

ancient statutes, in such original bills as I drew in that work. I suppose the reformation has not been acceptable, as it has been little followed. You, however, can easily correct this bill to the taste of my brother lawyers, by making every other word a "said" or "aforesaid," and saying everything over two or three times, so that nobody but we of the craft can untwist the diction, and find out what it means; and that, too, not so plainly but that we may conscientiously divide one half on each side. Mend it, therefore, in form and substance to the orthodox taste, and make it what it should be; or, if you think it radically wrong, try something else, and let us make a beginning in some way. No matter how wrong, experience will amend it as we go along, and make it effectual in the end.

I shall see you of course at our stated visitation, and hope all the gentlemen will consider Monticello as the rendezvous of the preceding day or evening.

I salute you with friendship and respect.

An Act for establishing Elementary Schools.

1. Be it enacted by the General Assembly of Virginia, that at the first session of the Superior Court in every county within this commonwealth, next ensuing the passage of this act, the judge thereof shall appoint three discreet and well-informed persons, residents of the county, and not being ministers of the gospel* of any denomination, to serve as visitors of the Elementary Schools in the said county; of which appointment the sheriff shall, within fifteen days thereafter deliver a certificate, under the hand of the clerk of the said court, to each of the persons so appointed.

2. The said visitors shall meet at the court-house of

* § 1. Ministers of the Gospel are excluded to avoid jealousy from the other sects, were the public education committed to the ministers of a particular one; and with more reason than in the case of their exclusion from the legislative and executive functions.

their county on the first county court day after they shall have received notice of their appointment, and afterwards at such times and places as they, or any two of them, with reasonable notice to the third, shall have agreed; and shall proceed to divide their county into wards,* by metes and bounds so designated as to comprehend each, about the number of militia sufficient for a company, and so also as not to divide, and throw into different wards† the lands of any one person held in one body; which division into wards shall, within six months from the date of their appointment, be completely designated, published, and reported, by their metes and bounds, to the office of the clerk of the Superior Court, there to be recorded, subject, however, to such alterations, from time to time afterwards, as changes of circumstances shall, in the opinion of the said visitors or their successors, with the approbation of the said court, render expedient.

3. The original division into wards being made, the visitors shall appoint days for the first meeting of every ward, at such place as they shall name within the same, of which appointment notice shall be given at least two weeks before the day of meeting, by advertisement at some public place within the ward, requiring every free, white male citizen, of full age, resident within the ward, to meet at the place, and by the hour of twelve of the day so appointed, at which meeting some one of the visitors shall also attend, and a majority of the said warders being in attendance, the

* § 2. This designation of the size of a ward is founded on these considerations: 1st. That the population which furnishes a company of militia will generally about furnish children enough for a school. 2d. That in most instances, at present, the militia captaincies being laid off compactly by known and convenient metes and bounds, many will be adopted without change, and others will furnish a canvas to work on and to reform. 3d. That these wards once established, will be found convenient and salutary aids in the administration of government, of which they will constitute the organic elements, and the first integral members in the composition of the military.

† § 3. The prohibition to place among different wards the lands of a single individual, held in a body is, 1st. To save the proprietor from the perplexity of multiplied responsibilities; and 2. To prevent arbitrary and inconsistent apportionments, by different wardens, of the comparative values of the different portions of his lands in their respective wards.

visitor present shall propose to them to decide by a majority of their votes,—1. The location of a school-house for the ward, and a dwelling-house for the teacher, (the owner of the ground consenting thereto.) 2. The size and structure of the said houses; and 3. Whether the same shall be built by the joint labor of the warders, or by their pecuniary contributions; and also 4. To elect by a plurality of their votes a warden, resident, who shall direct and superintend the said buildings, and be charged with their future care.

4. And if they decide that the said buildings* shall be erected by the joint labor of the warders, then all persons within the said ward liable to work in the highways, shall attend at the order of the warden, and, under his direction, shall labor thereon until completed, under the same penalties as provided by law to enforce labor on the highways. And if they decide on erection by pecuniary contributions, the residents and owners of property within the ward shall contribute toward the cost, each in proportion to the taxes they last paid to the State for their persons and for the same property: of which the sheriff or commissioners shall furnish a statement to the warden, who, according to the ratio of that statement, shall apportion and assess the quota of contribution for each, and be authorized to demand, receive, and apply the same to the purposes of the contribution, and to render account thereof, as in all other his pecuniary transactions for the school, to the visitors; and on failure of payment by any contributor, the sheriff, on the order of the warden, shall collect and render the same under like powers and regulations as provided for the collection of the public taxes. And in every case it shall be the duty of the warden to have the buildings completed within six months from the date of his election.

* § 4. It is presumed that the wards will generally build such log-houses for the school and teacher as they now do, and will join force and build them themselves, experience proving them to be as comfortable as they are cheap. Nor would it be advisable to build expensive houses in the country wards, which, from changes in their population, will be liable to changes of their boundaries and consequent displacements of their centre, drawing with it a removal of their school-house. In towns, better houses may be more safely built, or rented for both purposes.

5. It shall be the duty of the said visitors to seek and to employ for every ward,* whenever the number and ages of its children require it, a person of good moral character, qualified to

§ 5. Estimating eight hundred militia to a county, there will be twelve captaincies or wards in a county on an average. Suppose each of these, three years in every six, to have children enough for a school, who have not yet had three years schooling; such a county will employ six teachers, each serving two wards by alternate terms. These teachers will be taken from the laboring classes, as they are now, to wit: from that which furnishes mechanics, overseers and tillers of the earth; and they will chiefly be the cripples, the weakly and the old, of that class, who will have been qualified for these functions by the ward schools themselves. If put on a footing then, for wages and subsistence, with the young and the able of their class, they will be liberally compensated: say with one hundred and fifty dollars wages and the usual allowance of meat and bread. The subsistence will probably be contributed in kind by the warders, out of their family stock. The wages alone will be a pecuniary tax of about nine hundred dollars. To a county, this addition would be of about one-fifth of the taxes we now pay to the State, or about one-fifth of one per cent. on every man's taxable property; if tax can be called that which we give to our children in the most valuable of all forms, that of instruction. Were those schools to be established on the public funds, and to be managed by the Governor and council, or the commissioners of the Literary fund, brick houses to be built for the schools and teachers, high wages and subsistence given them, they would be badly managed, depraved by abuses, and would exhaust the whole Literary fund. While under the eye and animadversion of the wards, and the control of the wardens and visitors, economy, diligence, and correctness of conduct, will be enforced, the whole Literary fund will be spared to complete the general system of education, by colleges in every district for instruction in the languages, and an university for the whole of the higher sciences; and this, by an addition to our contributions almost insensible, and which, in fact, will not be felt as a burthen, because applied immediately and visibly to the good of our children.

A question of some doubt might be raised on the latter part of this section, as to the rights and duties of society towards its members, infant and adult. Is it a right or a duty in society to take care of their infant members in opposition to the will of the parent? How far does this right and duty extend!—to guard the life of the infant, his property, his instruction, his morals! The Roman father was supreme in all these: we draw a line, but where!—public sentiment does not seem to have traced it precisely. Nor is it necessary in the present case. It is better to tolerate the rare instance of a parent refusing to let his child be educated, than to shock the common feelings and ideas by the forcible asportation and education of the infant against the will of the father. What is proposed here is to remove the objection of expense, by offering education gratis, and to strengthen parental excitement by the disfranchisement of his child while uneducated. Society has certainly a right to disavow him whom they offer, and are not permitted to qualify for the duties of a citizen. If we do not force instruction, let us at least strengthen the motives to receive it when offered.

teach reading, writing, numeral arithmetic and geography, whose subsistence shall be furnished by the residents and proprietors of the ward, either in money or in kind, at the choice of each contributor, and in the ratio of their public taxes, to be apportioned and levied as on the failures before provided for. The teacher shall also have the use of the house and accommodations provided for him, and shall moreover receive annually such standing wages as the visitors shall have determined to be proportioned on the residents and proprietors of the ward, and to be paid, levied and applied as before provided in other cases of pecuniary contribution. At this school shall be received and instructed gratis, every infant of competent age who has not already had three years schooling. And it is declared and enacted, that no person unborn or under the age of twelve years at the passing of this act, and who is *compos mentis*, shall, after the age of fifteen years, be a citizen of this commonwealth until he or she can read readily in some tongue, native or acquired.

6. To keep up a constant succession of visitors, the judge of the Superior Court of every county shall at his first session in every bissextile year, appoint visitors as before characterized, either the same or others, at his discretion. And in case of the death or resignation of any visitor during the term of his appointment, or of his removal by the said judge for good cause, moral or physical, he shall appoint another to serve until the next bissextile appointment. Which visitors shall have their first meeting at their court house on the county court day next ensuing their appointment, and afterwards at such times and places as themselves or any two of them with reasonable notice to the third shall agree. But the election of wardens shall be annually, at the first meeting of the ward after the month of March, until which election the warden last elected shall continue in office.

7. All ward meetings shall be at their school house, and on a failure of the meeting of a majority of the wardens on the call of a visitor, or of their warden, such visitor or warden may call another meeting.

8. At all times when repairs or alterations of the buildings before provided for shall be wanting, it shall be the duty of the

warden or of a visitor, to call a ward meeting and to take the same measures towards such repairs or alterations as are herein before authorized for the original buildings.

9. When, on the application of any warden, authorized thereto by the vote of his ward, the judge of the Superior Court shall be of opinion that the contributors of any particular ward are disproportionably and oppressively overburthened with an unusual number of children of non-contributors of their ward, he may direct an order to the county court to assess in their next county levy the whole or such part of the extra burthen as he shall think excessive and unreasonable, to be paid to the warden for its proper use, to which order the said county court is required to conform.

10. The said teachers shall, in all things relating to the education and government of their pupils, be under the direction and control of the visitors ; but no religious reading, instruction or exercise, shall be prescribed or practiced inconsistent with the tenets of any religious sect or denomination.

11. Some one of the visitors, once in every year at least, shall visit the several schools : shall inquire into the proceedings and practices thereat : shall examine the progress of the pupils, and give to those who excel in reading, in writing, in arithmetic, or in geography, such honorary marks and testimonies of approbation, as may encourage and excite to industry and emulation.

12. All decisions and proceedings of the visitors relative to the original designation of wards at any time before the buildings are begun, or changes of wards at any time after, to the quantum of subsistence, or wages allowed to the teacher, and to the rules prescribed to him for the education and government of his pupils, shall be subject to be controlled and corrected by the judge of the Superior Court of the county, on the complaint of any individual aggrieved or interested.

XLVII.

The solemn Declaration and Protest of the Commonwealth of Virginia, on the principles of the Constitution of the United States of America, and on the violations of them.

We, the General Assembly of Virginia, on behalf, and in the name of the people thereof, do declare as follows :

The States in North America which confederated to establish their independence of the government of Great Britain, of which Virginia was one, became, on that acquisition, free and independent States, and as such, authorized to constitute governments, each for itself, in such form as it thought best.

They entered into a compact, (which is called the Constitution of the United States of America,) by which they agreed to unite in a single government as to their relations with each other, and with foreign nations, and as to certain other articles particularly specified. They retained at the same time, each to itself, the other rights of independent government, comprehending mainly their domestic interests.

For the administration of their federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, legislative, executive, and judiciary, in the manner settled in that compact : while to each, severally, and of course, remained its original right of appointing, each for itself, a separate set of functionaries, legislative, executive, and judiciary, also, for administering the domestic branch of their respective governments.

These two sets of officers, each independent of the other, constitute thus a *whole* of government, for each State separately ; the powers ascribed to the one, as specifically made federal, exercised over the whole, the residuary powers, retained to the other, exercisable exclusively over its particular State, foreign herein, each to the others, as they were before the original compact.

To this construction of government and distribution of its powers, the commonwealth of Virginia does religiously and affectionately adhere, opposing, with equal fidelity and firmness,