the post-office, and the unappropriated lands of the crown, as they used to be called.

These colonies, under such forms of government, and in such a union, would be unconquerable by all the monarchies of Europe.

You and I, my dear friend, have been sent into life at a time when the greatest lawgivers of antiquity would have wished to live. How few of the human race have ever enjoyed an opportunity of making an election of government, more than of air, soil, or climate, for themselves or their children! When, before the present epocha, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive? I hope you will avail yourself and your country of that extensive learning and indefatigable industry which you possess, to assist her in the formation of the happiest governments and the best character of a great people....

iii. Defense of the American Constitutions (1787)

PREFACE

wise, virtuous prin
monarchy is best
NOT FREE-free

...It is become a kind of fashion among writers, to admit, as a maxim, that if you could be always sure of a wise, active, and virtuous prince, monarchy would be the best of governments. But this is so far from being admissible, that it will forever remain true, that a free government has a great advantage over a simple monarchy. The best and wisest prince, by means of a freer communication with his people, and the greater opportunities to collect the best advice from the best of his subjects, would have an immense advantage in a free state over a monarchy. A senate consisting of all that is most noble, wealthy, and able in the nation, with a right to counsel the crown at all times, is a check to ministers, and a security against abuses, such as a body of nobles who never meet, and have no such right, can never supply. Another assembly, composed of representatives chosen by the people in all parts, gives free access to the whole nation, and communicates all its wants, knowledge, projects, and wishes to government; it excites emulation among all classes, removes complaints, redresses grievances, affords opportunities of exertion to genius, though in obscurity, and gives full scope to all the faculties of man; it opens a passage for every speculation to the legislature, to administration, and to the public; it gives a universal energy to the human character, in every part of the state, such as never can be obtained in a monarchy.

There is a third particular which deserves attention both from governments and people. In a simple monarchy, the ministers of state can never know their friends from their enemies; secret cabals undermine their in-

government is not safe
from spies & informers
→ shortest trial of life

See
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fluence, and blast their reputation. This occasions a jealousy ever anxious and irritated, which never thinks the government safe without an encouragement of informers and spies, throughout every part of the state, who interrupt the tranquillity of private life, destroy the confidence of families in their own domestics and in one another, and poison freedom in its sweetest retirements. In a free government, on the contrary, the ministers can have no enemies of consequence but among the members of the great or little council, where every man is obliged to take his side, and declare his opinion, upon every question. This circumstance alone, to every manly mind, would be sufficient to decide the preference in favor of a free government. Even secrecy, where the executive is entire in one hand, is as easily and surely preserved in a free government, as in a simple monarchy; and as to despatch, all the simple monarchies of the whole universe may be defied to produce greater or more numerous examples of it than are to be found in English history. An Alexander, or a Frederick, possessed of the prerogatives only of a king of England, and leading his own armies, would never find himself embarrassed or delayed in any honest enterprise. He might be restrained, indeed, from running mad, and from making conquests to the ruin of his nation, merely for his own glory; but this is no argument against a free government.

There can be no free government without a democratical branch in the constitution. Monarchies and aristocracies are in possession of the voice and influence of every university and academy in Europe. Democracy, simple democracy, never had a patron among men of letters. Democratical mixtures in government have lost almost all the advocates they ever had out of England and America. Men of letters must have a great deal of praise, and some of the necessaries, conveniences, and ornaments of life. Monarchies and aristocracies pay well

and applaud liberally. The people have almost always expected to be served gratis, and to be paid for the honor of serving them; and their applauses and adorations are bestowed too often on artifices and tricks, on hypocrisy and superstition, on flattery, bribes, and largesses. It is no wonder then that democracies and democratical mixtures are annihilated all over Europe, except on a barren rock, a paltry fen, an inaccessible mountain, or an impenetrable forest. The people of England, to their immortal honor, are hitherto an exception; but, to the humiliation of human nature, they show very often that they are like other men. The people in America have now the best opportunity and the greatest trust in their hands, that Providence ever committed to so small a number, since the transgression of the first pair; if they betray their trust, their guilt will merit even greater punishment than other nations have suffered, and the indignation of Heaven. If there is one certain truth to be collected from the history of all ages, it is this; that the people's rights and liberties, and the democratical mixture in a constitution, can never be preserved without a strong executive, or, in other words, without separating the executive from the legislative power. If the executive power, or any considerable part of it, is left in the hands either of an aristocratical or a democratical assembly, it will corrupt the legislature as necessarily as rust corrupts iron, or as arsenic poisons the human body; and when the legislature is corrupted, the people are undone.

The rich, the well-born, and the able, acquire an influence among the people that will soon be too much for simple honesty and plain sense, in a house of representatives. The most illustrious of them must, therefore, be separated from the mass, and placed by themselves in a senate; this is, to all honest and useful intents, an ostracism. A member of a senate, of immense wealth, the most respected birth, and trans-

*is this Aristocracy better
in the attempt to the same*

endent abilities, ^{rather than by} has no influence in the nation, in comparison of what he would have in a single representative assembly. When a senate exists, the most powerful man in the state may be safely admitted into the house of representatives, because the people have it in their power to remove him into the senate as soon as his influence becomes dangerous....

The United States of America have exhibited, perhaps, the first example of governments erected on the simple principles of nature; and if men are now sufficiently enlightened to disabuse themselves of artifice, imposture, hypocrisy, and superstition, they will consider this event as an era in their history. Although the detail of the formation of the American governments is at present little known or regarded either in Europe or in America, it may hereafter become an object of curiosity. It will never be pretended that any persons employed in that service had interviews with the gods, or were in any degree under the inspiration of Heaven, more than those at work upon ships or houses, or laboring in merchandise or agriculture; it will forever be acknowledged that these governments were contrived merely by the use of reason and the senses... The people were universally too enlightened to be imposed on by artifice; and their leaders, or more properly followers, were men of too much honor to attempt it. Thirteen governments thus founded on the natural authority of the people alone, without a pretence of miracle or mystery, and which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind. The experiment is made, and has completely succeeded; it can no longer be called in question, whether authority in magistrates and obedience of citizens can be grounded on reason, morality, and the Christian religion, without the monkery of priests, or the knavery of politicians. As the writer was personally acquainted

with most of the gentlemen in each of the states, who had the principal share in the first draughts, the following work was really written to lay before the public a specimen of that kind of reading and reasoning which produced the American constitutions....

PRELIMINARY OBSERVATIONS.

...M. Turgot, in his letter to Dr. Price, confesses, ^{in favor of republicanism} "that he is not satisfied with the constitutions which have hitherto been formed for the different states of America." He observes, "that by most of them the customs of England are imitated, without any particular motive. Instead of collecting all authority into one centre, that of the nation, they have established different bodies, a body of representatives, a council, and a governor, because there is in England a house of commons, a house of lords, and a king. They endeavor to balance these different powers, as if this equilibrium, which in England may be a necessary check to the enormous influence of royalty, could be of any use in republics founded upon the equality of all the citizens, and as if establishing different orders of men was not a source of divisions and disputes."

There has been, from the beginning of the revolution in America, a party in every state, who have entertained sentiments similar to these of M. Turgot. Two or three of them have established governments upon his principle; and, by advices from Boston, certain committees of counties have been held, and other conventions proposed in the Massachusetts, with the express purpose of deposing the governor and senate as useless and expensive branches of the constitution; and as it is probably that the publication of M. Turgot's opinion has contributed to excite such discontents among the people, it becomes necessary to examine it, and, if it can be shown to be an error, whatever veneration the

Americans very justly entertain for his memory, it is to be hoped they will not be misled by his authority....

... It was not so much because the legislature in England consisted of three branches, that such a division of power was adopted by the states, as because their own assemblies had ever been so constituted. It was not so much from attachment by habit to such a plan of power that it was continued, as from conviction that it was founded in nature and reason.

M. Turgot seems to be of a different opinion, and is for "collecting all authority into one centre, the nation." It is easily understood how all authority may be collected into "one centre" in a despot or monarch; but how it can be done when the centre is to be the nation, is more difficult to comprehend... Did M. Turgot mean that the people of Virginia, for example, half a million of souls scattered over a territory of two hundred leagues square, should stop here, and have no other authority by which to make or execute a law, or judge a cause, but by a vote of the whole people, and the decision of a majority! Where is the plain large enough to hold them; and what are the means, and how long would be the time, necessary to assemble them together?

A simple and perfect democracy never yet existed among men. If a village of half a mile square, and one hundred families, is capable of exercising all the legislative, executive, and judicial powers, in public assemblies of the whole, by unanimous votes, or by majorities, it is more than has ever yet been proved in theory or experience. In such a democracy, for the most part, the moderator would be king, the town-clerk legislator and judge, and the constable sheriff; and, upon more important occasions, committees would be only the counsellors of both the former, and commanders of the latter.

Shall we suppose, then, that M. Turgot intended that an assembly of representatives should be chosen by the

nation, and vested with all the powers of government; and that this assembly should be the centre in which all the authority was to be collected, and should be virtually deemed the nation? After long reflection, I have not been able to discover any other sense in his words, and this was probably his real meaning.... I shall not then esteem my time misspent, in placing the idea of M. Turgot in all its lights; in considering the consequences of it; and in collecting a variety of authorities against it.

OF MODERN DEMOCRATIC REPUBLICS.

RECAPITULATION.

... Among every people, and in every species of republics, we have constantly found a *first magistrate*, a *head*, a *chief*, under various denominations, indeed, and with different degrees of authority, with the title of stadtholder, burgomaster, avoyer, doge, gonfaloniero, president, syndic, mayor, alcalde, capitaneo, governor, or king; in every nation we have met with a distinguished officer. If there is no example, then, in any free government, any more than in those which are not free, of a society without a principal personage, we may fairly conclude that the body politic cannot subsist, any more than the animal body, without a head.... We may safely conclude... that the Americans are not justly liable to censure for instituting *governors*.

In every form of government we have seen a *senate*, or *little council*, a composition, generally, of those officers of state who have the most experience and power, and of a few other members selected from the highest ranks and most illustrious reputations.... In those states, where the senates have been debarred from all executive power, and confined to the legislative, they have

been observed to be firm barriers against the encroachments of the crown, and often great supporters of the liberties of the people. The Americans, then, who have carefully confined their senates to the legislative power, have done wisely in adopting them.

We have seen, in every instance, another and a larger assembly, composed of the body of the people, in some little states; of representatives chosen by the people, in others; of members appointed by the senate, and supposed to represent the people, in a third sort; and of persons appointed by themselves or the senate, in certain aristocracies; to prevent them from becoming oligarchies. The Americans, then, whose assemblies are the most adequate, proportional, and equitable representations of the people, that are known in the world, will not be thought mistaken in appointing houses of representatives.

In every republic,—in the smallest and most popular, in the larger and more aristocratical, as well as in the largest and most monarchical,—we have observed a multitude of curious and ingenious inventions to balance, in their turn, all those powers, to check the passions peculiar to them, and to control them from rushing into those exorbitancies to which they are most addicted. The Americans will then be no longer censured for endeavoring to introduce an equilibrium, which is much more profoundly meditated, and much more effectual for the protection of the laws, than any we have seen, except in England. We may even question whether that is an exception.

In every country we have found a variety of *orders*, with very great distinctions. In America, there are different orders of offices, but none of *men*. Out of office, all men are of the same species, and of one blood; there is neither a greater nor a lesser nobility. Why, then, are the Americans accused of establishing different orders of men? To our inexpressible mortification, we must

have observed, that the people have preserved a share of power, or an existence in the government, in no country out of England, except upon the tops of a few inaccessible mountains, among rocks and precipices, in territories so narrow that you may span them with a hand's breadth, where, living unenvied, in extreme poverty, chiefly upon pasturage, destitute of manufactures and commerce, they still exhibit the most charming picture of life, and the most dignified character of human nature.

Wherever we have seen a territory somewhat larger, arts and sciences more cultivated, commerce flourishing, or even agriculture improved to any great degree, an aristocracy has risen up in a course of time, consisting of a few rich and honorable families, who have united with each other against both the people and the first magistrate; who have wrested from the former, by art and by force, all their participation in the government; and have even inspired them with so mean an esteem of themselves, and so deep a veneration and strong attachment to their rulers, as to believe and confess them a superior order of beings....

We have seen no one government in which is a distinct separation of the legislative from the executive power, and of the judicial from both, or in which any attempt has been made to balance these powers with one another, or to form an equilibrium between the one, the few, and the many, for the purpose of enacting and executing equal laws, by common consent, for the general interest, excepting in England.

Shall we conclude, from these melancholy observations, that human nature is incapable of liberty, that no honest equality can be preserved in society, and that such forcible causes are always at work as must reduce all men to a submission to despotism, monarchy, oligarchy, or aristocracy?

By no means. We have seen one of the first nations

simplest people in the world. There is not a city nor a village, any more than a kingdom or a commonwealth, in Europe or America; not a horde, clan, or tribe, among the negroes of Africa, or the savages of North or South America; nor a private club in the world, in which inequalities are not more or less visible. There is, then, a certain degree of weight, which property, family, and merit, will have in the public opinion and deliberations....

CONCLUSION.

By the authorities and examples already recited, you will be convinced that three branches of power have an unalterable foundation in nature; that they exist in every society natural and artificial; and that if all of them are not acknowledged in any constitution of government, it will be found to be imperfect, unstable, and soon enslaved; that the legislative and executive authorities are naturally distinct; and that liberty and the laws depend entirely on a separation of them in the frame of government; that the legislative power is naturally and necessarily sovereign and supreme over the executive; and, therefore, that the latter must be made an essential branch of the former, even with a negative, or it will not be able to defend itself, but will be soon invaded, undermined, attacked, or in some way or other totally ruined and annihilated by the former....

In the present state of society and manners in America, with a people living chiefly by agriculture, in small numbers, sprinkled over large tracts of land, they are not subject to those panics and transports, those contagions of madness and folly, which are seen in countries where large numbers live in small places, in daily fear of perishing for want. We know, therefore, that the people can live and increase under almost any kind of

*Provisional
to be made
- 1776 -
Madison*

government, or without any government at all. But it is of great importance to begin well; misarrangements now made, will have great, extensive, and distant consequences; and we are now employed, how little soever we may think of it, in making establishments which will affect the happiness of a hundred millions of inhabitants at a time, in a period not very distant. All nations, under all governments, must have parties; the great secret is to control them. There are but two ways, either by a monarchy and standing army, or by a balance in the constitution. Where the people have a voice, and there is no balance, there will be everlasting fluctuations, revolutions, and horrors, until a standing army, with a general at its head, commands the peace, or the necessity of an equilibrium is made appear to all, and is adopted by all.

ON MARCHAMONT NEDHAM

Marchamont Nedham lays it down as a fundamental principle and an undeniable rule, "that the people, (that is, such as shall be successively chosen to represent the people,) are the best keepers of their own liberties, and that for many reasons. First, because they never think of usurping over other men's rights, but mind which way to preserve their own."

Our first attention should be turned to the proposition itself,—“The people are the best keepers of their own liberties.”

But who are the people?...

... If by the people is meant the whole body of a great nation, it should never be forgotten, that they can never act, consult, or reason together, because they cannot march five hundred miles, nor spare the time, nor find a space to meet; and, therefore, the proposition, that

not really true

*THE PEOPLE
THE PEOPLE
THE PEOPLE
THE PEOPLE
THE PEOPLE*

*Any Law to
the people
is not
liberty
- 1776 -
NO LIBERTY -> NO REPRESENTATIVE LIBERTY*