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[ Bailey, Samuel ]  
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THE  
RATIONALE  
OF  
POLITICAL REPRESENTATION.

BY THE AUTHOR  
OF  
ESSAYS ON THE FORMATION OF OPINIONS,  
*&c., &c.*

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## P R E F A C E.

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THE Introduction to the following Treatise comprises most of those topics on which an author usually enters into an explanation with his readers, and would have precluded the necessity of this brief preface, had it not been for one circumstance, which could not well be noticed elsewhere.

It was originally announced to be the intention of the writer to include, with the present Essay, a shorter dissertation on "Vicissitudes in the Value of Money, as they affect National Industry and Pecuniary Contracts." The general opinion, however, of the advisers whom he consulted being against the combination, in one work,

of two treatises so dissimilar in their subjects, he abandoned his first design, and has, for the present, contented himself with the publication of the larger, and perhaps, from the nature of its topics, more generally interesting Essay. As those of his friends to whom his original plan was communicated must of course have been led to expect both treatises, he has deemed it proper to offer this short explanation, in order to account to them for the omission of the minor one.

February 19, 1835.

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ON THE GENERAL PRINCIPLES  
OF  
POLITICAL REPRESENTATION.

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INTRODUCTION.

SECTION I.

*On the Progress and Present State of Political  
Representation.*

THE subject of the following Treatise is daily becoming of higher importance. The successful operation of representative governments as exhibited in England, and in a still more striking manner in the United States of America, promises to lead in the course of time to the establishment of the same system in other countries, where at present the will of the monarch, instead of being under the salutary influence of constitutional checks, is irregularly controlled by variable views of private benefit, or apprehensions of personal danger.

The system of political representation, now

matured into admirable usefulness, was not the offspring of any comprehensive policy, but simply of the exigencies of the time in which it arose. It was called into action, in its first rude shape, by those in power, because it appeared to them the readiest and least troublesome mode of raising pecuniary supplies; and it was continued for a long period with the same design. In England, the first deputies sent from the boroughs, at the summons of the crown, were assembled together, because it was easier for the government to treat with them as a body, than to negotiate separately with the agents of every borough for the supplies which were wanted. The sole business of these deputies, this rudiment of a House of Commons, appears originally to have been to hear the proposals of the king and council regarding the subsidies required from the people; and after due deliberation, and perhaps demurs on one part and concessions and modifications on the other, to give their consent to the taxes to be imposed. It was a very natural step for the deputies to avail themselves of the opportunity of being thus assembled together at the seat of government, to complain of any injuries which the people were suffering, or to petition for any privileges which their constituents were anxious to possess.

These petitions when granted, seem gradually to have acquired the character of laws ; and it is easy to conceive how the deputies, thus rising into importance, were transformed from mere agents, whose office was limited to the negotiation of pecuniary levies, into legislators, whose business it was to attend to the general welfare of the people. One after another, every measure which affected the state was comprehended in their deliberations, and brought within the vortex of their power ; not, however, without continual struggles on the part of the monarch,—struggles rendered ultimately ineffectual by the tenacity of the Commons in grasping the exclusive privilege of granting or withholding those pecuniary supplies, without which all governments are helpless.

The instinct of power in the executive during these successive struggles, in which it became more and more manifest how vain it was to expect success in an open contention with the Commons, soon prompted a recourse to the arts of corruption, by which, for a long period, the authority of the crown was upheld against the just claims of the people. The supplies which the Lower House, as a body, tenaciously held it to be their peculiar privilege to grant, were em-

ployed, either directly or circuitously, in seducing the individual members to grant them in the desirable profusion. Throughout all these changes, if we attentively observe them, we may see the operation of different interests gradually raising the system of representation into greater and greater importance, till at length it has confessedly become the main principle of the British government. "Whatever else may be said of the House of Commons, this one point at least is indisputable, — that, from the earliest infancy of the constitution, the power of the House of Commons has been growing, till it has almost, like the rod of Aaron, absorbed its fellows\*."

While looking, however, at the changes in the relative position and power of the representative body and the executive authority, we must not forget to mark the action of the legislative assembly on the people, and of the people on the assembly. At first, the representatives felt themselves completely identified with their constituents; being sent to the seat of government for short periods, not to legislate, but to transact matters of business formerly done at home. In the course of events, as business multiplied on

\* Canning, Speech at Liverpool, March 18, 1820.

their hands, their absence was protracted; by being longer together, they became more united in feeling, and more important as a body; and thus acquiring distinct sympathies and interests of their own, they were insensibly separated from the people. As they rose into greater consideration with the monarch and the nobility, and began to feel the growing importance with all classes, conferred by growing power, they were naturally led to regard a seat in the legislature as desirable in itself; and instead of shrinking from the trouble attendant upon it, as was the case at the outset, they eagerly sought the distinction which the office bestowed. Meanwhile, from various circumstances, the power of appointing to a seat, virtually passed from the people into the hands of the aristocracy; and the direct responsibility formerly existing, dwindled to a mere phantom. Hence the House of Commons became still more separated in feeling and interest from the great mass of the nation; acquired the haughtiness of a privileged independent body; deliberated with closed doors; would not admit their debates to be divulged; assumed the airs and state of an uncontrolled authority; and would have probably shaken off all semblance of accountability, had it not been that a connection

with the people was necessary for that power over the supplies, which constituted their own importance with the crown.

The people, however, were not inactive on their part. As they grew in numbers and wealth, they began to perceive how deeply their welfare was implicated in the measures of the Parliament: they became curious after its proceedings; found means of gratifying their curiosity; forced themselves into the two houses; established their own reporters there, in defiance of antiquated regulations; and thus brought the whole legislature under the control of public opinion. Nor while doing this, could they be insensible of the gross defects and inequalities of the system of representation which had thus fortuitously resulted from the operation of so many interests working without any common plan or principle. The necessity of a change, long felt by reflecting men, became more and more conspicuous to the nation. It was at this stage that the American Revolution brought the whole subject of political representation into public discussion; not discussion in schools, or amongst mere closet-philosophers, but amongst men who had to set vigorously to work, to form institutions for their own protection and happiness. Casting aside the

narrow views in which the system had originated, and which had continued to modify it with a prejudicial influence, they considered political representation as the only means of self-government that could be resorted to by an extensive community, and as best adapted to effect those objects, which all government ought to contemplate. A comprehensive survey of the subject was thus at last taken, and, what is still more, was acted upon. The system was considered, as all systems of action ought to be, in relation to the object which it had to accomplish.

In our own country, a long and vehement opposition was made to the introduction of improvements, which good sense had for many years wearied itself in pointing out, and which experience in another country had shown to be practicable and salutary. The people at last triumphed: the grossest and most glaring inequalities and absurdities were got rid of; and, to the disappointment of many gloomy anticipations, the sun of British prosperity continued to shine, notwithstanding the political extermination of Sarum and Gatton.

It is a remark which forces itself on every reflecting mind, that, during the whole career of the representative system in England, from the

time when the boroughs were first required to send deputies to the grand council of the nation down to the introduction of the Reform Bill by Lord Grey's administration, whatever changes took place in this part of the constitution, were fundamentally owing to that alteration in the relative position of different classes of the community, which was produced by the progress of wealth and civilization, and to the struggle of interests mainly caused by that progress.

At no period was the peculiar nature of political representation fully and generally understood. No change effected in the constituency, in the mode of election, or in the privileges and proceedings of the assembly, can be affirmed to have been the pure result of a comprehensive policy, grounded on an insight into fundamental principles; although there is no question that these changes were modified in their character by the state of political knowledge at the times when they were introduced. Even the popular feeling, which may be said to have made the recent reform a matter of compulsion, was rather the consequence of a perception of the gross profligacy, the glaring inequalities, and the disgraceful absurdities, which disfigured the actual system (and, it may be added, of the bitter fruits



which that system had yielded in the shape of taxes and other burthens), than of any clear and extended views amongst the nation at large, of the principles and operation of representative governments.

Indeed this is only the natural and necessary course of events. In countries which gradually emerge from ignorance and barbarism, institutions or systems of action will necessarily be shaped by conflicting interests and passions, each working on its own limited views: yet, while this process is going on, various truths regarding those institutions will be established in the minds of thinking men, and such truths will not fail to mingle in the discussion of political measures, and assert their influence in all questions of alteration.

But it is only at an advanced stage of knowledge and experience, that truths of this description are sufficiently numerous, well developed, and well compacted, to become the predominating principles in the introduction of improvements. Even after they have been well ascertained and defined, a considerable time must elapse before they can be generally understood; and a favourable conjunction of circumstances must arise, before they become of such para-

mount influence as to be professedly adopted as principles of action.

Hence it happens, that the practical advocacy of any new measure affecting existing interests and prejudices, must generally take lower ground, in order to cope with the obstacles which have to be encountered, than that which the question assumes in the speculations of the philosopher. This was exemplified in the discussions on the Reform Bill; which, although they occasionally manifested knowledge and talents of a high order, fell on the whole far short of treating the subject according to its fundamental merits. In America, where the political field was comparatively free from these obstacles, the whole question was discussed on more simple and at the same time more comprehensive principles, yet not without the adoption of important errors, from which this department of political science has been since disencumbered.

On taking a view of the position in which the subject now stands, it appears to be this:—The system of political representation has, in actual practice, gradually worked itself from a rude beginning into a regular and determinate form, and has at the same time drawn the minds of men to investigate its objects and capabilities. These investi-

gations have in turn modified its practical arrangements, till at length a political machine of great completeness and efficiency has been evolved, the joint product of experience and reflection.

The system, thus matured, now presents itself as an object of science, the various parts of which are susceptible of explanation on determinate principles; and which may be still further improved and enhanced in usefulness, by a more accurate and consistent application of the principles on which its efficacy is found to depend.

Such an explanation and such an application, it is the object of the present treatise to attempt. When it is considered what an important influence political representation is likely to have on the future destiny of the world, every one will perceive how desirable it is, that the system should be thoroughly examined, its merits placed on their proper ground, and the reasons for its various arrangements clearly exhibited. This will appear still more desirable, when it is further considered, that, on the intelligence of those who are at once agents and subjects in a system of political representation, on their just appreciation of its several parts and principles, on their thorough insight into its means and objects, the easy

and successful working of the whole greatly depends. It is a machine composed of living atoms, the tendency of which to keep their places and perform their parts, is promoted by a knowledge of their true relative position, and can be brought to perfect exactness only by a complete acquaintance with what they have to do, and a distinct perception of the nature and result of every movement in which they are concerned.

The author is not aware of any full and systematic treatise, embracing this particular chapter in political science, although many of the principal questions belonging to it have been repeatedly and often ably discussed in pamphlets and reviews. The work of Bentham, published in French by Dumont, on the tactics of deliberative political assemblies, touches indeed on some of the same topics\*. Although the present writer had been long acquainted with the greater part of Mr. Bentham's writings, it happened that he had never seen that particular treatise, till he had formed

\* Neither Mr. Bentham's pamphlets on reform, nor that part of his Constitutional Code which is concerned with the representative system, can be regarded as satisfying the demand for a methodical exposition of the principles of political representation; valuable as in many respects those works undoubtedly are.

the plan and composed the principal portion of the following essay. On inspecting the admirable tract in question, he was on his own account agreeably struck by finding that Mr. Bentham had professedly excluded from his design the very part of the subject which the author himself had taken up.

“The good and evil,” says he, “which an assembly can do, depend on two general causes. The most palpable and most powerful is its composition, the other is its mode of acting. Of these two causes the latter is the only one which belongs to our subject. The composition of the assembly, the number and quality of its members, the manner of its election, its relations with the citizens or the government, all this belongs to the consideration of the political constitution.”

It is precisely this part of the subject, to the investigation of which the present author has addressed himself.

There are certain topics, however, which are common to both these divisions, which relate to the constitution as well as to the tactics of a legislative assembly. Publicity, for example, is a subject which falls under both. Not only does it greatly modify the tactics of a deliberative body, but it is a circumstance essentially necessary for

connecting the representative with the constituent, and maintaining the responsibility of one to the other, while it exercises in other ways a direct salutary influence on the character of legislative enactments. The investigation of the effects of open and secret voting belongs also to both departments, comprising the different circumstances under which votes are given in elections, on the one hand, and in assemblies of responsible deputies on the other. The topics discussed therefore in Mr. Bentham's treatise, and in the following pages, sometimes coincide; but it will be found, that where this is the case, and where even the opinions expressed are the most concordant, the later writer has not been the copyist of his predecessor.

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## SECTION II.

*On the nature of the Reasonings employed in the ensuing Treatise.*

HAVING thus endeavoured to explain the scope of the following treatise, the author begs to add a few words on the nature of its reasonings. The essay will probably be characterised as being substantially an attempt to deduce the science of government, as far as political representation is concerned, from

the principles of human nature ; a task which has been very unceremoniously classed amongst things not to be accomplished. In support of this sweeping sentence, it has been alleged, that “when we pass beyond maxims which it is impossible to deny without a contradiction in terms, and which therefore do not enable us to advance a single step in practical knowledge, it is not possible to lay down a single general rule respecting the motives which influence human actions\*.” The same writer had just before said, “What proposition is there respecting human nature, which is absolutely and universally true? We know of only one, and that is not only true, but identical ; that men always act from self-interest.”

According to this representation, then, we cannot deduce the theory of government from the principles of human nature, because,

1. We cannot lay down a single general rule, respecting the motives which influence human actions, except maxims which it is impossible to deny without a contradiction in terms.

2. There are no propositions respecting human nature, which are absolutely and universally true.

These are very different reasons, although they

\* Edinburgh Review, No. 97, article 7.

may possibly have been confounded in the mind of the writer who adduced them. Let us examine them separately. As to the first, nothing can be more extraordinary than an assertion of this kind in an age, when at all events the nature of moral inquiries is better understood than formerly, however insignificant may have been our progress in the inquiries themselves. It is extraordinary too, as having appeared in a work, which is in the habit of favouring its readers with articles of distinguished ability on political economy, a science founded on "general rules respecting the motives which influence human actions", and which is further in the habit of drawing out long deductions from such general rules. Whoever turns over its pages may find inferences constantly made from propositions like the following: "commercial countries will resort to the cheapest market:" "high duties on imported articles inevitably cause smuggling;" "unusually large profits in any trade attract capital to it:" "a rise in the price of corn, forces capital on inferior soils."

It would almost seem as if the reviewer was not aware that all these are general rules respecting the actions of men. To take the last proposition; we might conclude from his own doctrine,



that he regarded the high price of corn as a physical agent propelling a material substance, called capital, upon a sterile field ; and had forgotten that the proposition is an elliptical expression, under which is couched a law respecting human motives, and which virtually asserts, that when men become willing to give more money for corn, other men will be willing to grow it on land before uncultivated.

Political economy abounds with such laws : the common business of life abounds with them ; every trade, every profession, legislation itself, abounds with them. Is not the whole system of penal legislation founded on the general rule, that if a punishment is denounced against any given act, there will be fewer instances of the commission of that act, than if no penalty were annexed to it ? Can there be a proposition which comes more decidedly under the designation of a general rule respecting the motives which influence human actions ? Can there be a more certain law in physics, and can there be one more fertile in practical consequences ? The very term efficacy of punishment is only an abridged expression of this law of human nature ; it implies a general rule respecting the motives which influence human actions, and a rule on which all mankind

unhesitatingly and habitually proceed, both in national legislation and private management.

In the mind of the writer on whom we are now animadverting, there appears to be a confusion on this subject not easy to be explained; for after denying the possibility of laying down general rules respecting motives, he proceeds to tell us, that we are to arrive at just conclusions on the subject of government, by generalizing with judgment and diffidence. Now if any thing is meant by the expression generalizing, it must be forming general rules, or laws, or inferences (terms which all denote one and the same thing); and if these rules relate to the effects of forms of government and measures of policy, they must be rules respecting the operation of motives,—such rules as he has just told us it is impossible to lay down.

In the second position which we have to examine, the ground of objection is different. It is not asserted that we are unable to lay down general laws respecting human nature, but that there are no propositions respecting human nature which are absolutely and universally true; and that hence we are unable to make any deductions from them.

This objection proceeds on an imperfect understanding of the nature and utility of general laws.

Propositions, which pass under this name, are in fact of various kinds ; some are universal, or without exceptions ; some have few exceptions ; some have many. This difference amongst them however does not depend on the objects to which they refer being human emotions or human actions. There is the same variety in those general laws which regard mere physical phenomena. It is, for example, a general law, that the heavenly bodies gravitate to each other with forces that are directly as the masses of the bodies, and inversely as the squares of their distances. This is a law to which there is no exception. Again, it is a general law that bodies are expanded by the addition of heat : but to this law there are exceptions. That peculiar compound of oxygen and hydrogen, which at the ordinary temperature of our climate is called water, in some circumstances expands and in others contracts on the addition of heat. It is evident, however, that the exception here stated does not render the general law useless. It is still highly serviceable to know that the great majority of substances are susceptible of expansion by an increase of temperature, and serviceable also to know that there are some which contract. But perhaps the subject may be the most forcibly illustrated by

referring to the general laws respecting the operation of medicines on the human body. The treatises of medical writers are in a great degree necessarily made up of general rules, asserting the efficacy of certain agents in curing certain disorders, or in occasioning certain states of the body. The mere medical classification of substances, is in fact laying down general rules respecting their action. When they are marshalled under the names of narcotics, cathartics, diaphoretics, an assertion is made that they produce the effects indicated by their names, on the generality of human bodies. In other words, certain general laws are laid down regarding the operation of these medicines on the human frame, although these laws are not laws without exceptions: opium, the great narcotic, when applied to some peculiar constitutions, produces restlessness instead of repose.

The reason of the want of universality of these laws is easy to explain. Human bodies are physical compounds, having a general resemblance to each other in form, materials, and composition; but differing from each other more or less in all these circumstances, and even varying in themselves at different times. Being thus dissimilar and variable compounds, it would

be a violation of the uniform operation of causes and effects, if they were all affected alike, and affected in a similar way at all times by the application of the same substance ; and yet being compounds resembling each other in a greater degree than they differ, and varying in themselves only to a comparatively small extent, it would be equally a violation of that uniformity, if in the majority of instances they were not affected alike and in a uniform manner. So far as they resemble they will be similarly influenced : so far as they differ they will be differently influenced.

In the same way that the bodies of men are dissimilar and variable physical compounds, the minds of men are dissimilar and variable moral compounds ; and the same circumstances operate differently on one mind from what they do on another, because the two minds are different in their constitution. The agents are the same, but the substances acted upon being in some respects unlike, different results must necessarily ensue. But as minds resemble each other in a great many points, however they may differ in others, there will be a similarity in the effects produced on most of them by the same causes ; and just as certain general rules may be laid down in regard to the action of medicine on the human constitu-

tion, other general rules may be laid down in respect to the influence of circumstances on human conduct.

In both cases, general laws may vary in their character. Some may have no exceptions, others may have numerous ones; but this will not derogate from the utility of knowing these laws, and knowing the degree of their generality, nor from the power of applying them to particular occasions. It would detract little from the virtue of arsenic, or any other medicine, in the treatment of ague, if it failed in curing the disease in one case out of a hundred, and nothing from the wisdom of employing it as a remedy. The same remark holds equally true of laws regarding moral conduct. The utility of checking the accounts of public servants would be little diminished by the circumstance, that it did not invariably succeed in keeping them honest.

“ ’Tis certain,” says Hume, “ that general principles, however intricate they may seem, must always, if they are just and sound, prevail in the general course of things, though they may fail in particular cases; and it is the chief business of philosophers to regard the general course of things. I may add, that it is also the chief business of politicians, especially in the

“ domestic government of the state, when the  
“ public good, which is or ought to be their ob-  
“ ject, depends on the concurrence of a multitude  
“ of causes, not as in foreign politics, upon acci-  
“ dents and chances, and the caprices of a few  
“ persons \*.”

If these considerations are valid, there is no obstacle to deducing the theory of government from the nature of man, on account of any inability on our part to lay down general rules; for this is an operation which we are continually performing, and on such rules we are continually acting. Nor yet is there any obstacle in the circumstance of such rules not being universal; for whether they are universal or attended with exceptions, it is alike useful to apply them: we can equally deduce from them the needful practical conclusions.

If, turning from these particular objections, we try to reach the essence of the doctrine, that it is impossible to build a theory of government on general principles, it appears to be this:—

“ We cannot deduce the effects of political arrangements from the general principles of human nature, but must have seen those very

\* Essay on Commerce.

political arrangements, or at least some closely resembling them, at work, before we can make any correct inferences. We cannot tell, for example, what effects will be produced by uncontrolled power lodged in the hands of any individual at the head of affairs, unless we have actually seen states so governed."

In answer to this it may be asserted, not only that we can infer from the general principles of human nature what effects will be produced by uncontrolled power in the hands of a despot, but that this is essentially the same process of inference as we go through, when we deduce those effects from some historical example. What are called the principles of human nature, are learned from individual instances. It is the only possible way of learning them; and it is the very multitude and notoriety of the instances, which make the general law seem as if it were independent of particular facts. When we reason from a general law or principle, we are in truth reasoning from a number of instances represented by it.

If, in considering the effects of uncontrolled power, we deduced our conclusion from the nature of man, we should be in reality deducing it from a multiplicity of cases, differing perhaps in form and accompaniments, but containing



essentially the same circumstance. Whoever had witnessed the acts of a landlord to his tenants, of a schoolmaster to his pupils, of artisans towards their apprentices, of husbands towards their wives, on points where the power of the superior could not be contested, and where his personal gratification was incompatible with just conduct to the subordinate, would necessarily have formed in his own mind a species of general rule; and from this rule he might, as safely as from any single example, draw an inference as to what would be the conduct of a despot seated on a throne in the possession of unchecked authority; assisted too, as the inquirer would be, by that indispensable and inestimable guide to the knowledge of mankind, an appeal to his own feelings in a variety of analogous instances.

We conclude, that a ruler with uncontrolled power will act the tyrant, not merely from the fact that Caligula, or Nero, or Bonaparte did, but from a thousand facts attesting, that men, in every situation, use uncontrolled power in this way, from the village despot or the West Indian overseer of slaves, to the Russian usurper, who, to the disgrace of Europe, has been permitted to set his foot on the liberties of Poland; just as we infer that all bodies tend to the earth, not merely

from the circumstance of an apple dropping from a tree, but from seeing the tendency in stones, water, animals, and all things within our observation. The use of uncontrolled power for the gratification of the possessor, without an equitable respect to others, is no more peculiar to monarchs, than a tendency to the earth is peculiar to apples. It may be useful to know, that *monarchs* act in this way, as it may be useful to know that apples drop to the ground; but it is much more useful to know, that *men* act in this manner. The inference is even safer, when a general law, gathered from the widest induction, is applied to a particular case, than when an inference is made from one or two particular cases to another.

It is, however, essentially the same process, whether we deduce from the laws of human nature what will be the conduct of tyrants in the present day, or whether we deduce it from the actions of Nero or Caligula. As there is seldom or ever such a thing in human life as perfect identity of events, we are under the necessity of reasoning from cases which have some features of dissimilarity. In deducing the conclusion from the acts of landlords and schoolmasters, and other men dressed in a little brief authority, we cer-

tainly draw the inference from cases, which, on a great many points, are widely at variance with the case to which we make the application. But this is also true, when we attempt to form a judgment of the probable conduct of a despotic ruler in the present day from the proceedings of a Roman emperor. The two rulers compared, resemble each other in one respect—in being the supreme authorities in the state; but their position in regard to other circumstances is totally unlike. How vast is the difference in the motives acting on their minds, will strike the reader almost without being pointed out: the one ruling under Pagan superstitions, surrounded by a strange mixture of intellectual light and darkness, civilization and barbarism, and exercising power over the discordant elements of an empire composed of nations bound together by no common tie but that of force; the other, governing a nation of Christians, united by common sympathy, encompassed with other political communities of similar intelligence, all blessed with the light of letters and the invention of printing, and enjoying the benefits of commercial intercourse with each other, and with regions before unknown and undreamed of. The disparity of the two cases is surely as great as the disparity be-

tween almost any one of the instances from which we have gathered the general law, and the case to which we wish to apply that law. The situations of the schoolmaster and of the political tyrant, both living in the same country, under the same religion, and at the same stage of civilization, scarcely present more points of dissimilarity, nor could there be much greater hazard in reasoning from one to the other. But how infinitely safer should we be in reasoning, not from a single instance, but from a general law respecting the effect of uncontrolled power on the conduct of men; a law not drawn merely from one or two examples, but, like many other laws of human nature, the result of a most extensive induction, including monarchs, judges, mayors, magistrates, schoolmasters, husbands, fathers, and an infinite variety of men exercising authority; an induction not the less valid from the circumstance of its being unconsciously made by every one in his progress through life; so that the principle resulting from it appears rather an intuitive truth, than one which has been derived from experience.

To object to the application of a principle thus established, to the actions of men in varied circumstances, would be as reasonable as to object

to the procedure of the astronomer, who, from the laws of gravity, points out irregularities in the motions of the planets before they have been actually observed; or rather it would be as irrational as objecting to the expectation which we form, that the piece of granite which we throw into the air will fall to the ground, merely on the plea that we have never thrown a stone of the same species before. Nor is there any thing at all inconsistent between the kinds of reasoning here compared. General rules are drawn originally from particular instances, and are afterwards applied with the utmost confidence to other instances more or less analogous; but it is at all times useful to have the aid of closely-resembling examples. The closer the resemblance is between any two instances, the more certain we shall feel that we have overlooked no essential element; but it may be safely asserted, that, in the complicated and diversified transactions of life, experience would be of little use, if it taught us what to expect only in circumstances precisely similar. No two events in life are perhaps exactly alike in all their details and accompaniments; and if, therefore, we could not apply our experience of one event till we met with another perfectly resembling it, the gathered wis-

dom of years would be worthless, our experience would be a treasure which it would be fruitless to hoard.

We may go further than this. The man who should attempt to steer his way in the world by the mere guidance of individual similarity (if we may be permitted to suppose an impossible case), would be perpetually led into error. It is, in fact, quite essential to have the light of general principles, in order to see how to avail ourselves of the aid of particular examples. We should be otherwise in constant danger of being imposed upon by superficial resemblances, and become the dupes of appearances which we had discarded the power to unmask.

The views of political reasoning here advocated, might be confirmed by an appeal to some of our ablest writers. Burke, who delighted to penetrate to the principles of every question, who was continually sounding the depth of his own argument as he went along, far from regarding deductions from human nature as vain or frivolous, or leading to what are usually honoured by the designation of wild theories, considers such deductions as opposed to speculative views, and as proceeding on experience. Thus, in his Letter to the Sheriffs of Bristol, speaking of the

plan of pacification pursued in 1766, in reference to our Colonies, he says, — “That plan being built *on the nature of man*, and the circumstances and habits of the two countries, and not on any *visionary speculations*, perfectly answered its end.” And in his Speech on Economical Reform he tells the House, “I propose to economize by *principle*; that is, I propose to put affairs into that train, which experience points out as the most effectual from the *nature of things*, and from *the constitution of the human mind*.”

Another writer, whose chapter on the use and abuse of general principles in politics abounds in enlightened views and profound observations, has thus expressed himself: —

“In politics,” he says, “one species of principles is often misapplied, from an inattention to circumstances; those which are deduced from a few examples of particular governments, and which are occasionally quoted as universal political axioms, which every wise legislator ought to assume as the groundwork of his reasonings. But this abuse of general principles should by no means be ascribed, like the absurdities of the speculative mechanician, to over-refinement and the love of theory; for it arises from weaknesses, which philosophy alone can remedy; an unen-

lightened veneration for maxims, which are supposed to have the sanction of time in their favour, and a passive acquiescence in received opinions.

“There is another class of principles, from which political conclusions have sometimes been deduced; and which, notwithstanding the common prejudice against them, are a much surer foundation for our reasonings: I allude at present to those principles which we obtain from an examination of the human constitution, and of the general laws which regulate the course of human affairs; principles which are certainly the result of a much more extensive induction, than any of the inferences which can be drawn from the history of actual establishments\*.”

The same judicious writer has a remark equally in point, when speaking of the system of the economists.

“Another mistaken idea,” he says, “concerning the economical system is, that it is founded entirely upon theory, and unsupported by facts. That this may be the case with regard to some of its doctrines, I shall not dispute; but, in general, it may be safely affirmed, that they rest on a

\* Dugald Stewart, Elements of the Philosophy of the Human Mind, chap, iv, sect. 8.



broader basis of facts than any other political speculations which have been yet offered to the world; for they are founded, *not on a few examples collected from the small number of governments of which we possess an accurate knowledge, but on those laws of human nature, and those maxims of common sense, which are daily verified in the intercourse of private life* \*."

A similar view of the subject is presented to us by Hume, in an excellent note to his Inquiry concerning the Human Understanding. Through the veil of a phraseology somewhat different, the reader will easily discern that the argument is the same.

"Nothing," says he, "is more usual, than for writers, even on *moral, political, or physical* subjects, to distinguish between *reason* and *experience*, and to suppose that these species of argumentation are entirely different from each other. The former are taken for the mere result of our intellectual faculties, which, by considering *à priori* the nature of things, and examining the effects that must follow from their operation, establish particular principles of science and phi-

\* Dugald Stewart, Elements of the Philosophy of the Human Mind, chap. iv, sect. 8.

losophy. The latter are supposed to be derived entirely from sense and observation, by which we learn what has actually resulted from the operation of particular objects, and are thence able to infer what will for the future result from them. Thus, for instance, the limitations and restraints of civil government, and a legal constitution, may be defended either from *reason*, which, reflecting on the great frailty and corruption of human nature, teaches, that no man can safely be trusted with unlimited authority; or from *experience* and history, which inform us of the enormous abuses that ambition in every age and country has been found to make of so imprudent a confidence.

“The same distinction between reason and experience is maintained in all our deliberations concerning the conduct of life; while the experienced statesman, general, physician, or merchant, is trusted and followed; and the unpractised novice, with whatever natural talents endowed, neglected and despised. Though it be allowed, that reason may form very plausible conjectures with regard to the consequences of such a particular conduct in such particular circumstances; it is still supposed imperfect with-

out the assistance of experience, which is alone able to give stability and certainty to the maxims derived from study and reflection.

“ But notwithstanding that this distinction be thus universally received, both in the active and speculative scenes of life, I shall not scruple to pronounce, that it is at bottom erroneous, or at least superficial.

“ If we examine those arguments, which, in any of the sciences above mentioned, are supposed to be the mere effects of reasoning and reflection, they will be found to terminate at last in some general principle or conclusion, for which we can assign no reason but observation and experience. The only difference between them, and those maxims which are vulgarly esteemed the result of pure experience, is, that the former cannot be established without some process of thought, and some reflection on what we have observed, in order to distinguish its circumstances, and trace its consequences: whereas in the latter, the experienced event is exactly and fully similar to that which we infer as the result of any particular situation. The history of a Tiberius or a Nero makes us dread a like tyranny, were our monarchs freed from the restraints of laws and senates: but the observation of any

fraud or cruelty in private life is sufficient, with the aid of a little thought, to give us the same apprehension; while it serves as an instance of the general corruption of human nature, and shows us the danger which we must incur by reposing an entire confidence in mankind. *In both cases, it is experience which is ultimately the foundation of our inference and conclusion.*"

In arguing this question so much at length, and citing such copious confirmation of the opinions maintained, it may appear to some, that we have been engaged in a superfluous labour. The truth is, however, that it is far too prevalent a conclusion, that general principles in politics are visionary and dangerous. It may be of some use therefore to show, that they are not only safe but indispensable to safety; that they rest on that experience which it is imagined they oppose; and that the statesman who abandons them, forsakes the only guide capable of conducting him through the intricate perplexities of public affairs.

## SECTION III.

*On the Order or Method of treating the Subject.*

TO those who are curious on the subjects of method and arrangement in dissertations of this nature, it may possibly appear at first sight, that the order in which the writer has treated the various topics discussed is not the most natural one. It may seem that the properest method of examining and explaining the principles of political representation, is to begin at the foundation; namely, with the consideration of the constitution of the electoral body; then proceed to the investigation of the manner in which this body, when constituted, should exercise its rights of election; and lastly, discuss the composition and province of the representative assembly, resulting from that exercise. This, it may be said, would be treating the subject in its natural order, in the order of time; it would be proceeding in consonance with the regular course of causes and effects. Such, in fact, was the method which first occurred to the writer; but as the subject expanded before him, and the obscurity resting on the unexplored

parts of it cleared away, his views of the matter altered. He saw that the most luminous arrangement would be nearly the reverse ; that the several topics would be best treated in the following order : — 1. The object of government. 2. The proof that political representation is the best means of effecting that object. 3. The province and composition of the representative assembly. 4. The province and constitution of the electoral body. 5. The manner in which the electoral body chooses the representative.

It appeared to be adopting the most lucid order to begin by a consideration of the proper object of all government, and the way in which political representation effects that object. Without a distinct view of the object of government, it could not be shown that a system of political representation is the best form ; nor without an examination of the peculiar principles and advantages of the representative system, could we successfully proceed to consider the construction and adaptation of its parts.

It was therefore after a preliminary examination of the object and advantages of political representation, that the consideration of the particular arrangements by which they were to be

secured naturally presented itself; and as the grand organ or instrument of the system is the representative assembly, it seemed the proper course to ascertain what this instrument had to effect, and what properties it ought to possess, before entering into the consideration of the means to be employed in its formation. After the province and composition of the representative assembly had thus been determined, the next step was to inquire in whom the appointment of its members should be vested; or, in other words, of what classes the electoral body should be constituted: and it was not till this had been ascertained that it seemed proper to enter upon the question, as to the manner in which the electoral body should exercise the privilege of appointing the representative; inasmuch as it was obvious, that the best mode of election would in some measure depend on the quality and number of the electors.

If, reversing the procedure here described, we were to begin on the plan which at first sight seems the most natural, it would be tantamount to inquiring what means we should use to form an assembly whose appropriate office we had not determined; we should be considering of what

persons the electoral body ought to consist, before we had inquired what they had to do; we should be engaged in devising the construction of the instrument, before we had learned the particular function which it had to perform.

This last remark, indeed, may serve to elucidate the order in which the whole subject has been treated. That order has been determined on the simple principle, that although the fabrication of any instrument must precede its use, yet the consideration of the purpose for which it is designed, must precede the consideration of the circumstances to be attended to, and the means to be employed in fabricating it. The object of a political body must be examined, before we can decide on the form and extent of power to be given to it; and these latter must be defined, before we can properly determine in what portion of society the duty or privilege of electing the depositaries of that power shall be placed.

Nothing in literary or scientific composition is perhaps so little attended to in the present day, as what is usually termed method; or what may be better described as the art of conducting the exposition of a subject with such skill and nicety, that every part shall in its turn prepare the mind of the



reader for that which succeeds. In the haste with which treatises are now got up for sale, the common process seems to be to classify the topics to be treated of under distinct chapters, and marshall these chapters into a series by chance or caprice, or at least without any definite principle of arrangement. Nor perhaps is the care which a more logical procedure requires, generally perceived or appreciated, although every reader must feel the ease and luminousness which characterize the composition on which it has been bestowed. We may apply to a skilful arrangement, what has been said of pure and simple diction. "Language," it has been observed, "like light, is a medium; and the true philosophical style, like light from a north window, exhibits objects clearly and distinctly, without soliciting attention to itself."

As the merits of such a style would never strike the ordinary reader, who would miss all the beauty and elegance which the practised eye of taste instantly appreciates, so that lucid and orderly dependence of ideas, which is the result of consummate skill, or perfect familiarity with the subject, would escape the discernment of all but the few whose minds had been trained to a perception of the niceties of arrangement. This

is a point of far greater importance than may at first sight appear: for not only does a skilful order in the exposition of a subject, enable the reader to comprehend the matter more easily and more fully, and to look back on his course with a distincter recollection; but the attempt to accomplish such an arrangement, forces the mind of the writer to a much closer investigation of the correctness of his views, than perhaps any other incident in literary composition. If the author of the present pages cannot presume for a moment to hope that he has succeeded in the endeavour to present his subject in the most lucid order, he is conscious that the very effort to do it, the attention which he has given throughout to the natural succession and just dependence of ideas, topics, and trains of reasoning, has had a beneficial effect on the clearness of his own perceptions.

It has often been a subject of wonder to him, that in the present day, when lectures on all subjects, in all places, and to all classes abound, and when so many able men are employed in explaining the various branches of science in popular tracts, there should have been no work produced, having for its object to ascertain

and point out the best methods of unfolding systematic knowledge. We have amongst our recognized and regular studies, the Art of Logic, to teach us how to reason; and the Art of Rhetoric, to show us how to persuade; why have we not the *Art of Exposition*, to instruct us how to explain the principles of science?

In modern times, the elocutionary efforts of men have assumed somewhat of a new character. Formerly they consisted of argumentations or discussions between philosophers, or schoolmen, whose aim seems to have been frequently little more than to exhibit their logical dexterity and metaphysical acumen; or of the harangues of orators, whose object was to bring their audience to some practical decision. Of exhibitions and efforts of this kind, we have still abundant instances; but the remarkable characteristic of the present age appears to be the multiplication of attempts to instruct, not merely professed students, but all classes, by methodical or formal expositions of science.

As we commonly find that the more frequent and general practice of an art leads to a closer and more accurate examination of the

principles on which it proceeds, we may be allowed to hope that this will be the case with what we have ventured to name the art of exposition. Explanation has its principles as well as reasoning, or persuasion, or inductive inquiry; and an attentive examination of these principles, would undoubtedly conduct us to some results, valuable alike to those who give and to those who receive instruction.

## CHAPTER I.

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### ON THE PROPER OBJECT AND PROVINCE OF GOVERNMENT.

THE general object for which government ought to exist, is the good of the community over which it presides. This is a proposition which scarcely requires proof. If government did not promote the welfare of the community, it must be either a useless or a mischievous institution. A despot may consider the end of government to be the gratification of his uncontrolled desires; the members of an oligarchy may consider it to be the preservation of that order of society which is essential to their own dignity and importance; but mankind at large can rationally regard it as no other than the common good.

But this description of the object of government, although accurate, is too general to convey much information. The welfare of the community is the proper end of many other institutions;

of schools, colleges, hospitals, and other beneficent establishments, which the mind of the reader will readily suggest to him without a particular enumeration here. What our present inquiry has to ascertain, is the specific end of government, — that which distinguishes it from other institutions. When the same ultimate purpose belongs to many different measures, pursuits, systems of action, or establishments, it cannot form the distinction of any: that distinction must be sought for in some proximate purpose, or, what amounts to the same thing, in the means or particular way in which the ulterior object is effected. Pecuniary profit, for example, is the common object of all trades; but they seek to attain their common end through the most various intermediate purposes; or, to change the expression, they employ the most various means, and it is by these means that they are discriminated. In cases where there is occasion in this manner to speak of a proximate and an ulterior purpose, it is useful to call the former the province, and the latter the object. Thus it is the object of the corn-dealer to make a profit; it is his province to buy and sell corn.

Adopting this phraseology for the sake of distinctness, we may say, that the proper object of

government is the good of the community; and we proceed to inquire what is its appropriate province.

If we look abroad into that society, for the benefit of which government is or ought to be intended, we shall see that by far the largest portion of the actions of mankind are of a private nature, springing from individual motives, and terminating in personal enjoyments, which no external party can know or appreciate. The routine of every-day exertions, the pursuits of business, the recreations of leisure, the intercourse of love and friendship, the tastes and habits of domestic life, all go on without any providential care on the part of the state. In the case of each individual, the chief blessings of life are attained without any assistance from government, either by his own solitary efforts, or by spontaneously uniting with other men in large or small associations, and in a thousand various ways, to attain advantages which his single arm is incompetent to reach. No other party can beneficially direct the greater number of his actions; no one can possess the same clear perception that he has of his own sources of enjoyment: none can be so vigilant in watching the circumstances which constitute his wretchedness or his felicity; none

so strenuous to guard against the one, or so alert to seize the other. He is at the helm of the vessel, in which his whole happiness is embarked; and the main direction of it can be undertaken by none so well acquainted with the course to be pursued as himself. For government to attempt to interfere with actions or sources of enjoyment, the regulation of which requires a perpetual knowledge of an ever-varying train of personal circumstances, would be absurd.

While every individual must thus in the nature of the case be the main judge of his own welfare, and director of his own conduct, yet, in the intercourse of man with man, there are occasions continually arising, in which the desires and pursuits of one interfere with those of another, and call into action the rapacious and contentious spirit, which is so conspicuous a feature of our common nature. To adjust the conflicting claims thus engendered, the intervention of a third party is necessary. Many of these contests of passion and interest are repressed within reasonable bounds by tacit rules and moral sentiments, which inevitably spring up and pervade and actuate society. Society at large is in this case the third party. But there are contentions and dif-



ferences and injuries which cannot be kept down or adjusted by the force of public opinion ; which can be controlled and settled by no other method than appointing persons especially to do it ; that is to say, by some species of government.

There are also external evils to be warded off, which individual efforts are incompetent to guard against. The task of protecting the community from foreign aggression, is one that cannot in the nature of the case be effectually performed, except by assigning it to some particular functionaries.

There are likewise positive benefits to be attained by the united means and authority of the whole community, which cannot be attained by solitary exertions. The private associations which start up in all countries for particular purposes, attest the benefit of co-operation ; and the co-operation of a whole community, may sometimes be necessary to effect a good not to be achieved by any subordinate power.

It is clear then that there is a necessity for the appointment of persons to do certain things for the benefit of the community ; or in other words, there are certain things required to be done for the public good, which from the actual constitution of human nature and human society, can be

done by none but persons set apart for the purpose.

While this establishes the necessity, it also indicates the province of government, or the peculiar means by which government is to effect the general object already described. With the greater part of the actions of individuals, inasmuch as they concern only themselves, and with those circumstances in the intercourse of mankind with each other, in which the passions and propensities brought into play may be said to supply their own checks, it is evidently not the province of government to interfere. Those measures for the prevention of evil and the attainment of good, alone belong to it, which private exertions are incompetent to undertake, and which can be effected only by the whole community uniting and employing its means through the requisite political arrangements. If men in their individual capacity, or by partial associations, could do all which the supreme authority does, without any detriment to their own welfare, government would be a superfluous incumbrance, an unnecessary source of expense and trouble. What in this case would be true of the institution of government itself, may be asserted with the same truth of each of its measures. If individuals would of

themselves, in any particular case, pursue the course which is best for all parties concerned, or for the community, the interference of public authority could prove only injurious.

Agreeably to this view of the subject, the province of government may be defined to be, to promote the happiness of the community associated under it, by such measures as cannot be undertaken by individuals or subordinate associations for themselves, or cannot be undertaken with equal advantage.

It may be worth while to dwell for a moment on the circumstance, that the definition includes subordinate associations as well as individuals, the reason of which will appear when it is considered, that a number of advantages are attained by combinations of men forming only a part of the political community, which the members so uniting could not attain by their solitary efforts; such combinations, for instance, as benefit societies, philosophical and literary clubs, and mechanics' institutes. The purposes of these institutions are evidently of a nature not to be accomplished by persons acting singly, and yet they are for the most part attained without the care or control of the supreme authority of the state.

According to the view here taken, the supreme

authority is not to be regarded, as it has too often been, in the light of an all-pervading, all-directing power, the source of all the arrangements and regulations which administer to the order and happiness of society; but as a power of a *supplementary* character; its proper business being to come into action where private efforts fail, to fill up the deficiencies of individual means, to do that for the common good which a less general and extensive power is unable to accomplish. And not only is it to be regarded as supplementary because such things alone fall within its legitimate province as private efforts cannot effect, but the same character attends it even on many occasions when its efficiency and usefulness most obviously appear.

If we take the instance of one great branch of the duties of government, the protection of property, we shall find it to confirm this representation. When men are brought together to live in social communion, they soon find out that they cannot individually keep in security what they possess, without continual vigilance, trouble, feuds, and danger, and that it is necessary to agree upon general regulations, to be enforced by certain persons who are appointed for that purpose. They are still, nevertheless, themselves indivi-

dually the most efficient protectors of their own possessions; and government is merely an auxiliary to do that which requires a combined force. If any man leave his property unguarded, except by the state authorities, he will soon be convinced how much more, even under the best government, the protection of his property depends upon himself, than it can possibly do upon any one else. The whole apparatus of locks, and bolts, and bars, walls and fences, proves to what extent he must be his own protector. In some cases he finds it necessary to enter into local associations, to compass a species of security beyond the range of his single efforts, and such as government also is incompetent to yield him; examples of which we find in societies for protection against swindlers, and for watching some descriptions of property in the night. It is the same with the protection of life and health, which indeed are often wholly left to the care of each individual in the earlier periods of civilization; and also with the protection of reputation, and other delicate sources of enjoyment, which are not usually included in the objects of government till a more advanced stage of refinement, when it is discovered that their security is more completely effected by the help of the public authority than by the unaided

efforts of private prudence, resentment, and retaliation. Yet these efforts are, after all, the great safeguard to which the power of the state is only auxiliary and supplemental.

Instead, therefore, of saying that it is one of the functions of government to protect property, it would convey a more correct impression of the real state of the case in most instances to say, that it is one of its functions to assist individuals in their personal care and efforts to protect what belongs to them.

The practical evil which has flowed from an ignorance or a want of clear perception of the truth, that the functions of government are properly of a supplementary character, and that its province is circumscribed by the existence of great classes of actions, with which it cannot advantageously interfere, has been immense. A vague supposition appears to have prevailed, that the supreme authority ought to concern itself with every department of human life, every particular of human conduct; that if any evil could be shown to exist, it was the business of government to apply a remedy; and if any good were shown to be wanting, it was the business of government to supply the defect. It will be enough to remind the reader of the mischiefs which have resulted

from this erroneous supposition, in the two cases of religion and commerce. If private individuals erred in their creed, it was apprehended to be the duty of government to set them right; and lest they should mismanage their commercial enterprises or manufacturing projects, it was conceived to be necessary to force them to move in a pre-appointed direction, and by compelling them to make only certain kinds of goods, to employ only certain artizans, and sell their commodities only at certain places, to rescue them from the imminent hazards awaiting men who are left to the management of their own interests.

Had it been fully seen that the principal concerns of every individual are of such a nature as to be best managed by himself, and that therefore it was the imperative duty of government, before taking any step or making any regulation, to inquire whether the affair in which it was called on to interfere belonged to this class, what human misery would have been prevented, what prosperity, what happiness evolved, which were destroyed in the seed!

It may be alleged, indeed, that whatever may have been the case under despotic monarchies, free governments at least must always have considered whether their measures were for the public good; and that one of the elements necessary for the

determination of this problem, must always have been the prior decision, whether the supreme authority could beneficially interfere with individual conduct in the particular matter under deliberation. Admitting this, it is nevertheless equally true, that the evil of needless interference has not had that consideration given to it which it ought to have received. In a shape more or less obscure and undefined, it has no doubt frequently influenced the minds of statesmen, but not to the same extent as if they had distinctly regarded the power of government as of a supplementary character, and its business to concern itself only in such cases as inferior powers were inadequate to deal with; those cases in which there are not sufficient motives amongst individuals and partial associations, nor sufficient means at their disposal to accomplish the beneficial object.

The representation here given leads to a further distinction as to the nature of the supreme authority, which it is also of importance to understand clearly. The functions of government are rather of a negative than of a positive character; in other words, they consist in preventing evil rather than in creating good. There are undoubtedly some important positive benefits which governments are capable of conferring, a certain portion of happi-



ness which they may be said to have it in their power to create. We cannot altogether deny them this attribute, when we reflect that they have the means in their hands of instituting a system of universal instruction; that they can diffuse that knowledge which is one of the greatest blessings in the power of man to confer upon man: but while they are perpetually in imminent danger of producing evil, their chief business is to prevent it. Their capability of doing good resolves itself for the most part into a power of repressing injury. It is accordingly observed by Mr. Bentham, in his Treatises on Civil and Penal Legislation, "that the care of his enjoyments ought to be left almost entirely to the individual. The principal function of government is to protect man from pains."

The usual description which is given of the object of government as the *protection* of property, or person, or both, shows how consonant this is with the general views of reflecting men; and if we run over in our minds the details of the exercise of power in a state, we shall find that they are most of them, directly or indirectly, concerned with the repression of wrong, with preventing individuals from infringing on the welfare of each other, with warding off evil, and not with creating

positive happiness, or directly augmenting and improving the sources of enjoyment. This has been strongly put (too strongly indeed, and with too little qualification) by the eminent man who lately presided over the Court of Chancery.

“In my mind (said the eloquent speaker in question, then Mr. Brougham), he was guilty of no error, he was chargeable with no exaggeration, he was betrayed by his fancy into no metaphor, who once said, that all we see about us, Kings, Lords, and Commons, the whole machinery of the state, all the apparatus of the system, and its varied workings, end in simply bringing twelve good men into a box \*.”

And in the same spirit, Hume, in a passage which probably suggested the preceding, had previously said : —

“We are to look upon all the vast apparatus of our government, as having ultimately no other object or purpose but the distribution of justice ; or in other words, the support of the twelve judges. Kings and parliaments, fleets and armies, officers of the court and revenue, ambassadors, ministers, and privy-councillors, are all subordinate in their end to this part of administration †.”

\* Speech on Law Reform.

† Essay on the Origin of Government.

When the two circumstances in the nature of government which have now been pointed out are considered together, when we recollect that in the main the power of the state in its effects on human happiness is supplemental and preventive of evil, rather than primary and creative of good, we shall at once see, that nothing can be more unfounded than the large share which has been attributed to governments in the prosperity of nations. It is an error of the same nature as that which should regard the natural and healthy play of the organs of the body as owing to the physician. National prosperity is really, in all cases, the result of the principles of human nature operating in each individual in his private career, and the mistake of ascribing it to any other source has evidently arisen from the power of governments to *mar* what they cannot *make*. In the province of doing evil they are indeed almost omnipotent. There is no limit but the insurgent spirit of outraged humanity to their power of preventing happiness and inflicting misery; and this power has been amply exercised, both by despotic selfishness, and mischievous, because ignorant, benevolence. By almost all the governments which have yet existed, this tremendous capacity for inflicting evil has been largely exhibited. It is no exaggeration to

say, that the prevention of attainable enjoyments, and the creation of positive wretchedness, have been their common, systematic course ; and when in any country a departure from this course has taken place, when there has been a cessation of activity in creating evil, a withdrawal of the interference of authority with the sources of individual happiness, an abstinence from mischievous meddling,—the good effects which have resulted, the industry, the enterprise, the wealth, the civilization, the spirit of inquiry, the intelligence, the morality, which have almost immediately sprung up, have been placed to the credit of the supreme power of the state ; when in fact the whole merit of government consisted, not in the active production of these good fruits, but in the wisdom of giving the principles of human nature fairer play and further room for development. “ Mr. Grenville (says Burke) thought better of the wisdom and power of human legislation than in truth it deserves. He conceived, and many conceived along with him, that the flourishing trade of this country was greatly owing to law and institution, and not quite so much to liberty ; for but too many are apt to believe regulation to be commerce, and taxes to be revenue\*.”

The delusion respecting the wisdom and power

\* Speech on American Taxation.

of human legislation is not yet dissipated : there are still too many from whom the truth is hid, that the great fountains of the prosperity and happiness of nations must ever be the principles of human nature, spontaneously guiding the actions of individuals to their own and the general good ; and that the most which the supreme authority can beneficially do, is to remove obstructions, and to regulate the conflicting play of these principles, when they do not adequately supply their own checks\*.

Although, on a superficial glance, the representation which has been here given may appear to lessen the importance of government, yet in reality it does not : it tends only to prevent our looking for that importance in the wrong place. An institution must be of immense consequence (even supposing it to be incapable of creating a particle of positive good), so long as it has the power both of *preventing* great evils and of *inflicting* great evils. The poetical author of the "Traveller," in the celebrated passage on this subject, which every reader's recollection will immediately present to him †, was

\* See Note A.

† In every government though terrors reign,  
Though tyrant kings or tyrant laws restrain,  
How small of all that human hearts endure  
That part which laws or kings can cause or cure !

wrong in under-rating the influence of government on private happiness, because he took only a half view;—because he overlooked the important difference in intensity between its power of doing good, and its capability of inflicting injury. Kings may be able to cure few ills, except what they themselves have occasioned, and not always those; but it is not true that they are able to cause but few. Their power of affecting human hearts with misery transcends even the imagination of a poet.

Much less can the representation of the character of government here given, diminish the importance of the study of political science. In the complicated operations of society as now existing, the determination, First, of what is useful or hurtful to the community; Secondly, of what may be left to private efforts, and what may require the interference of the supreme authority of the state,—must ever be a task requiring great knowledge, sagacity, and comprehension of mind.

The greatest improvements which have been introduced into modern policy, appear to have originated in a more enlightened and consistent application than formerly, of the two principles which are involved in our definition of the object and the province of government. Discarding on the one principle all those inferior *criteria* which

men, in unenlightened times, applied to political regulations, such as being contrary to the rights of man, violating the original compact, infringing the dignity of the crown, making a breach in the constitution,—the modern statesman has applied himself with greater strictness to the comparative estimate of real evils and benefits; and fashioned his measures on a purer regard to the simple rule of conduciveness to the general good. Taught by the other principle the danger of unnecessary interference with the self-regulating pursuits of individuals, and the beneficial limits of his power, necessarily imposed by the narrowness and imperfection of his knowledge, he has withdrawn many of those mischievous restraints and needless supervisions, which encumbered the transactions which they could not possibly assist, and destroyed the sources of enjoyment which they were utterly powerless to enhance.

Dimly and partially indeed have these principles been hitherto seen and acted upon; but it requires no great hardihood to predict that they will daily become more generally recognized and adopted, and that improvements in the art of government, of which the generality of men little dream, will result from their consistent and unswerving application.

## CHAPTER II.

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### ON THE GROUNDS OF PREFERENCE FOR A REPRESENTATIVE GOVERNMENT.

THE object of government being admitted to be the happiness of the community, and the province of government to promote that happiness, by such measures as individuals or subordinate associations are incompetent to carry into effect, it must also be admitted, that amongst the various forms of government, that form is to be preferred by which the object is best attained. If every act of the supreme authority ought to be tried by the test of conduciveness to the public good, the mode in which that supreme authority is conferred, and the conditions under which it is to be exercised, must be subjected to the same criterion.

Could it be shown that irresponsible power, lodged in the hands of a single individual, is productive of greater good to the community than any other description of authority, every wise man



would be its supporter and advocate. On the same principle, could it be proved that such an arrangement, as placed power in the hands of an inconsiderable number of persons, who were not to be accountable for the use which they made of it,—is recommended by a superiority in beneficial results over every other political system, a wise nation would not hesitate to adopt it. It would be no valid objection that it is unjust to give one man irresponsible power over his fellows, or a number of men uncontrolled authority over the rest. On the supposition (improbable perhaps) that the welfare of the whole community could be promoted, by conferring on half of the people greater privileges than on the other half, it would be wise to do so; for to act differently, would be to sacrifice the common happiness to an empty regard for equality.

This then is to be the universal criterion in matters of public concern, the test of forms of government, as well as of particular plans of representation, and of laws emanating from the constituted authorities. We are not to be decided in our choice by the circumstance of a political system conferring equal privileges, or by that of its bestowing them on some descriptions of people, and withholding them from others. What-

ever is the arrangement submitted to our option, it is to be preferred, on proof being adduced, that notwithstanding all its inequalities and partialities, it is, on the whole, the best for the community.

This view of the subject relieves us from all the vague declamation about natural and inalienable rights, which has become the conventional language of almost all people struggling against the encroachments of power. It is a natural right (says one) that every man of mature age and sound mind shall have a voice in the government of the country, and not be subjected to arbitrary rule. It is an inalienable right belonging to all men (exclaims another) that they shall not be taxed without being represented.

Now a natural and inalienable right, whatever these terms may imply in the minds of those who use them, is one, the exercise of which, if it is not of a neutral character (that is to say, of no importance), is either beneficial or injurious to the community. If the enjoyment of it is beneficial, the right will be left undisturbed, should it be already existing, and will be conferred, if not existing, on the principle of utility here maintained. If, on the other hand, the privilege or mode of action is injurious to the community, of what consequence is it that it can be dignified by the name of natu-

ral right? For a nation to insist on the privilege of acting in some particular manner, inconsistent with its own welfare, or in other words, on the right of doing itself harm, would be folly. Whether, therefore, a country should have a representative government,—whether every man of sound mind and mature age should have a voice in the election of the legislature,—whether no one should be taxed without being represented; and on the other hand,—whether supreme and irresponsible power should be lodged in the hands of a monarch, to govern and tax his subjects at his own discretion;—are points to be determined by the effects of these several arrangements on the public welfare, and not by a vague affirmation that certain specified privileges, modes of action, or forms of government, are natural and inalienable rights; language which, when it is closely examined, will prove destitute of any precise meaning\*.

According to the doctrine here advocated, if a representative government is to be preferred to all other kinds, it must be on the ground that it conduces to the good of the community more effectually than any other. That it is fully entitled to a

\* See the Supplementary Essay on Rights, at the end of the present treatise.

preference for this reason, will not require any long deduction to prove.

It is a principle of human nature, that men will, in the majority of cases, prefer their own interests to that of others, when the two are placed in competition. An individual who possesses uncontrolled authority over his fellow-men will, in the long run, or in the general tenor of his conduct, make his own pleasure and advantage his first object, whatever may be the consequences to his subjects. The happiness of those who are below him will be a secondary consideration, and will be compelled to give way to his own, whenever one interferes with the other. It will be the same with a body of men, however small or however numerous. All will use the uncontrolled power which they may possess for their own advantage, where there is a competition of interests \*. It is vain to bring instances of disinterested men; of despotic rulers who have conscientiously wielded their power for the good of their subjects; of oligarchies that have had no other end in view than the happiness of the community over which they

\* "All men (says Burke) possessed of an uncontrolled discretionary power, leading to the aggrandizement and profit of their own body, have always abused it."—*Thoughts on the present Discontents.*

presided. In all these cases the question is not what are the occasional, but what are the usual and ordinary consequences. You might as well contest the law of political economy, which affirms that men will resort to the cheapest market, on the plea that there are benevolent individuals who frequent dear shops, and pay high prices to destitute widows and broken-down tradesmen from motives of charity. Such anomalies cannot disturb the general result; and to wise men, the general result of a combination of circumstances presents as decided a rule of conduct as if it were an invariable effect.

From this principle, that men will prefer their own interest to that of others, when the two are placed in competition, it follows, that the interest of the community at large will be uniformly consulted, only when they have the regulation of their own affairs. But it is implied in the very notion of government, that a few are invested with authority over the rest. Even in the most democratic states that ever existed, when the people assembled in person to consult respecting their common welfare, they could go no farther than resolve what was to be done, and were obliged, by the nature of the case, to depute a comparatively small number to execute their determinations. In a large empire, a direct participation

even in counsel is impossible to the great body of the community. To meet in deliberation would be scarcely practicable, even with the most skilful arrangements, on account of the immense numbers to be assembled; it would likewise absorb that time and attention which the multitude must, in every country, bestow on providing the means of subsistence: and were these difficulties surmounted, such assemblies would be utterly incapable, from their magnitude, of legislating wisely for their own good. Every one who has had any thing to do with large collections of people, must be aware, that for cool and patient deliberation, such as ought to be given to public enactments, they are the most incompetent instruments that can be devised.

It becomes, therefore, a matter of necessity, not only to place the executive branch of public business in the hands of a few functionaries, but also to devolve the deliberative or legislative department of government on a comparatively small number of individuals. Nor is this less advantageous than necessary, since the few will be always wiser and more efficient in deliberation than the many.

Now, as from the nature of the case the legislative power must be lodged in the hands of a few; and as the few possessing it will be tempted

in a thousand ways to sacrifice the public good to their own private interest, it becomes essentially requisite to place them in such a position, that their own interest, and the public good, shall be identified. The simple expedient which effects this is to make the office of legislator dependent on the will of the people. If his power were irresponsible, if it were subject to no direct control, if the improper exercise of it were not followed by evil consequences to the possessor, it would be inevitably abused ; the public good would be neglected, and his own habitually preferred : but by the simple expedient of rendering the continuance of his power dependent on his constituents, his interest is forced into coincidence with theirs. Any sinister advantage which he might derive from the power entrusted to him would cease with the loss of the office, and he would have no inducement to pursue an advantage of that kind, if, by so doing, he unavoidably subjected himself to dismissal. Such is the general theory of political representation. An individual, under the title of representative, is delegated by the people to do that which they cannot do in their own persons, and he is determined in his acts to consult the public good, by the power which they retain of dismissing him from the office. The people

cannot personally regulate their common affairs ; they are obliged to do it by deputies, and they ensure the due discharge of the trust, as other principals do who employ agents, by making the continuance of it dependent on faithful and efficient service.

The representative system, according to this view of it, establishes its superiority over every other political arrangement, on very obvious grounds. If we contrast it with those pure democracies in which the people, in mass, are their own legislators, we shall not be disposed to contest its pre-eminence. The plan of direct personal deliberation by the people is evidently unfitted for any other than very small communities ; and even in them, would fail to secure that wisdom of decision, which, with all due subservience to the general will, might be attained by devolving the office of legislation on a select body\*.

If, on the other hand, we contrast the representative system with those pure despotisms under which the people are completely destitute of con-

\* Some of the small mountain Cantons of Switzerland still exhibit an interesting example of a purely democratic government. In these republics, the men of mature age assemble annually in some public place, when they elect their magistrates, vote the supplies, and determine other matters of general interest.



trol over their rulers, we shall be equally convinced of its superiority, in the security which it provides for a uniform attention to the happiness of the people, independent of individual character or temporary caprice. While the wise and conscientious despot, who exercises his uncontrolled sway for the welfare of his subjects, can be regarded only as "a lucky accident\*," a prize in a fearful lottery, where the prizes are few, and the abundant blanks (wanting the negative merit implied in the term) are positive and tremendous curses; the enlightened and virtuous legislator, in a representative government, is no fortuitous production, but the inevitable result of the position in which he is placed, and the circumstances with which the system itself has surrounded him.

"All absolute governments," says Hume, "must very much depend on the administration, and this is one of the great inconveniences attending that form of government. But a republican and free government would be an obvious absurdity, if the particular checks and controls, provided by the constitution, had really

\* A well-known expression of Alexander, the Emperor of Russia, in a conversation with Madame de Staël, on the structure of governments. The lady, in a somewhat fulsome strain, had said, "Sire, you are yourself a constitution for your country." "Then, madam (was the reply), I am but a lucky accident."

no influence, and made it not the interest even of bad men to act for the public good. Such is the intention of these forms of government, and such is the real effect where they are wisely constituted \*.”

The fundamental principles, then, on which the system of representation rests are, that the proper object of all political power is the benefit of the community ; and that the uniform exercise of political power, for the benefit of the community, can be depended upon only when it is subject to the control of the people themselves.

Amongst the objections which may be raised up against the view of the subject here taken, two present themselves which appear to merit particular consideration.

In the preceding description (it may be said) of the advantages of this form of government, it is assumed that the people will be determined in the choice of their representatives by the interest which they have, or conceive they have, in the proceedings of the legislative body ; and it is also assumed that they will possess the requisite degree of knowledge to make a right choice. Now both these assumptions may be questioned ; and if the people have neither will to pursue, nor knowledge to comprehend, what is their true interest in the

\* Essay 3, That Politics may be reduced to a Science.

business of delegation, the reasons for giving them a voice in the government fall to the ground.

The answer to the first of these objections is, perhaps, not so easy as some of the friends of representative governments suppose. Doubtless, if the people in electing their governors could be generally influenced by no other interest than that which they had in the official acts of their representative, they would choose the man who, in their conception, would best discharge the duties of the office,—the man, from whose conduct in his legislative capacity they anticipated the most advantageous results. But, in some conditions of wealth and civilization, when property and knowledge are very unequally distributed, it is possible for a minority in a nation to have such power, through the instrumentality of their possessions, as to be able to overcome the interest which each man has in good government, by presenting the seducement of a nearer advantage. The benefit which an individual derives from the wise and conscientious administration of public affairs is remote, uncertain, diffused through various channels, and not well defined to the imagination; in consequence of which it has little chance of victory in a contest with the broad, palpable, condensed advantage

which may be opposed to it in the shape of a bribe, or the prospect of escaping from a threatened deprivation. And if the benefit derived from good government has so little influence, the difference between the benefit to be expected from one representative, and that to be expected from another (which is in general all that the elector has to take into view), will have still less.

In such a state of society, then, it is obvious, that the great body of electors may not act from the comparatively dim and distant prospect of the good and evil which they are likely to derive from the official conduct of their representatives, but they may be guided in their choice by considerations altogether irrelevant and extraneous; by the clearer prospect of good and evil, more immediate and direct. Even a pure democracy, in which the people are their own legislators, seems to have an advantage over the representative system, in the superior interest with which individuals must be animated to vote for the common good, by their direct personal participation in public enactments.

Under a representative constitution, the votes of the people can have only an indirect bearing on public measures, and for that reason are far more liable to be diverted from their proper direc-

tion. The business of the voters is not, as in the other case, to determine what regulations affecting their own welfare shall be passed, but merely to appoint persons to determine for them. The one seems an affair in which every individual has some sort of intimate and immediate concern, however small his share of the benefit may be ; the other dwindles down into the appearance of only *a step* to what may concern him. The feeling of interest therefore, excited by the latter, may be expected to be far feebler and less able to resist any seductive influence.

All this being admitted, it nevertheless proves nothing more than the necessity of adopting expedients which are fortunately, as we shall hereafter show, not difficult to find, in order to guard the electors from extraneous motives, and to leave their minds to the unperverted and unimpeded influence of those hopes and fears, which look solely to the conduct of representatives in their official capacity.

Even without such expedients, there would be a limitation to the evil arising from the perversion of votes. However faint the interest might be which each elector felt in the proper administration of public affairs, and however easily he might be seduced to vote from some prospect of

sinister advantage, this would happen only in ordinary cases, where the choice lay between candidates from the difference of whose legislative conduct no important results could be expected. Where the difference was marked in some extraordinary manner, where there was any pre-eminent superiority on one side in talents and virtues, and more surely perhaps where there was gross profligacy on the other, and especially in any crisis of importance, the feeling of interest in good government would be enhanced, and, aided by a natural predilection for excellence and disgust at vice, might rise in extreme cases beyond the reach of bribery and intimidation. This effect would not only prevent grossly improper individuals from being deputed to the legislative assembly, even though they put in play all the machinery of corruption, but it would restrain within certain limits the conduct of those representatives in their legislative capacity, who depended on such profligate means for their reappointment.

And even supposing the worst to happen, supposing the many to be thus grossly cajoled and perverted by the few, yet with a tolerably well-constituted electoral body, it can be only to an imperfect and partial extent : the sinister purpose can never be completely carried into effect, and the

wisdom of the representative system will be vindicated. For, with what view do the few bribe and intimidate the many? Plainly to have their own way. It could be no advantage, therefore, to the many to give them their own way, without obliging them to employ such means, especially as their attempts can never completely and universally succeed : in other words, how imperfectly soever the representative system may work, there can be no reason to dispense with it, and yield up entirely and unreservedly to the rich and powerful, what, with all their wealth and power, they can only partially obtain, where that system is interposed between them and their object.

With regard to the second objection above referred to, which alleges it to be doubtful whether the people will have adequate knowledge to perform the part assigned to them under a system of political representation, it may be observed, that the very circumstances which have been noticed as weakening their interest in the direction of their votes, bring the business which they have to perform more within the scope of their intelligence and ability. As electors, they are not required to pronounce on the merits of complicated political questions, but on the fitness of individuals for the duties of legislation, and, in some cases, on the manner in which a candidate may have discharged

the trust previously confided to him. The elements out of which they have to form their opinion are comparatively simple and obvious. Talents, integrity, and reputation, are things, in some degree, cognizable by all. There are similar grounds for judging in this case, as there are in choosing a lawyer to plead a cause, or a physician to treat a disease. It is true, that if the electors are ignorant, they will be liable to be deluded by a simulation of estimable qualities; the more ignorant they are, the more liable will they be to fall into the snares of imposition. For a time, unprincipled, crafty, and impudent pretensions may prevail,—genuine merit may be overlooked and rejected; but it is not likely, except amongst the rudest people, that mistakes of this nature will be of great extent, or of long endurance; and should it prove to be otherwise, the evil must be submitted to, for the sake of the paramount advantages in which the system is fruitful.

It must be borne in mind, that it is not necessary to prove that the people will always exercise their control over the government for their own good. They may sometimes err from a perverted will, and oftener from defective knowledge: it is needful only to show, that where they have this control, their happiness will be more uniformly consulted, and more extensively promoted, than



where they are without it. If any one expects that any regulations of civil society will effectually keep out impure motives, put down all corrupt actions, and with uniform success prevent injurious measures, or that an ignorant community can be as well governed as an enlightened one, he has a great deal to learn of his own nature. This is no reason, however, why the most effectual expedients for accomplishing these beneficial ends should not be resorted to.

But there is no need to rely solely on the securities peculiar to a system of political representation. There are other checks common to all governments, and not only compatible with those imposed by popular constitutions, but operating with the greatest force where such constitutions exist. It must not be supposed, that in describing the check which is exercised over mal-administration by the elective power of the people, we mean to represent it as the only control under which men in authority are placed ; it is intended only to maintain, that it is the only one which can be relied upon as adequately efficient. Where no responsibility to the people, through the medium of periodical elections, exists, the career of the despot is controlled and modified, not only by his sense of duty, and other natural and kindly feelings,

but by fear of public opinion, perhaps of violence and insurrection. Should he carry his tyranny beyond a certain height, he is aware that he might raise a whirlwind, powerful enough to sweep him from the scene of his iniquity: and hence prudence represses what the insatiate spirit of domination inspires.

In the same way there are natural limits to corruption, wrong, and injustice of all kinds; limits arising from the spontaneous action of human passions, and not from pre-concerted regulations. It is not possible to push iniquitous conduct beyond a certain point; but as, notwithstanding this truth, there is still a fearful latitude, it is highly important that the distance of this point should be reduced, and that, in so momentous a matter as government, the field of possible wrong should be as narrow as the best arrangements can make it.

Amidst the imperfections attaching to such arrangements, the subsidiary checks adverted to are of inestimable value. In our own country, so defective has been the machinery by which the people controlled their representatives, that it would of itself have been quite insufficient for any salutary purpose, had it not been aided by the powerful influence of national opinion, operating

through the publicity of parliamentary proceedings. It is to the same influence that we are to look for the correction of those defects in the present system, which would otherwise be fraught with evil. However perfect, indeed, the arrangement of incitements and checks in the political machine may be, the power of public opinion, freely exercised, is absolutely necessary to remedy the deficiencies, and correct the disorders, which will perpetually manifest themselves in practice. In the organs of the state, it is like the *vis medicatrix naturæ* in the human constitution.

In allowing due importance to such subsidiary checks, as regard to public approbation, dread of infamy, and fear of resistance, we must constantly bear in mind what has been already adverted to, that they have incomparably the greatest force under free institutions. The neglect of this consideration seems to have misled some politicians into maintaining that these are the real securities for good government, that these operate on the most absolute kings, and that nothing else prevents the arbitrary encroachments of delegates in democracies.

Who does not see, however, that the efficacy of these checks greatly depends on the existence of the others of a constitutional nature; that under

a despotism, public opinion may be hushed into a whisper, frightened at its own tones, and the thought of resistance buried so deep in the breast, as to require the most desperate emergency to drag it forth; so that oppression may long reign triumphantly secure from the murmurs and the insurrection of its victims? While, on the other hand, under a representative government, the general voice rings through the land, from one extremity to the other, and the spirit of resistance starts into activity at the slightest touch of wrong.

## CHAPTER III.

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### ON THE REPRESENTATIVE BODY.

HAVING taken a preliminary view of the object and province of government, and of the peculiar merits belonging to the system of political representation, the plan already laid down in the Introduction leads us, in the next place, to the consideration of the Representative Body.

We shall successively examine the province of the legislative assembly, the process of legislation, the relation of representatives and constituents, the effects of the publicity of legislative proceedings, the grounds on which the number of members ought to be determined, the qualifications to be required, and the duration of the trust to be reposed in them. These several inquiries are all deserving of the closest attention, and will bring before us, in succession, almost every interesting topic connected with the constitution of the most important part of the machinery of government.

## SECTION I.

*On the Province of the Supreme Legislative Assembly.*

WE have seen, in a preceding chapter, that it is the peculiar concern of government to effect the good of the society over which it presides, by such measures as individuals or inferior associations cannot adopt, or cannot so advantageously adopt, for themselves. It has been found expedient, for this purpose, that the state authorities should be divided into the legislative and executive branches, the duty of the one being to carry into effect the decrees of the other.

With the constitution and functions of the executive branch, we have at present nothing to do. The business of the legislature may be described, in consonance with the general definition of the object and province of government, to be to enact laws (with all that it implies), for the purpose of effecting beneficial ends which cannot be attained by individual efforts, or by the efforts of associations inferior to the whole political society.

The whole business of enacting laws, however, or in other words the whole legislative power,

cannot be advantageously engrossed by the *supreme* legislature. A little reflection will be sufficient to satisfy the inquirer, that part of it must be devolved on subordinate bodies. There are some social regulations requiring the sanction of the state, which affect merely a certain place; others, which affect merely a certain district; others, which affect many places or districts, or the whole country. It is the third class alone, which falls within the proper province of the supreme legislature; and in any well-ordered constitution, the first and second classes would be assigned to inferior legislative authorities acting in subordination to the principal one.

The propriety of this limitation of the province of the supreme legislature, flows from a parallel principle to that which has been already shown to circumscribe the province of government itself. As an individual can understand and take care of his own welfare a great deal better than any one else, so a town or a district best knows and best regulates those matters which are its own exclusive concern. An assembly at a distance has to collect the information by which it is to be guided, from witnesses and written documents; and after bestowing the greatest assiduity

on the evidence, can enter only imperfectly into the merits of the question submitted to it. There is a species of incommunicable knowledge, to be acquired only by a residence on the spot: there is a national knowledge, which a foreigner can never attain through books and descriptions: there is a local knowledge, which, with the utmost aid of witnesses and documents, will always remain a secret to one who has not lived in the place to which it relates; and it is this sort of incommunicable knowledge, on which the right determination of local questions generally depends. Nor is it to be overlooked, that a distant assembly, composed for the most part of persons unconnected with the peculiar concerns of a given locality, can never, like a home assembly, apply to local affairs with that intensity of attention which is necessary for clearly seeing a subject in all its bearings.

It will probably be objected to this representation, that we frequently see an individual commit foolish actions, which we could have prevented, had we had the regulation of his conduct; and that in the same way, towns and counties sometimes conduct their business in a blundering manner, which would have been easily avoided



had the affair been under the control of a distant and impartial body of counsellors. A disinterested spectator often sees most clearly the errors of the game.

On close examination, it will be found that this objection is beside the mark. The point in question is, not whether we could regulate *some* of the actions of individuals or bodies of men better than they themselves; but whether, while we had our own proceedings also to attend to, we could regulate the whole of such actions better, were the whole under our control. You might rightly order a few of the actions of your friend, in which he is evidently wrong when left to himself; but if you were to attempt to direct the entire course of his conduct, you would make him blunder at almost every step, and at the same time stumble in your own career. A disinterested spectator may see most clearly the errors of the game; but were he to rule every movement, he would become the player himself, and lose the peculiarity of position which conferred on him, in regard to some of the moves, a superior perspicacity. Besides, in the game before us, the spectator has his own pieces to conduct, and can bestow only a casual glance at any others.

The supreme assembly might be able to decide more wisely on some particular measure, which concerned exclusively a certain district, than a subordinate legislative body seated in that district; but it is quite clear, that, not possessing equal information, equal liberty from the engagement of other subjects, nor equal motives for intensity of attention, it could not decide more wisely, nor even with any thing like equal wisdom, on all the measures which would form the appropriate business of a provincial legislature; nor could any political machinery be contrived, by which such cases belonging to the district, as were likely to be determined with superior wisdom by the supreme assembly, could be antecedently culled from the rest.

But a still more important consideration remains to be adverted to. Not only would the affairs of a town or a district be worse managed by the supreme assembly, than if they were left to guardians nearer home, but the national business would suffer by this impolitic interference.

The ability of the supreme legislature to attend to the business of making laws, is limited: it may be considered as a given quantity; and if any portion of it is bestowed on one set of objects, that portion is lost to every other set. If,

then, the subjects which concern the nation at large are numerous and important enough to engross the whole attention of the legislature, no other subject can be brought under its notice without detriment to the national interest. Whatever concerns a mere individual, a single place, or a single district, can be entertained by the supreme council only at the expense of the whole country.

It is no valid argument to say, that the number of deputies might be increased so as to be sufficiently ample to attend to all kinds of business, local, provincial, and national. The number of deputies in a legislative assembly cannot be increased at all beyond a certain point, without impairing its usefulness ; and cannot be increased much beyond that point, without destroying its character as a deliberative body.

Thus the very nature of a legislative assembly limits its efficiency. The body cannot be extended beyond a certain size ; and whatever that size may be, it has only a certain quantity of deliberative power to bestow on the business which may be brought before it. And even if the legislative body, both in size and ability of attention, were possessed of that convenient sort of elasticity by which it could expand or contract itself to the magnitude of the business to be done, it could

not, as we have already shown, interfere with advantage beyond the regulation of matters of general concern.

An opponent might possibly object to this view of the subject, that, on the same grounds which have been assigned for leaving the local business of towns and districts to their own domestic assemblies, it would be expedient to make other divisions both larger and smaller, and multiply such assemblies, without the possibility of reasonably imposing any definite limit. But this is an objection which might be equally urged in many other cases where a limitation is necessary, although they furnish no precise grounds for the determination of it. "All questions," says Hume, "concerning the proper medium between extremes, are difficult to be decided; both because it is not easy to find words proper to fix this medium, and because the good and ill in such cases run so gradually into each other, as even to render our sentiments doubtful and uncertain." Every country, it is plain, must have divisions of some kind, as parishes, townships, prefectures, for the convenience of its municipal business, although there may be no exact reasons why they should be of one size rather than another. The line of demarcation in these

cases may be determined sometimes by old customs, sometimes by the geographical features of the country, and sometimes by the peculiar distribution of the population. The difficulty is of a nature to vanish, when the regulations come to be actually carried into effect.

If there were a district representation in any country on the principle here explained, the business of legislation would be much simplified, and its beneficial character much enhanced. Every district would not only send representatives to the supreme assembly, but have its own domestic legislature for provincial purposes; in which all matters relating to its roads, bridges, prisons, court-houses, and assessments, and other points concerning itself alone, might be determined. In England, at present, large sums are collected under the name of county rates, and expended (frequently with lavish profusion) under the control of the magistrates at quarter-sessions, who virtually do part of what is here assigned to a district assembly; while of the rest, some is neglected, and some is done in a hasty and slovenly manner by Parliament.

Such a district assembly would be the proper body to take cognizance of all projects for canals, rail-roads, gas-works, water-works, and other un-

dertakings, which, on account of trespassing on private property, could not be executed without the authority of the law. Every one must see at a glance how great would be the relief to the national legislature, if all these minor matters were resigned to other bodies more competent to deal with them. *Nec deus intersit nisi dignus vindice nodus*, should be the principle of the supreme assembly. It should rigorously abstain from doing what can be done as well or better without its interference, and direct its undivided energies to those points, which involve the welfare of the whole empire, or which subordinate powers are incompetent to effect.

On all the subjects mentioned as the proper business of subordinate authorities, the supreme legislature might pass general regulations in strict accordance with the principle here maintained. It might enact, for instance, certain general provisions in regard to the making of canals; but whether a particular canal should be made between two towns in Yorkshire, might be left for Yorkshire itself to decide. The supreme legislature would also determine the objects and define the powers of the subordinate legislatures, and be the ultimate court of appeal in all cases of difference and difficulty amongst them.

It is evidently one of the worst possible arrangements, that the time of the supreme legislative assembly, which would find ample occupation in the preparation and perfecting of general enactments, should be taken up with matters of only local interest, and sometimes of merely individual concern; that it should be occupied with bills for changing names, alienating estates, supplying towns with water and lighting them by gas. While this continues to be the case, it is both morally and physically impossible there can be that degree of excellence in legislation, which the present state of knowledge admits. It is a system which acts injuriously in both directions; a system on which neither enactments of a local nor those of a national kind can possibly be of the same beneficial character as if the preparation of them were devolved on separate assemblies.

The United States of America present us with an instance, in which the principle of the distribution of legislative business is carried partially into effect. They have scarcely, however, carried it far enough, and are perhaps justly exposed to the criticism passed upon them by the illustrious Turgot, whom it is a pleasure to quote in support of the views maintained in the present treatise.

“I do not find,” he says, “that they have

been careful enough to reduce as much as possible the number of objects which are to occupy the governments of each state ; to separate matters of legislation from those of a general and of a particular and local administration ; nor to establish local standing assemblies, which, by discharging almost all the subordinate functions of government, might spare the general assembly all attention to those matters, and might prevent all opportunity, and perhaps all desire in its members, of abusing an authority which cannot be applied to any objects but those which are general, and which therefore are not exposed to the little passions which actuate mankind \*."

Similar views of the wisdom of devolving local business on local authorities, and freeing the supreme legislature from whatever could be done as well or better by subordinate powers, have been maintained by a great number of eminent political writers : — Milton, Hume, Burke, Bentham, Jefferson, who certainly all brought their minds to the consideration of the subject under very different circumstances, agree in their impressions of the policy of some such arrangement.

\* Quoted in the Westminster Review.



Milton, in one of his political treatises, where he discusses plans of government with his characteristic independence and originality, contends, that the advantages of civil society would be best secured, "if every county in the land were made a kind of subordinate commonalty or commonwealth, and one chief town or more, according as the shire is in circuit, made cities, if they be not so called already; where the nobility and chief gentry, from a proportionable compass of territory annexed to each city, may build houses or palaces befitting their quality, may bear part in the government, make their own judicial laws, or use those that are; and execute them by their own elected judicatures and judges, without appeal, in all things of civil government between man and man; so that they shall have justice in their own hands, law executed fully and finally in their own counties and precincts, long wished and spoken of, but never yet obtained, they shall have none then to blame but themselves, if it be not well administered; and fewer laws to expect or fear from the supreme authority; or to those that shall be made of any great concernment to public liberty, they may without much trouble in these commonalties, or in more general assemblies called to their cities from the

whole territory on such occasion, declare or publish their assent or dissent by deputies, within a limited time, sent to the grand council ; yet so as this their judgment declared, shall submit to the greater number of other counties or commonalties." — "Nothing," he adds, "can be more essential to the freedom of a people, than to have the administration of justice and all public ornaments in their own election, and within their own bounds, without long travelling, or depending upon remote places to obtain their right, or any civil accomplishment ; so it be not supreme, but subordinate to the general power and union of the whole republic \*."

Hume, in his "Idea of a Perfect Commonwealth," proposes a somewhat different arrangement, but still embodying the principle of district assemblies, to decide on matters belonging exclusively to themselves, and a strict subordination in these assemblies to the supreme legislature.

Burke, from whom, when he is not under the influence of some dominant passion, the wisest lessons in political science may be gathered, appears to have been equally impressed with the necessity, both of rigidly limiting the functions of

\* The ready and easy way to establish a Free Commonwealth.

government to objects which private exertions could not achieve, and of confining the attention of the supreme legislature to general measures, instead of wasting it on affairs within the cognizance of mere local or provincial authorities. If these separate, although parallel and kindred principles, are somewhat mixed together in the following passage, they are nevertheless strikingly enforced.

“It is,” says he, “one of the finest problems in legislation, and what has often engaged my thoughts whilst I followed that profession, ‘what the state ought to take upon itself to direct by the public wisdom, and what it ought to leave, with as little interference as possible, to individual discretion.’ Nothing, certainly, can be laid down on the subject that will not admit of exceptions, many permanent, some occasional. But the clearest line of distinction which I could draw, whilst I had my chalk to draw any line, was this,—that the state ought to confine itself to what regards the state, or the creatures of the state, namely, the exterior establishment of its religion; its magistracy; its revenue; its military force by sea and land; the corporations that owe their existence to its fiat; in a word, to every thing that is *truly and properly* public; to the public peace, to the public

safety, to the public order, to the public prosperity. In its preventive police it ought to be sparing of its efforts, and to employ means, rather few, unfrequent, and strong, than many and frequent, and of course (as they multiply their puny politic race and dwindle) small and feeble. Statesmen who know themselves will, with the dignity which belongs to wisdom, proceed only in this, the superior orb and first mover of their duty, steadily, vigilantly, severely, courageously; whatever remains will, in a manner, provide for itself. But as they descend from a state to a province, from a province to a parish, and from a parish to a private house, they go on, accelerated in their fall. *They cannot do the lower duty; and in proportion as they try it, they will certainly fail in the higher.* They ought to know the different departments of things; what belongs to laws, and what manners alone can regulate. To these, great politicians may give a leaning, but they cannot give a law. Our legislature has fallen into this fault, as well as other governments; all have fallen into it more or less."

Mr. Bentham, in one of his last works, which may be considered as containing his maturest opinions, thus expresses himself on the question now before us:—

“Only by unalterable physical impotence is the supreme legislature prevented from being its own executive, or from being the sole legislature. The supreme legislature will not, to the neglect of its own duties, take upon itself any of those functions, for the apt exercise of which, when taken in the aggregate, these subordinate authorities alone can, in respect of disposable time, appropriate knowledge, judgment, and active aptitude, have been provided with sufficient means. But in the case of non-performance, or unapt performance, or well-grounded apprehension of either, to the exercise of no function of the executive, or the sub-legislative authority, can the supreme legislature be incompetent\*.”

The last authority to which the attention of the reader is invited, is a man who, both by the extent of his experience and by his habits of reflection, by the opportunities of his position and the powers of his mind, is entitled to be heard with the utmost respect on a question of political arrangement. In one of his letters, Mr. Jefferson, the statesman alluded to, after sketching a plan for the better regulation of the internal affairs of the country, thus sums up the whole :—

“We should thus marshal our government;

\* Constitutional Code, page 43.

into, 1. The general federal republic for all concerns, foreign and federal ; 2. That of the State, for what relates to our own citizens exclusively ; 3. The county republics, for the duties and concerns of the county ; and 4. The ward republics, for the small and yet numerous and interesting concerns of the neighbourhood ; and *in government, as well as in every other business of life, it is by division and sub-division of duties alone, that all matters, great and small, can be managed to perfection.* And the whole is cemented by giving to every citizen, personally, a part in the administration of public affairs\*.”

If, after the arguments which have now been urged, and the authorities adduced, any doubt should remain on the mind of the reader, as to the policy of restricting the province of the supreme legislature to matters of general concern, that doubt would be at once removed by a very cursory glance at the proceedings of a government in which this policy has been utterly neglected. For the fullest conviction, we have only to look at home. Never were the evils arising from the supreme legislature undertaking business which on no rational principle of arrangement can belong to it, more strikingly exemplified than in the transactions of the British Parliament. It would

\* Memoirs and Correspondence, vol. iv, p. 267.

be inconsistent with the object and plan of this treatise to enter into a detailed proof of a grievance so notorious and acknowledged ; and, fortunately, an able exposition of the whole subject, already before the public \*, leaves no inducement to attempt it †.

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## SECTION II.

### *On the Process of Legislation.*

THE business of a legislative assembly is to enact laws : but this requires a preliminary process. Laws affecting a community at large, cannot, with advantage and propriety, be enacted without great care and consideration. It is necessary that the grounds on which they are proposed should be subjected to a thorough examination ; and in such an examination is implied the collection of facts, and the discussion of the inferences which the facts collected supply.

The propriety, or rather necessity, of collecting facts, is the same in legislation as in other departments of science relating to events, or the succes-

\* Vide " An Argument for more of the Division of Labour in Civil Life in this Country," by William Wickens.

† See Note B.

sion of causes and effects. No useful progress can be made in any other way. To proceed on hypotheses, or facts rashly taken for granted, would be, indeed, especially pernicious in a matter where a single wrong step may affect the prosperity of millions of human beings. As the facts, too, on which legislation proceeds, must frequently be collected from numerous sources, and would mislead, if partially gathered, it is of importance that our political arrangements should facilitate the complete performance of the task.

On the advantages of an attention to this point it is needless to insist; nor is it much more requisite to dwell on the utility of that part of the process of examination which passes under the name of debate or discussion.

The peculiar advantages of oral discussion are, that from the number and variety of minds, simultaneously handling the subject, it is rapidly turned on all sides and scrutinized in every part; and, secondly, that a state of clear-sightedness is produced in the understanding, which is seldom to be purposely created, and is only the occasional visitant of the closet. In the process of debate, the doubt which hung over the mind clears away, the information wanting and searched for in vain is supplied, the absurdity before unnoticed is



made palpable, the fond conceit blown up by some partial experience melts into air, the attention is animated and the perception sharpened by the alternate exposition and reply, attack and defence. It can hardly be questioned, that if a number of men, with adequate information, come together, and freely discuss a subject to the best of their ability, they will arrive at a truer conclusion than the same men could attain, in the same time, by any other means.

It is no valid objection to this to allege, that the discussions of public assemblies are often narrow and superficial, compared with the contemporary speculations of the philosopher in his closet. This is not owing to any thing in the nature of the process, but to the degree of intelligence in the debaters. The character of their debates will of course be determined by the character of their intellect. It is true enough, that while Adam Smith was engaged in embodying his profound views of political science in the seclusion of his study, the members of the British Parliament were exhibiting a lamentable contrast of ignorance and error. But we must recollect, that the philosophers who are really profounder than their contemporaries in active life are few, and that their profundity

does not proceed from the solitary prosecution of their inquiries, although the solitariness of their path may frequently be the necessary result of their going beyond others. There can be no question, that if they could meet in discussion with men equal to themselves, capable of entering into their views and contending with their doctrines, their speculations would be immensely improved. It is to be particularly observed, that there is no incompatibility between the two practices of private study and debate ; but that they in fact mutually assist each other where they can be united. Private study gives profundity to discussion : discussion gives life, impulse, direction, energy to private study ; and men of profound minds would always gain by a free intercourse with their equals. As it is, the arguments and replies of philosophers labour after each other at comparatively wide intervals. Closet controversialists, shackled by that intervention of space and time which oral discussion annihilates, make tardy progress. The discussion of subjects in this way, is to the quick reciprocation of personal debate, what a game of chess by letter between competitors on the opposite shores of the Atlantic, is to the more rapid contest across a table.

There are, it is true, many disadvantages attending discussions in public assemblies. The passions are brought more into play, and matters of mere personal concern are mixed up with the merits of the question. The desire for coming at the truth is exceedingly apt to be lost in the wish to avenge some mortification, or to make a display of oratorical power; and the measure which may be in discussion is almost smothered under the prolixity of debate. This is a fault in public assemblies, which nothing but the growing sense and intelligence of the age can repress. The habit of haranguing at great length, as now practised, is indeed one of the most formidable impediments to public business with which wise statesmen have to contend. Nor do the time which it may be said to destroy rather than to occupy, and the important business which it occasions to be neglected, form the only points to be considered. Those who are curious in speculating on the influence of habits on the character of the mind, must be aware that a practice of this nature cannot be inoperative on the mental constitution. It has unquestionably the effect of constantly diverting the mind from the effort to form a decision on the real merits of the question, and

directing it to those considerations, which are likely to excite admiration, and applause, and sympathy in the audience—in one word, of making it superficial. The intellect thus comes to be habitually engaged, not in the pursuit of truth, but in searching out animating topics, brilliant points, striking figures, plausible rather than solid arguments, every form of sentiment and expression which will *tell* on the feelings of the hearers. The dexterous employment of words to soothe, and satisfy, and kindle the audience into admiration is the great object of study. An able writer, in a masterly essay on the character of the second Pitt, has well elucidated the influence of such habits. “From his early childhood,” says he, “it was his father’s custom to make him stand upon a chair, and declaim before a large company; by which exercise, practised so frequently, and continued for so many years, he acquired a premature and unnatural dexterity in the combination of words, which must of necessity have diverted his attention from present objects, obscured his impressions, and deadened his genuine feelings. Not the thing on which he was speaking, but the praises to be gained by the speech, were present to his intuition; hence, he associated all the

operations of his faculties with words, and his pleasures with the surprise excited by them. But an inconceivably large portion of human knowledge and human power is involved in the science and management of words; and an education of words, though it destroys genius, will often create and always foster talent." "He heaped period on period; persuaded himself and the nation that extemporaneous arrangement of sentences was eloquence; and that eloquence implied wisdom\*."

In a similar strain it has been said, by another writer of no mean powers, "The habit of haranguing is in itself pernicious. I have known even the conscientious and pious, the humane and liberal, dried up by it into egoisme and vanity, and have watched the mind growing black and rancid in its own smoke †."

The last error alluded to by the able writer first quoted, is indeed a very prevalent one. There seems to be an inveterate impression on the public mind, that the essence of statesmanship consists in the faculty of pouring forth an unlimited torrent of words; that he is the wisest

\* Character of Wm. Pitt (attributed to Mr. Coleridge).

† Landor's Imaginary Conversations.

and greatest politician, who is the readiest, the most prolix, and most dexterous debater.

Nothing can well be more erroneous than this conclusion. Speaking in public is a habit, and there are few men, wise or unwise, who could not become ready speakers by practice. It is true, that amongst men equally trained and accustomed to the public expression of their opinions, a difference in point of fluency may generally be observed: some possess the faculty in an extraordinary degree, while others are as remarkably deficient in it; but if we examine into the qualities of mind which are the causes of this difference, we shall probably discover nothing to establish a connection between soundness of judgment and fluency of speech.

Facility of expression appears to depend very much on the predominant mode in which the ideas are associated. If an individual's thoughts are principally connected together by circumstances of time and place, and superficial resemblance; by those casual ties, in a word, which usually prevail in the mental trains of people little accustomed to reflection, he possesses within himself the chief elements of a great talker. One idea perpetually suggests another, and as they all seem equally dependent, and

there is no reference to any particular point on which the whole series is to be brought to bear, or at all events a very loose reference, no cause exists why the speaker should terminate his oration, except what the impatience of his audience supplies; or except, perhaps, the failure of his own physical strength. On the other hand, if a speaker's ideas on any subject rise in his mind because they are logically dependent, because they are strictly connected with the question before him, they are self-circumscribed within determinate bounds; a few words will frequently be sufficient to present them to the hearer; and as every thought will have a bearing on the conclusion intended to be proved, the process will naturally be brief.

It will be found by every one who fairly tries the experiment, that the tendency of close thinking is to clear away all rubbish from the road lying between the premises and the conclusion. In proportion as the question before the mind arranges itself in perspicuous order in the course of long and steady contemplation, the accessory ideas which have mixed themselves up with it, and been at once the consequence and the cause of confusion, will fall away. The great staple of long and tedious dissertations is irrelevant matter.

It has been justly observed, that most people are absorbed in business for want of method\*; and it may be said with equal justness, that most speakers are prolix, for want of order and arrangement in their conceptions. Accordingly we find that men of analytic understandings, who discern most clearly the distinctions of ideas or objects, are not in general copious speakers: they are not apt to have a crowd of ideas rushing on their minds and struggling to find expression, often much more to the entertainment than to the instruction of the hearer. They see too distinctly what relates, and what does not relate, to the subject, to make long orations. “Propter hoc quoque,” says Quintilian, “interdum videntur indocti copiam habere majorem, quod dicunt omnia: doctis est et electio, et modus †.”

If we wish for an example of a mind of this description, we cannot do better than turn to Franklin. In almost every respect he presents a contrast to the eloquent English declaimer, whose picture the reader has just had placed before him. Simple, direct, cool, clear-sighted, and judicious, it was impossible that the American statesman and philosopher should be a prolix

\* Madame Roland's Appeal.

† De Institutione Oratoria, lib. ii.



speaker. His was an intellect, that would put the whole pith of an ordinary oration into a single sentence. Accordingly we learn from Mr. Jefferson, that as an orator, Franklin was remarkably abstemious.

“ I served,” says the former statesman, “ with General Washington in the legislature of Virginia before the Revolution, and during it with Dr. Franklin in congress. I never heard either of them speak ten minutes at a time, nor to any but the main point which was to decide the question. They laid their shoulders to the great points, knowing that the little ones would follow of themselves \*.”

Jefferson's own course of proceeding in Congress (1783), as given by himself, is highly instructive. “ Our body,” says he, “ was little numerous, but very contentious. Day after day was wasted on the most unimportant questions. A member, one of those afflicted with the morbid rage of debate, of an ardent mind, prompt imagination, and copious flow of words, who heard with impatience any logic which was not his own, sitting near me on some occasion of a trifling but wordy debate, asked me how I

\* *Memoirs and Correspondence*, vol. i, p. 50.

could sit in silence, hearing so much false reasoning, which a word should refute? I observed to him, that to refute indeed was easy, but to silence impossible; that in measures brought forward by myself, I took the labouring oar, as incumbent on me; but that in general I was willing to listen: that if every sound argument or objection was used by some one or other of the numerous debaters, it was enough; if not, I thought it sufficient to suggest the omission, without going into a repetition of what had already been said by others: that this was a waste and abuse of the time and patience of the House, which could not be justified. And I believe, that if the members of deliberative bodies were to observe this course generally, they would do in a day what takes them a week: and it is really more questionable, than may at first be thought, whether Bonaparte's dumb legislature, which said nothing, and did much, may not be preferable to one which talks much, and does nothing\*."

The orators of the American Congress seem to have profited little, either by the example or by the precepts here held out to them. It surely

\* Ibid.

must be some misconception of the nature already described, some misapprehension "that the extemporaneous arrangement of sentences is eloquence, and that eloquence is wisdom," which draws out transatlantic oratory to so unparalleled a length. We are told by a recent traveller, that an oration of eighteen or twenty hours is not uncommon in the Congress of the United States; and are therefore not surprised to learn, that the usual style of speaking is loose, rambling, and inconclusive. It may be safely asserted, that to make a speech of that length to the point, is impossible.

This great and prevailing error in public deliberative assemblies could not exist to the same extent, unless it were supported by an erroneous conception on the part of the bulk of the people, relative to what really constitutes political wisdom and legislative ability. Such an impression would be removed by an examination of the history of mankind, as well as by an acquaintance with the principles of mental philosophy. The faculty of speaking with inexhaustible copiousness, is not uncommon in very low states of civilization. Amongst the barbarous tribes of Africa we find it possessed in a remarkable degree, in a condition of society debased by the most childish

and revolting superstitions. How little, indeed; the mere power of extemporaneous fluency—the ability to harangue and debate—is an indication of intelligence and wisdom, is there exemplified in the most striking manner.

In the Dialogue on Oratory, which has been sometimes ascribed to Tacitus, sometimes to Quintilian and to others, it is observed by one of the interlocutors, that it was a mark of ignorance and want of refinement in their ancestors to take pleasure in the immoderate prolixity of the speeches in those ages, when, to be able to harangue for a whole day together, was looked upon as a talent worthy of the highest admiration.

These considerations, if duly weighed, would tend to abate that admiration which is too often manifested for mere fluency of speech, and prevent or counteract the mistaken notion, that it is any indication of peculiar fitness for taking a part in the business of legislation; and in proportion as this erroneous impression is weakened in the public mind, the frequency of prolix efforts at display may be expected to be diminished. When the exaggerated estimate which is commonly put on the talent in question shall have been reduced to proper dimensions, we may hope to see a

juster appreciation of men of profound minds, who are destitute of the dazzling accomplishment. Every one's experience in ordinary life must have brought him in contact with persons, to whom, on account of their cool and clear discrimination, far-sighted wisdom, and soundness of judgment, he would resort for advice in difficult emergencies in preference to all others, and who yet were incapable of rising in a public assembly, and making a formal harangue. Burke remarks, that, in his time, the want of the talent of elocution was conspicuous in many as wise and knowing men as any in the House\*.

Notwithstanding these liabilities to misuse and perversion, we may safely pronounce, that the practice of examining all proposed laws, and the evidence in their favour in a public assembly, with the utmost freedom and latitude of debate, is the best that can be pursued. If laws were prepared in the closet, without undergoing this process of open discussion, they would lose the benefit of that complete scrutiny which they now receive, or ought to receive, and the private whims and singularities of the legislator would often be embodied in his enactments.

\* Thoughts on the Present Discontents.

We come then to the conclusion, that all regulations proposed for the good of the community, ought to pass through a thorough process of examination; that they ought to be well investigated and discussed; and it is perhaps scarcely requisite to proceed to show, that this is best done in the central or supreme assembly.

We might indeed suppose such a thing as a legislative assembly, brought together merely to announce the pleasure of their constituents, and to register it on the statute-book. We might suppose the members to come up from their respective districts, in the way that Milton seems to suggest\*, completely prepared to assent or dissent on every question, without any inquiry in concert with each other, or any interchange of information and argument, all the preliminary business of investigation having been done elsewhere.

But there is a manifest advantage in a contrary course. Before a law is enacted, it is necessary, as every one will admit, that an examination of the grounds on which it is proposed should be made somewhere. It is further necessary, according to the fundamental principle of the representative system, that such an examina-

\* See the First Section of the present Chapter.

tion, as it cannot be made by the people themselves, should be made by persons commissioned to do it on their behalf. If the examination is not to take place in the supreme legislature, it must be made in the towns or provinces. Each town or province would have to prosecute the inquiry for itself. It is plain, however, that as the inquiry, if it concerned a matter properly falling within the department of the supreme legislature, would not relate exclusively to any one town or district, but to the country at large, there would be no peculiar advantage in prosecuting the investigation in such places. If the matter affected one place alone, it could not be examined anywhere so thoroughly as in that place; but as in order to fall within the legitimate province of the supreme assembly, it must be a matter of general concern, a local investigation offers no special benefit; while it is evident, that, on such a plan, there would be a number of simultaneous investigations going on, and a superfluous multiplication of trouble.

On the other hand, if the business of examination is conducted in the supreme assembly, a single investigation serves the purpose, and it is carried on under peculiar advantages. A supreme

assembly is generally convened at the seat of the executive government, and has thus ready access to information of various kinds, to extensive libraries, to valuable records, to the documents and accounts of public offices. It can summon witnesses to its bar, dispatch messengers to gather intelligence, order returns of statistical details, and put in action the whole machinery of the state, to collect the evidence which its deliberations require.

All these are advantages in the process of examination, which could not be possessed, or be possessed in only a very inferior degree, by provincial assemblies.

It is fair to presume, too, that one central assembly of this kind, would consist of men of greater talent and intelligence than those which composed each of the provincial assemblies; and as they would be brought together from all parts of the empire, every subject discussed by them would be likely to be placed in all possible lights, and not viewed only in a single aspect. Nor must we omit to notice, what will be hereafter more largely illustrated, that the whole attention and intelligence of the country would be brought to bear on the proceedings of one supreme as-



sembly, in a way which would be impracticable in the case of a number of provincial assemblies.

We may conclude, therefore, that as it is an indispensable part of the business of legislation to examine thoroughly the grounds of all general enactments, so it is a part which cannot be done so well by any organ as by the supreme legislature.

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### SECTION III.

#### *On the Relation of Representatives and Constituents.*

In a preceding chapter, a representative has been described, in general terms, as an individual delegated by the people to do that in the business of legislation, which they cannot do in their own persons; and determined in his acts to consult the public good in preference to his private advantage, by the power which they retain of dismissing him from the office.

To appoint a deputy of this kind arises, in any extensive country, out of the necessity of the case, and would be expedient even under the com-

pletest democracy. The people are too much engrossed by their private pursuits, to give such an attention to political regulations as is requisite for good government; and they delegate some one to perform the duty, just as they select a physician to attend to their health, and a lawyer to draw their conveyances or to conduct their lawsuits. The procedure is founded on the principle, which universally leads to the division of employments.

It has also appeared, from the preceding section, that the business of legislation includes, not only enactment, but also examination; and that the examination, which ought to precede the adoption of measures affecting the community at large, can be conducted nowhere so well as in a central assembly.

From all this it evidently follows, that a deputy to such an assembly has something more to do than to receive and execute the instructions of his constituents; and that they on their parts, even if they had not something more to do than to render themselves competent to direct his conduct, could not be in possession of all the requisite information for that purpose. The view which we have taken of the process of legislation has shown, that he is not sent to the legislature to be

the passive instrument of their wishes, a mere index to record the movements of the political wheel-work behind: he has a business assigned to him, which he must study with especial attention, and in the transaction of which his position confers on him peculiar advantages. That position gives him an opportunity of making himself acquainted with the best evidence on every public question, of hearing the conflicting arguments of the most eminent statesmen, and of submitting his own views to the ordeal of unrestrained discussion and general scrutiny.

If he fully and faithfully discharge his duty, the same result will follow in this case as in every other case where individuals engage in pursuits requiring habitual application: he will acquire an intelligence and skill in regard to the business entrusted to him, beyond those of his fellow-men otherwise employed. Unless the principles of the human mind are different in this matter from what they are in all others, he will attain a more enlightened, correct, and comprehensive view of the various questions which come before him in his official capacity, than the constituent body who appointed him could possibly attain in time to instruct him how to decide, engrossed as the members of it are with other pur-

suits, and more intensely interested in other questions. As a physician, whose time and attention and faculties are chiefly devoted to the art of healing, cannot without injury be restricted in his treatment of disease by the views and desires of the patient who requires his assistance, although they may be very properly taken into consideration; so to the political representative, unshackled by instructions, must be left the discretion of acting according to his own views of the public welfare, provided we would obtain the specific benefit for which he is appointed.

There are then two distinct reasons why the representative should be left to his own judgment and discretion, in the determination of those political questions which come before him, unfettered by any instructions from his constituents.

1. He is a member of an assembly, which, as the last section has shown, must possess peculiar advantages for conducting the process of legislation.

2. By devoting his time and attention to public matters, he must acquire a greater insight into them at the time of decision, than the majority of his constituents from whom instructions would proceed.

To control, by instructions, the representative

deputed to take part in the deliberations of the supreme assembly, would, in fact, be tantamount to adopting the plan, already shown in the last section to be ineligible, of performing the preliminary part of legislation in a number of local assemblies instead of the national assembly; with the additional inconsistency of setting the national legislature on the investigation and discussion of questions already determined by other bodies. It would be deputing men to discuss measures of public policy, under the condition that their deliberations should have no influence on the determination of the measures discussed. If you, the constituents, will not trust the business of examination to the supreme assembly, do it avowedly yourselves, and let that assembly meet merely to enact or register what you have decided upon; but if you devolve the task of examination upon a deliberative body, do not commit the absurdity of determining for it the result to which it must come.

The inconsistency of giving instructions to their representatives may not strike any single constituency, who merely look at their own case. To them it will appear, that they are guiding only one vote in an assembly, where there is the utmost latitude of decision; that they are fixing only one point amidst universal mobility: but the incon-

gruity will manifest itself when they reflect, that what is right, in this matter, for one body of individuals, must be right for all ; that it is a question regarding a general principle, and that the consequence of adopting the general principle would be, that as each individual member would come pinned down by instructions, the whole legislative assembly would meet together to examine and deliberate about measures, the rejection or adoption of which was already fixed beyond the possibility of being affected by their deliberations.

The only plausible objection to this argument is, that although the plan of leaving the representative unfettered by instructions, would enable him to avail himself of all the advantages of his position for forming an enlightened conclusion, it would, at the same time, leave him at liberty to follow his own pleasure, which might be adverse to the public interest : that the promotion of the public good involves two elements,—a knowledge of what it is, and a disposition to promote it ; the last of which would not be secured by suffering the representative to act on his own judgment and discretion.

The answer to this objection is not one that requires much research. In the affair of political delegation we must place a certain degree of confidence in others, and run a certain degree of risk, as we

are obliged to do in other transactions. It would doubtless be well, if, in this and all other affairs in which we are concerned collectively or individually, we, who possess the completest desire on every point to secure our own good, possessed also, on every point, the completest knowledge how to attain it. But we are not so fortunate ; and it becomes a matter of calculation in each case, where our own ability fails, whether it would not be advantageous to call in the aid of others, to whom our welfare must unavoidably be a subordinate consideration, and whom we must connect with our interests by some factitious tie. Whenever we employ a man to do what his superior knowledge enables him to do better than ourselves, it is because the superiority of his knowledge, combined with his weaker disposition to promote our interest, will, on the whole, produce a better result than our inferior knowledge, coupled with our stronger disposition. So it is when we appoint a political deputy ; we can obtain the benefit of his services only by encountering the risk of trusting him. The advantage we look for at his hands, is incompatible with retaining the direction of his conduct.

The security which we have that he will act rightly, is of a different character. It lies in the responsibility under which he is placed, and this

is the other great point to be remarked in the relation between him and his constituents. We have seen what he has to do for them, the general nature of the duties which he has to discharge, and the peculiar advantages of his position ; and we have now to consider in what sort of responsibility the security they have upon him, that he will be regulated in the discharge of those duties by proper views, consists.

The specific security which they have is obviously the power of dismissing him, immediately or ultimately, from the office ; in actual practice, it is the power of setting him aside at the first election which may take place. We shall hereafter have occasion to advert to the degree of intensity which ought to be given to the responsibility of a representative, and to the circumstances by which that intensity is regulated. Our present business is merely to describe of what the responsibility is composed ; and it is manifestly composed of the consequences which his constituents can inflict upon him.

This liability to dismissal is indeed not the only consideration at work on the mind of the representative to keep him in the line of duty : there are, besides, his own virtuous feelings, his regard for the esteem of his friends, his desire of approbation, his fear of public opinion, and other principles contributing to the same end : but how ineffi-



cacious all these are, without the specific liability to lose his seat, may be seen in the conduct of those English representatives under the old system, who commanded a place in parliament by their wealth or station, with as much certainty as they hired a house or purchased an estate. There can be no reliance that he will be kept in the line of duty by any or all of these other principles alone; but when the master principle is in operation, all these subordinate ones will act with augmented efficacy.

It is not, then, to the power of instructing their representative, that constituents are to look for an assurance that his efforts will be faithfully applied to the public service, for that would be inconsistent with the most enlightened legislation; but it is to the power of reducing him from the elevation to which their suffrages have raised him. What properly belongs to them is not a power of directing, but of checking; not a power of previous dictation, but a power of reward and punishment on a review of what he has done. The object to be obtained is not to compel the representative to decide agreeably to the opinions of his constituents, for that would be compelling him often to decide against his better judgment; but it is to force him to decide with a single view to the

public good, and, at the same time, to obtain the full benefit of his intelligence. It is by leaving him unshackled with positive instructions, while he is subject to the ultimate tribunal of the opinion of his constituents, that the end in view is to be accomplished, of bringing into action, in the proceedings of the legislature, the greatest practicable quantity of intelligence, under the guidance of the purest disposition to promote the welfare of the community.

The relation between a representative and his constituents may be illustrated by a reference to the analogical relation which exists, and to which we have already slightly adverted, in the mutual circumstances of the physician and his patients. The security which patients have for the best application of the physician's skill, does not arise from any ability of theirs to direct his practice, but from the circumstance of having in their own hands the power of choice. In the nature of the case they must place great confidence in his conduct, if they would obtain the benefit of his knowledge. When they select him, they are guided by such evidence as is within their reach respecting his qualifications. They may not always make the wisest choice ; because, not being competent judges of the science, they must depend, in

a great measure, on collateral facts, or evidence of an indirect character, and are sometimes swayed by irrelevant motives ; but the power of selection and dismissal is the most effectual means of securing the best services of those whom they choose ; and there can be little doubt that, on the system of each individual selecting his own medical attendant, and trusting to his discretion, patients fare better than on any other plan. And although they cannot antecedently judge of the medical treatment necessary in their case, nor direct the curative process, yet after recovery they can frequently form a tolerable estimate of the skill which has been evinced, and can always appreciate the care and attention of the practitioner ; whence there are evidently strong inducements acting on his mind to please and benefit his patients.

There is a strong analogy to this in the position of the constituents in relation to their representative. It is in the power of selection and dismissal that lies their security that he will promote the public good, and not in the ability of his constituents to go along with him and direct his conduct in every political measure. They, like the patient, are frequently guided in their choice of men by indirect evidence, and do not always make

the wisest selection ; but the privilege vested in them of choosing and discarding their representative is the most effectual means of securing the best application of his abilities. Like the patient, too, they are not in their corporate capacity so competent to judge of the course to be pursued in any affair, or chalk out the path of true policy, as the man whom they have appointed, and who applies his time and faculties to public business ; but after the affair is concluded, they can frequently form an opinion of the wisdom, and can generally estimate the purity of his conduct. It is one thing to determine beforehand how a man shall act, and another to judge, after the event, of the way in which he has conducted himself ; as it is one thing to write a book, and another to criticise it. Thus the arrangement of leaving his conduct to his own discretion, unfettered by absolute instructions, and subject to no other control than any declaration of their sentiments which the constituents may choose to lay before him, coupled with the ultimate liability of being censured or dismissed, seems most effectually to secure, at one and the same time, that the greatest intelligence and the best disposition shall be brought to the determination of public questions.

It may be alleged indeed, that the parallel is

scarcely a fair one, inasmuch as there is one important difference between the case of the physician and that of the political representative. Medicine is a science accessible only to those who go through years of assiduous application to it, and the practice of the physician therefore must, in the nature of the case, be taken on trust; but political knowledge is a thing of which all have a share; the means of forming a judgment on the subjects submitted to the legislature are open to every one, and are largely employed by many; and consequently, although a patient cannot wisely dictate the remedial course to the physician, the constituent body of any town or district, as it always comprehends persons who possess great political information, may very properly instruct the representative how to act.

Even granting that there is the difference here alleged, in general familiarity with the two sciences (which is a large concession, as few people are deeply versed in the principles of politics), the objection overlooks one important circumstance. In the parallel drawn between the two cases, the constituents must be regarded as an integral body, bearing the same relation to the representative as an individual patient to the physician; and the question is not whether

any individuals amongst them are as well informed and as competent to decide on political measures as the deputy whom they have elected, but whether the average intelligence of the body in regard to such measures is equal to his. If the electors of any district are to instruct their representative how to vote on every question, their instructions would in the long run be conformable to the state of information amongst the mass of the electors, and not amongst the enlightened few: and the procedure would imply, that the majority so greatly surpassed in intelligence the man whom they had deputed, as amidst all the distraction of other pursuits to be better judges of national policy than he who especially dedicated himself to the study, and could avail himself of the advantages presented by a seat in the legislature.

That instructions emanating from a body of men must, in the usual course of things, be characterized by the general intelligence of the body, or the intelligence of the majority, and not by the superior intelligence of the few, will be at once seen by any one who reflects, that there is no method of extracting the superior intelligence of the few, pure from the opinions of the many; no mode of separating the more enlightened

views from the less enlightened, so that they shall clearly stand apart, distinctly cognizable by all, with resistless power to prevail. There is yet to be found out a way of sharpening the perceptions of the majority to see the opinions of the few in their true character, or of persuading them to adopt what they cannot perceive. The existence, therefore, amongst the constituent body of a few individuals more able and intelligent than the representative himself, is no reason why he should be controlled by positive instructions, unless some means can be discovered of making the wisdom of the few predominate over the less enlightened sentiments of the many.

It is in truth impossible by any device to effect, that the determination of legislative questions shall be in the hands of a definite number, comprising the wisest and ablest men in the country. You cannot by any method bring these into one assembly, and you are equally incapable of collecting their opinions with precision while they remain scattered. Whatever means you adopt of assembling a council of wise and able men, there will still be wiser and abler men in the country than many of those whom you have brought together. It is a matter of necessity, therefore, that the decisions of such an assembly

should fall short of the intelligence of some of the constituent body, and as a matter of necessity we must put up with it.

Nevertheless, the members of the legislature having been deliberately elected, it is to be presumed they have been chosen for qualifications above the average of those possessed by the men who elected them; and it can scarcely be questioned, that their measures of public policy will be superior to such as would have proceeded from the constituents themselves, although probably inferior to what would have emanated from an assembly of an equal number of the wisest men in the country.

In the whole series of transactions implied in political representation, it is not the highest wisdom of the few that prevails; it is the general intelligence, the intelligence of the majority, of the many. It is the general intelligence of the constituents that selects the representatives, and it is the general intelligence of the representatives that determines the character of the laws enacted, and the measures of public policy pursued. From these considerations it follows, that if the constituents were to instruct their representatives, their instructions, bearing, as they must inevitably do, the stamp of their average intelligence,



would virtually impose the views of a less intelligent body on one of greater information and judgment.

There is one other circumstance remaining, to complete our view of the position in which the representative stands; a circumstance which will corroborate what has been already advanced. It is to be borne in mind, that he is deputed, not to urge the particular interest of the place or district which he is said to represent, but to promote the general interest of the country: and if the case admitted of it, each deputy ought on this account to be chosen by the whole nation; that is to say, if two hundred were the number of the legislative body, each elector ought to have two hundred votes, or, in other words, vote for two hundred out of the whole number of candidates. It is instructive to mark the valid reason why this cannot be wisely done; why the election of every member, or every brace of members (supposing local business to be done in local assemblies), is properly assigned to a separate district. It is not that he may urge and advocate the particular interests of that district, but it is that in this, as in other things, we are obliged to resort to the division of labour for the sake of accomplishing our object in the most effectual manner;

to separate the mass of task-work into parts, and to distribute the parts into various hands. An elector would be incapable of properly weighing the merits of perhaps a thousand candidates, of whom he would have to select two hundred, but finds it comparatively easy to investigate the pretensions of three or four; and this facilitation of the task of every individual elector is effected in the simplest manner, by apportioning the number of representatives amongst the several divisions of the country. Each district may thus be considered to undertake the care of providing one person to do the public business, and of superintending the course of his public conduct, as the most effectual method of securing the election of an aggregate body of efficient statesmen, and exercising a salutary control over their proceedings; while the representative, on his part, becoming the convenient channel through which his constituents, on occasion, lay their sentiments before the legislature, the business of that kind which may arise is distributed with sufficient equality by the same arrangement.

The view which Burke takes of the relation between a representative and his constituents, is in the main so correct, and is so luminously expressed, that no one can read it without pleasure and

instruction. The passage occurs in his celebrated speech at Bristol, on the conclusion of the poll.

“I am sorry,” he says, “I cannot conclude without saying a word on a topic touched upon by my worthy colleague. I wish that topic had been passed by, at a time when I have so little leisure to discuss it. But since he has thought proper to throw it out, I owe you a clear explanation of my poor sentiments on that subject.

“He tells you, that ‘the topic of instructions has occasioned much altercation and uneasiness in this city;’ and he expresses himself (if I understand him rightly) in favour of the coercive authority of such instructions.

“Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion high respect; their business unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own. But his unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice

to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.

“My worthy colleague says, his will ought to be subservient to yours. If that be all, the thing is innocent. If government were a matter of will upon any side, yours, without question, ought to be superior. But government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that, in which the determination precedes the discussion; in which one set of men deliberate, and another decide; and where those who form the conclusion, are perhaps three hundred miles distant from those who hear the arguments?

“To deliver an opinion, is the right of all men; that of constituents is a weighty and respectable opinion, which a representative ought always to rejoice to hear, and which he ought always most seriously to consider. But *authoritative* instructions, mandates issued, which the member is bound blindly and implicitly to obey,

to vote, and to argue for, though contrary to the clearest conviction of his judgment and conscience,—these are things utterly unknown to the laws of this land, and which arise from a fundamental mistake of the whole order and tenour of our constitution.

“Parliament is not a *congress* of ambassadors from different and hostile interests, which interests each must maintain as an agent and advocate, against other agents and advocates; but Parliament is a *deliberative* assembly of *one* nation, with *one* interest, that of the whole; where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member, indeed; but when you have chosen him, he is not a member of Bristol, but he is a member of *parliament*. If the local constituent should have an interest, or should form a hasty opinion, evidently opposite to the real good of the rest of the community, the member for that place ought to be as far as any other from any endeavour to give it effect\*.”

It is somewhat surprising to find Mr. Bentham, in his Constitutional Code, favouring a sort of

\* See Note C.

half measure on this point. He says, "that if a deputy, after speaking in support of an arrangement, which in the opinion of his constituents is contrary to their particular interest, gives his vote against that same arrangement, in such conduct there is not any real inconsistency. By his *speech*, his duty to the public is fulfilled; by his *vote*, his duty to his constituents." Surely this would be an attempt to combine incompatible advantages. If the arguments adduced in the present section are at all valid, the speech and the vote of the representative ought always to have the same direction.

Mr. Bentham's concession of the vote to the constituent body is the more surprising, as he had just before laid down the right principle in the most uncompromising terms.

"Separately or collectively," says he, "the constituents of a member of the legislature will at all times, as such, make to such their deputy what communication they think fit: to his cognitive faculty, to his judicative faculty, or even to his will, it may be addressed. But in so far as the good of the community, taken in the aggregate, is the paramount object of his care, no obedience will he pay to any such particular will, to the detriment of what appears to him the uni-

versal interest. Paramount to his duty to a part is, on every occasion, his duty to the whole\*.”

To conclude :—The true relation in which the representative and the constituents stand to each other, may be thus briefly stated. The office of the electors is to appoint a deputy to the supreme legislature, to regulate the concerns of the community ; and they have all the influence over the deliberations of that body, which is implied in the power to choose a man whose opinions are in accordance with their own. The duty of the representative is to use the authority thus reposed in him, according to his own judgment of the public good ; and, lastly, when the term of the trust has expired, it devolves on the electors to pronounce sentence on the manner in which it has been discharged, by renewing or withdrawing their confidence, or by other manifestations of opinion which the peculiar occasion may require. In the power of choosing originally a man of their own views, of scrutinizing every act which he performs in his official capacity, and of withdrawing the trust at the termination of the period for which he is elected, they have all the security which the case admits, that he will be guided by

\* Constitutional Code, p. 44.

a single regard to the public good ; while, by leaving him to act under these restraints, according to his own discretion, they derive the advantage of that superior intelligence which his position implies and his opportunities confer.

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#### SECTION IV.

##### *On the Publicity of the Proceedings of the Legislative Body.*

ONE of the strongest principles of our nature is the fear of the disapprobation of our fellow-men : this, of itself, is frequently sufficient to prevent unworthy conduct. Were an individual certain that his behaviour in any affair would become thoroughly known to the world, the world would have little reason to find fault with it.

The principle assumes a still more powerful influence when the public appear to have a special right to pass sentence on a person's conduct. When there is any manifestation of meanness, or lax integrity, or treacherous deceit, in private transactions between one individual and another, every witness of it, although totally free from any direct interest in its consequences, feels the com-



mon right of humanity to cast his censure upon it, without, however, feeling under any particular obligation to make the offenders themselves sensible of his opinion: but when there is a want of uprightness and good faith in the management of a public trust, we conceive ourselves more expressly called upon to mark our indignant disapprobation, to make that disapprobation generally known, and to convey it to the party who has been guilty of the wrong. Private vices, so long as they keep within the limits which exclude the cognizance of the judicial tribunals, are scarcely considered as matters for public animadversion; but vices in the administration of the affairs of the community, are properly regarded as fair objects of open assault. In these latter cases, consequently, the fear of public censure has far more force than in the former.

The salutary effects of publicity, on the management of trusts, may be gathered in the most convincing manner from the gross abuses which have invariably prevailed, when such concerns have been managed in secrecy. The disclosures recently made on this point may rouse contempt and indignation, but they can hardly excite surprise in the breast of any one who has reflected on the analo-

gous instances which a short experience of the world is sufficient to furnish.

On the general principle, then, of the salutary tendency of publicity, established as it is by uniform experience regarding the power of public disapprobation, and confirmed by the most flagrant instances of abuse where trusts have been managed in secrecy, it may be at once laid down, that the management of the greatest public trust in the country should be perfectly open to general scrutiny.

Independently, however, of this general reason, there are special grounds for publicity in the case of a legislative assembly. It is obvious, that in order to effect any thing like responsibility on the part of the representative to the constituents, the latter must become acquainted with the acts of the former in his official capacity. The very basis of the representative system would be subverted, if the legislative assembly were to become a secret conclave.

If responsibility is essentially requisite to secure the advantages of good legislation, if the representative system would be a mere nullity without it, the necessary arrangements must be adopted to render it effectual; and every one will see at a

glance that it cannot be rendered effectual, without publicity being given to what the representative does. Should the opportunities of information on this point be defective, the constituents cannot form a correct judgment, cannot fairly appreciate the conduct of the man whom they have deputed, and cannot therefore treat him according to his merits.

If, then, the very purpose of political representation demands that the constituent body should have a knowledge of his acts, it also demands that the knowledge should be not partial or imperfect, but complete, embracing not only the direction of his vote on any proposition, but the grounds on which it was given; and this can be attained only by the unreserved publication of all that was said and done on the occasion. To enable any set of constituents to judge accurately of the conduct of their representative on any question, it is necessary that the whole proceedings on that question should be laid before them. An account of merely what their own representative did and said would not suffice; they must see how his associates conducted themselves, what arguments he withstood, to what characters he was opposed, to what inducements he was subjected.

This is an all-sufficient, an imperative reason,

which may be felt as irksome or despotic ; but they cannot be of any great moment, and some of them may have even a salutary tendency. Publicity will not remove all evils ; it can operate only on matters of sufficient magnitude to excite attention.

The openness of the proceedings of a legislative body has a still further effect, and a very important effect, on the character of its measures. By means of it the whole nation is in fact summoned to consult together respecting their common welfare ; and although the great mass of the people cannot be expected to answer the summons in any efficient manner, there are some active observers scattered throughout the country, who, with capacities equal to the highest questions, are constantly watching what is going on, and bringing their knowledge and ability to bear on the subjects before the legislature ; while there are others possessed of peculiar information, which they are at all times ready to produce, but which could not be reached by any other means ; because, by no other means than the publicity of legislative transactions, could the possessors be apprised that it was wanted.

Thus, if there are faults and mistakes in any proposed measure, if there are inaccuracies in the

statements on which it proceeds, if there are fallacies in the arguments by which it is supported, if there are misconceptions as to the parties whom it will be likely to affect, they are almost sure to be discerned and pointed out by some one or other of the external audience. Against this process nothing palpably wrong, according to the existing state of knowledge, can stand in a well-constituted legislative assembly ; and we constantly see in our own parliament (imperfect as is the constitution of the two Houses), the most important measures fall before it ; while others shrink into smaller dimensions, or expand into greater amplitude, or assume a new aspect. If gross errors are still committed in the British legislature, it is from business being hurried through parliament with such extreme haste, and so much in masses, that it cannot undergo the scrutiny of either internal or external examination ; an evil arising from defective arrangements, and not difficult to prevent.

In addition to all this it deserves to be remarked, that the large external audience before whom each speaker feels that he is uttering his sentiments, modifies his oratory in various ways. While it is salutary in liberating him from the fetters of the narrow assembly before which he stands, while it renders him more careful in his

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statements, and more cautious in his arguments, sensible as he must be of the double ordeal they have to undergo, — it produces another effect, not altogether of the same beneficial tendency. It occasions a good deal of speaking, not for the purpose of elucidating the question, of assisting the assembly to form a right decision, of striking out truth from a comparison of opinion, but for the object of obtaining renown in the newspapers, and of enhancing the importance of the speaker both with his constituents and the public. A traveller to whom reference has already been made, in the section on the process of legislation, attributes to this cause the extraordinary prolixity of American eloquence.

Although prolix oratory seems to have been hitherto encouraged by the publicity of parliamentary proceedings, it is probable that what has fostered the evil will hereafter have an opposite effect. When the community has become more enlightened as to the qualities requisite to constitute a wise statesman, and better able to appreciate the great essentials of good deliberation, it may be considered quite as discreditable to utter a long inappropriate speech, however eloquent, as to erect a house with magnificent passages that lead to nothing. At



all events, the disadvantage which may flow from any encouragement of diffuse speaking by the publicity of parliamentary discussions, is of little moment when set against the benefits which that publicity confers. It is singular, that in the British House of Commons, notwithstanding the indisputable importance of these benefits, there should be such tenacity in clinging to the privilege of deliberating in secrecy. Instead of the public having a legal right to enter the House, and to listen to the debates, they are admitted only by connivance. They have now however established the custom, and the power of parliament itself would be vainly exerted to abolish it. Why then should not the matter be at once put upon the proper ground, and the community have a constitutional right to do that which is essential to the salutary operation of the representative system? Why should parliament in this and other things, grasp the empty form of useless and pernicious privileges, when the substance has long since departed? And why, when to exclude the public and the reporters of the debates has become impossible, do they not, with a wise policy, shaking off the feeling of tenacity of power in its pettiest forms, provide, that the publicity which is not only unavoidable, but

expedient and essential, should be carried into effect in the completest manner?

Every one who has watched the proceedings of public bodies, must have observed the universal reluctance they exhibit, to part with power which it is scarcely possible in the nature of things they can ever exercise; which is condemned by opinion, and dead in fact. A sort of comfort and complacency appears to be enjoyed in the bare possibility of using it, should occasion offer. "There is not," says Bentham, "a more universal principle of human conduct, than that which leads a man to satisfy himself for a while with the power, without proceeding immediately, perhaps without proceeding ever, to the act;" and (it might have been added) to be tenacious of the power when he never intends to proceed to the act. A little reflection will teach us, that in the case of laws which are dead and inoperative, we ought to shake off this proneness to the retention of obsolete authority. As it is always a good thing to have right principles recognized by the laws, so it is a bad thing to suffer wrong principles to remain embodied in them, although they may appear ineffective.

In the preceding remarks, we have been occupied chiefly with the effects of publicity on the

assembly itself; on the character of its proceedings, and on the nature of its decisions. The effect of this publicity on the minds of the people does not so immediately belong to our subject, and yet it is too important to be wholly passed over. Little can be added regarding it to what Bentham has already said, in his masterly dissertation on publicity in the "*Tactique des Assemblées Politiques Délibérantes.*" We can scarcely estimate too highly the salutary influence on the minds of the people, of making them parties to the discussion of legislative enactments. It raises their intelligence, more perhaps than any other means which could be adopted. Thousands of individuals are stimulated by the interest, which actual debates on passing events create, to read discussions which would be utterly repulsive to them in an abstract form. They thus gather continual information, grow accustomed to reasoning, yield up their prejudices, and by the various lights in which a subject is presented, learn to distinguish and to think for themselves. In proportion as men acquire information and reason upon it, they become in a less degree the creatures of mere impulse, are less liable to be led astray by rhetorical artifices, and less susceptible of being roused into headlong passion. The publi-

city of the proceedings of the legislature also inspires them with confidence and satisfaction. If they have not the pleasure of seeing their own sentiments universally prevail, yet they have in general the gratification of seeing them advocated by able statesmen—a gratification similar to that which a man enjoys in being permitted to have a hearing in the determination of an affair, in which he is personally concerned; and they are not left without a hope, that their views, if true, may ultimately establish themselves.

Under a system of secrecy, all this would be reversed. Comparative ignorance of political truth would inevitably prevail, attended by liability to sudden excitement from the artifices of the demagogue, or from those irrepressible suspicions which hover round what is mysterious and concealed. No full discussion, no opportunities of having their own opinions urged, would have prepared the minds of the people for the exertions required of them, or the regulations to which they were called to submit. Wise laws would be suspected or treated with indifference, and unjust or impolitic measures received with the bitterness of submission waiting for an opportunity of revolt.

M. Dumont furnishes us with a good illustration

of the effects of secret legislation. Speaking of the Helvetic government as then existing, he justly observes, that, by renouncing publicity, they give up the advantage of preparing the popular mind for the reception of their enactments. The public being thus kept in ignorance of the reasons on which the laws are founded, remain in a state of inferiority, which establishes a lamentable disproportion between the governors and the governed.

“The Helvetic Diet,” he adds, “prints its register; that is to say, the journal of its proceedings; but distributes only one copy to each canton. Is not this the consequence of an old aristocratic notion, which regards public affairs as the patrimony of those who govern? The publicity of the register would confer a great interest on the Diet and its discussions. Nothing would tend more to spread the sentiment of nationality, which is too weak in Switzerland, and too much subjected to the cantonal spirit. Is it the fault of the citizens, that they are unacquainted with a body, which does not show itself, which does not make the people a party in its views, which never holds communion with them about their common affairs, and leaves them ignorant even of the benefits it confers upon them? Since the new federal compact, there has been no session

of the Diet which has not signalized itself by wise measures of general administration, and by a desire to seek the common good : but in order to appreciate its services, it is necessary to know them ; and the nation knows neither its public men, nor its general interests. It results from this absolute want of publicity, that foreign politics are the only food for the national curiosity. Is this a just and legitimate system, conformable to the nature of our governments, to the spirit of the age, and to the actual wants of men\* ? ”

In our own country, the benefit of the free publication of the debates in Parliament appears to have been a slow and gradual discovery. In 1641, Sir Edward Dering, a member of the House of Commons, was committed to the Tower for having published his own speeches ; and the book itself was ordered to be consigned to the flames by the common hangman †. In 1729, complaint having been made that a country publisher had printed an account of a debate in the House of Commons, it was resolved, that such an act was an indignity to the House, and a breach of its privileges ; and that persons so offending, should be proceeded against with the utmost

\* *Tactique des Assemblées Politiques Délibérantes.*

† *Burgh's Political Disquisitions*, vol. i, p. 259.

severity. Even so late as 1747, Cave, the well-known editor of the *Gentleman's Magazine*, was brought to the bar of the House, and compelled to apologize for a similar offence\*. These few facts show the struggle that was made to retain an absurd privilege; and the present state of the case shows as clearly how ineffectual was the attempt to preserve it, amidst the growing opulence and intelligence of the people.

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#### SECTION V.

##### *On the Number of Members.*

AN important circumstance in the constitution of the representative body, is the number of its members; and it is not easy to see on what principle that number should be regulated. Two methods of deciding the point present themselves. We might commence any arrangements in relation to it, by determining the number of electoral districts into which a country should be divided, when the number of representatives, on the plan either of single or double representation,

\* Hallam's *Constitutional History*, vol. iii, p. 399.

would follow as a direct result: or we might begin by determining the number of representatives of which the legislature should consist, whence the number of electoral districts would be necessarily obtained. Of these two methods, the latter seems the proper and eligible course; for surely the size of the assembly should be first considered, in relation to the functions which it has to perform; and the most convenient and efficient numerical magnitude having been ascertained, the electoral districts should be regulated in conformity with it. Still, however, the number of members proper to constitute a legislative assembly is far from being determinable with such absolute precision as to preclude any modification from taking into account the number and size of the districts, which must always form a consideration in actual arrangements. The matter is one which manifestly admits of considerable latitude. Even with regard to the determination of the number of members which in itself would be most eligible, it seems impossible to find any precise principle on which to proceed. Some approaches, nevertheless, to the solution of the problem, may be made.

The supreme legislative assembly is essentially, as already explained, a deliberative body; and it



is acknowledged that large assemblies are unfit for deliberation. This arises from several causes. Every one accustomed to public affairs, must have remarked the effect of the mere presence of large numbers on the mind. Emotions arising from what is done or said, are greatly enhanced by it; so that a fact or expression which would scarcely be felt if a man were surrounded by only half a dozen others, becomes the cause of warm excitement in a numerous assembly. Hence the members are led into partial and magnified views and exaggerated phraseology; and even men of sense are seduced by irresistible sympathy into weak and inconsistent language and conduct. Amongst other effects, the known prevalence of some particular opinion in the assembly, especially when maintained with zealous warmth, seems to be sufficient to deprive an individual of the power of contending against it, and even to shake, for the moment, his confidence in his own well-considered views. He is borne away by the torrent.

“ In a numerous assembly,” says an able writer, “ individuals are more subjected than on other occasions to their senses and their imagination, and less capable of consulting and obeying the dictates of reason. Hence the origin of that religious frenzy, which formerly affected so

powerfully both the minds and the bodies of the enthusiasts of the Cevennes; and hence the acts of insanity into which public bodies are apt to be hurried in times of political revolution.”—“Everywhere,” he adds, “example acts upon the moral part of our frame, mechanical imitation on the physical\*.”

The manner in which the feelings are wrought up to a high pitch in large bodies of men, by trifling causes, is strikingly shown in the sudden panics on the one hand, and in the spirit of enthusiastic valour on the other, which occasionally seize whole armies; in the violent outrages of mobs; and in the religious extravagances of what are called camp meetings. “From instances of popular tumults,” says Hume, “seditions, factions, panics, and of all passions which are shared with a multitude, we may learn the influence of society in exciting and supporting any motion, while the most ungovernable disorders are raised, we find, by that means, from the slightest and most frivolous occasion †.”

\* Report on Animal Magnetism, quoted by Dugald Stewart. Elements, vol. iii, p. 200.

† Hume, Inquiry concerning the Principles of Morals, sect. 9.

The same heightening of emotion by the presence of numbers, on a smaller scale and in a modified form, manifests itself in less multitudinous and more enlightened assemblies than some of those just mentioned. Indeed, as Cardinal de Retz observes in an often-quoted passage, "all great assemblies are mere mobs, and swayed in their deliberations by the most trifling motives."

Where something is to be *done*, where action is what is wanted, where the spirit of enterprize is to be excited, this extraordinary exaltation of the emotions by sympathy and imitation, may be exceedingly useful; but where momentous questions are to be examined and discussed, where deliberation is the business to be performed, and an enlightened decision the object to be attained, this enhancement of feeling, by the presence of numbers, is an obstacle to judicious determinations, and is more likely to pervert than to benefit the proceedings of the deliberative body. This is a strong reason why the members of such a body should be limited to the smallest number consistent with the labour to be performed.

In large assemblies, too, mere physical powers usurp an undue influence in comparison with mental endowments. Energy of declamation, grace of gesture, compass and melody of voice,

make a greater impression than cogency of reasoning; loquacity overpowers good sense, and boldness of pretension casts retiring merit into the shade — effects, all of which detract from the wisdom of deliberative proceedings. The more numerous the assembly is, the more strongly and abundantly will the effects here described be produced, the more will the mere froth of thought and speech predominate over sound sense and solid information.

Nor is it a slight evil in a numerous legislative body, that the responsibility of the members, and the obligation under which they feel to exert themselves, necessarily diminish as their numbers increase. The completest responsibility and the strongest feeling of the necessity for exertion obviously exist, when a single individual is entrusted with an office unaccompanied and unaided. Every addition of a coadjutor produces two effects; it weakens the feeling of accountability and the obligation to activity in each of the official colleagues, inducing a proneness to rely on the other for the vigilance and exertion which he himself is disposed to decline; and, secondly, by the sort of uncertainty created as to his personal share in any joint act, and the reduction of his individual importance, it detracts from the

feeling of power to bring him to account, existing in the minds of the parties to whom he is responsible, as well as from the disposition to do it. There is evidently an increased difficulty in connecting the acts with the man, and a relaxation in the inducement to make the effort. These effects are visible enough in a large assembly like the House of Commons. There the diminution of the sense of responsibility and importance, the impression of forming only one in a multitude, and perhaps the hope of passing unquestioned in the crowd, combine to take away from many all activity. They are literally lost in the mass, both to their fellow members and to their constituents, or only discerned in the silent lists of a division. They see the business of the House proceeding at full pace without them, and find themselves destitute of all occupation but voting. It is not in the nature of the human mind, under these circumstances, to bestow such an attention on legislative questions as will master their difficulties, and the vote cannot consequently be given on well-considered grounds.

Such are the considerations which offer themselves against making the legislative assembly large. There are other counter-reasons why it

should not be made small. These are undoubtedly very indefinite terms, but in such inquiries it is impossible to avoid making use of them.

In a small number of persons, while there is less probability of finding the requisite variety of talents, knowledge, and disposition, there is a greater probability of the assembly being swayed by partial interests and narrow views. The necessity of dividing themselves into committees, in order to deal with questions more closely and effectually, requires the general body to be of a certain size, proportioned to the multiplicity of subjects to be thus examined. Care is also to be taken, that the members of the assembly be numerous enough to prevent the interruption of business, from instances which will always occur, of unavoidable absence and temporary disqualification. It is also to be considered, that a small body of deputies would render it necessary to extend the electoral districts to an inconvenient size, which might make it difficult for the electors on any occasion to act together, might diminish their interest in the exercise of the elective franchise, by decreasing the value of each vote; and on the other hand, might aggravate the spirit

of intrigue and violence in the candidates and their friends, by augmenting the value of a seat in the legislature\*.

We meet with the same difficulty here as in many other questions of degree; and the experience of particular assemblies may be called in, to arbitrate between conflicting general principles. The number of which the British House of Commons consists, is notoriously so large as to produce many of the evils already brought into view. It is not hazarding much to affirm, that, if that assembly were reduced to less than one half, it would be a more efficient and beneficial instrument for the dispatch of public business. In the United States of America, they do with little more than two hundred deputies in the House of Representatives. Of course the numerical magnitude of the supreme legislative assembly must vary in every nation, in consequence of peculiar circumstances. The general tendency amongst those who have influence in the matter, is to swell the number too high; and as experience shows that it is always a difficult task to reduce it when once fixed, the part of wisdom, in every case where the practical question arises,

\* See Bentham, on the Tactics of Legislative Assemblies.

appears to be to fix it sufficiently low. In every country it must always be true, that a crowd is unfit for deliberation.

In order to effect a diminution in the number of the present British House of Commons, which we may advert to for the sake of illustration, the constituencies would have to be enlarged, and the plan of district representation adopted, instead of that of counties and boroughs. Another expedient might be, the discontinuance of double representation, or, in other words, of the practice of deputing two representatives from one place. These alterations, if called for by a general conviction of their propriety, without which it might be impolitic to attempt to introduce them, would be attended with several advantages, as already indicated. While the salutary responsibility of members would thus be largely increased, by their becoming individually more important, and occupying a greater space in the public eye, the worst part of the sort of responsibility now existing would disappear — that, namely, which is created by the domination of cabals and mobs and factions, owing to the representation being local, and the constituency being usually scanty and of a peculiar character, and, if numerous, yet congregated in one place, and subject to one im-



pulse. In district representation, there would be less play for petty interests, prejudices, and passions; or, at all events, those of one place would probably be counteracted by those of another: and while the qualifications required in a representative would be of a more elevated and comprehensive description, his character and conduct would be estimated on higher and more general principles. Thus, while the responsibility would be really stricter and more efficacious, it would be exempt from much that on the present system is uselessly repugnant to an independent mind.

All the parts of a judicious system of representation would harmonize with each other, and in advocating a small number of members in a legislative body, and a district representation, it will be observed, that the present treatise also advocates provincial legislatures, secret voting, and triennial elections, without which the suggestions in this chapter might be injudicious. With them, there can be little doubt that a third of the present number of the House of Commons, parcelled out amongst the population of the empire, would be quite adequate to the task of good legislation.

The chief reason why a borough requires at present to have representatives of its own in

parliament, is the multiplicity of local business which it has to bring before the legislature. If this business were devolved, as it ought to be, on a domestic or provincial assembly, that reason would cease to have place, and the constituency of the borough (unless it were extraordinarily populous) might be advantageously united with the constituency of other boroughs, and with the country voters in the same district ; all combining to send one deputy to the supreme legislative assembly.

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## SECTION VI.

### *On the Qualifications to be required in a Representative.*

THE province of the supreme legislature having been determined, or suggestions at least having been offered, with the view of assisting to define its limits, and the process of legislation having been considered, as well as the relation between representatives and constituents investigated, the order of the subject naturally leads us to inquire into the qualifications necessary for the office of representative ; or, rather, to the more definite

inquiry into the qualifications which it may be expedient to prescribe by positive enactment.

We have, however, in the first place to dispose of the preliminary question which may be raised ; whether any benefit arises from prescribing by law any qualifications at all ? The effect of such a requirement is undoubtedly to narrow the choice of the electors ; and if the system on which the election is conducted, is well adapted to effect its proper object, a limitation of this nature (it may be said) can scarcely be of any service, while it will probably do much harm, by preventing the community from availing itself of the abilities of some of its most valuable members. It must be recollected, that requiring certain qualifications in electors, and requiring certain qualifications in representatives, are very different cases. The electors themselves are not chosen by other persons, but are at once designated and set apart for the purpose in view by the law of the land ; whence it is necessary that their qualifications should be predetermined. The representative, on the other hand, is chosen by his constituents, who can deliberately take into view all the circumstances of his character and condition ; and if they are competent to choose at all, it seems needless to attempt to direct their choice, in any respect, by law.

There appears (it may be urged) an inconsistency in giving them the privilege of choice, and then taking it out of their hands to a considerable extent, by proscribing certain classes of society.

It may be contended, on the other hand, with more justice, that legal qualifications are useful on two grounds. First. They prevent all the trouble which might arise from candidates presenting themselves who are notoriously improper. There may be no chance whatever of such candidates being elected, but their self-love, blinding them to the fact that they labour under irremediable and incontrovertible disqualifications, and enticing them on by the visions of success which their own conceit has inspired, they enter boldly into the contest, and create fruitless inconvenience to all parties. Now, laying down beforehand such circumstances of disqualification as are universally admitted to be proper, is a proceeding, which, while it can do no harm, may obviate troublesome pretensions of the character here described.

Secondly. When men make laws they are usually, perhaps always, in a fitter state of mind for discerning what qualifications are requisite for an office, than when they are engaged in considering the merits of actual candidates for it. In the heat

of a personal contest the want of such qualifications may be neglected, although the parties who overlook the deficiency would feel, in the coolness of reflection, the paramount necessity of requiring them. It seems wise, therefore, at the outset, while the matter is merely an abstract question, and before any personal or party consideration can come into play, to fix on such qualifications as are at once highly desirable, and susceptible of being predetermined and enforced by enactment. On examination, it will be found that those qualifications which can be thus prescribed are necessarily very few. To be determined beforehand, they must admit of being precisely defined; and in order that they should be enforced, the possession of them must be accurately ascertainable, and (what is implied in that) not easy to be counterfeited. Age, sex, sanity of mind, and freedom from convicted guilt, and perhaps, we may add, freedom from the occupation of a trade or profession, appear to be circumstances of this class. The possession of any specified amount of property does not. A man may be rich one day and poor another, without any loss of fitness or ability to fill the office of representative: the possession of a specified amount of property cannot always be exactly ascertained, and the requirement of the

law can be so readily evaded by the creation of a fictitious ownership as to make it a nullity.

The present qualification for a seat in the British House of Commons is notoriously evaded, and has, probably, never kept half a dozen men out of parliament since it existed. If any have owed their exclusion to this cause, they have been just such as ought to have been admitted in preference to any other; such as were more scrupulously conscientious than the generality of their species. The regulation has, therefore, been positively injurious, in regard to any effect which it may have had in sifting one description of men from another; while, in attempting that object, it has given rise to perjury, or to something approaching to it, and thus done what all restrictions which can be successfully evaded inevitably do, lowered public morality. When we first look at this requirement it appears to have something whimsical on its surface. The legislators who imposed it seem to say to the electors, "We have resolved that we will not suffer you to vote for any candidate who is not in possession of freehold property worth three hundred pounds per annum. To have a representative in parliament who had less than this amount of this particular description of property, would be highly injurious, and we therefore will not

permit him to sit, although you should be imprudent enough to depute him. In other respects we think you competent to use your own discretion. We, consequently, do not prohibit you from delegating a gambler, a drunkard, a fool, a seducer of innocence, an uneducated, illiterate, or ignorant interloper, a liar, or a swindler. If you can make up your minds to choose representatives of this character, you are at liberty to do so, but we cannot entrust you with the perilous discretion of selecting a poor man, however virtuous or able: nor can we confide to you the dangerous privilege of fixing your choice on a man, however large his income may be, who possesses nothing but such evanescent property as leasehold estates, canals, rail roads, public funds, manufactories, machinery, and ships. The danger which would arise from your choosing a virtuous and highly-gifted poor man, or the estimable owner of even immense personal property, so infinitely transcends that which would be the consequence of selecting the most abandoned profligate, that, while we permit you to follow your inclination in the latter case, we most rigorously prohibit you from exercising any option in the former."

The first natural impression on every mind must

be, that if on such important points as the moral and intellectual qualities of candidates, the electors are left to the exercise of their sagacity and discretion, they may be trusted on this. The inquiry springs to the lips, why the law should step in to guard the parliament from the contamination of destitution of property, and that of only one particular kind, and leave it exposed to the contagion of vice and folly?

It must be admitted, however, that there is a ground of distinction between the two cases, although an insufficient one. It is impossible that the law should mark out the moral and intellectual qualities to be required in the representative, except the extreme instances of freedom from convicted crime, and from certified imbecility or derangement of mind. To attempt it would obviously lead to such complicated difficulties, that the time and attention of the community would be engrossed by the task of choosing the instruments of good, while the good itself was left undone.

In the case of requiring a certain amount of property, on the other hand, the qualification may be distinctly defined, and so far it fulfils one of the conditions shown to be necessary: its defect is that it wants all the rest. It is not desirable that



every representative should possess a specified amount of property ; and the possession of it is not ascertainable.

The true reason, then, why certain moral and intellectual qualities should not be required in a representative is, that although they are exceedingly desirable, there can be no accurate designation of them, and no precise and ready criterion of their being possessed. The true reason, on the other hand, why a certain amount of property should not be required is, that although it can be accurately designated, the possession of it is not highly desirable, nor if it were desirable, could it be ascertained\*.

As to that part of the regulation in the British representative system, which requires a member of the House of Commons to be the owner, not only of a specified amount of property, but also of a particular description of property ; every one must see, that if it could not be evaded, and was not for that reason ineffectual, it would be mischievous. In the present state of society, in which an immense mass of what is called personal property exists, the retention of a rule, so utterly at variance with our actual circumstances, would be

\* The French qualification for a deputy (the payment of 500 francs in direct taxes) is superior in principle to the English, from the ease with which it is verified.

inexplicable, did we not every day see instances of regulations being sacredly preserved, when not only the reasons for which they were originally adopted have long ceased to have force, but a thousand reasons against them have sprung into existence\*.

A law, disqualifying men from sitting in the legislative assembly, on account of possessing more than a certain amount of property, might be defended on better grounds than that which excludes individuals on account of their indigence. The possessors of extraordinary wealth have, in the first place, little sympathy with the great body of the people. Accustomed to command their gratifications, to have every thing presented to them almost as the wish for it rises in their minds, and to view their fellow-creatures as inferior beings, existing to contribute to their enjoyment, it is impossible for them to enter into the pains and pleasures of individuals hourly struggling in the world, some for a bare subsistence, and some for the preservation of their position in society.

\* The qualification act, requiring members for counties to be men of at least 600*l.* a year, and burgesses of 300*l.* in land, was passed in the year 1711, when the majority of the Commons were Tories. The design, Burnet says, was to exclude merchants and traders.—See Burgh's *Political Disquisitions*, vol. ii, p. 271.—See also Hallam's *Constitutional History*, vol. iii, p. 403.

But not only have eminently rich men little sympathy with others, but they are deficient in another point — in habits of intellectual exertion and application to real business. Mental efforts are not made without inducements, and the easy manner in which the rich man's desires are gratified, leaves him bare of motives to overcome the *vis inertiae* of a luxurious condition. It is by no means needful, however, for the reasons already stated, to exclude by law either the poor or the rich, of any degree, from a seat in the legislature. No very poor man, it may be added, would be chosen in any circumstances, unless he were distinguished by remarkable qualities; and no very rich man would offer himself, under a proper system of representation, unless he were prepared to yield his time and attention to the duties of the office.

Amongst the qualifications enumerated as legitimate subjects of pre-determination by law, the only ones to which it seems necessary to advert more at length, are age and freedom from other occupation. It is of indisputable importance that a legislator should be of mature age, notwithstanding the prevailing practice which implies the contrary. How, in the nature of the case, can a young man, however gifted with original abilities, and instructed and disciplined by education, understand

those complicated and difficult questions which form the proper business to be submitted to the legislature? That depth of knowledge and solidity of judgment which are necessary for the full consideration and discreet determination of such questions, can be the result of nothing but the thought and experience of years. It is easy for a young man to catch the popular doctrines of the day, and expound them with force and eloquence; but it is not in the range of possibility that he should make the subjects fully his own, understand all their bearings, see all their consequences, and be completely aware of the modifications which may be requisite to adapt them to use. In legislation, as in other arts, there is a tact, a nicety of judgment, an intuitive apprehension of the relations of things, a wisdom which age indeed does not always bring, but which age alone can bestow. If the period of maturity for the legislative office were fixed, by law, much higher than what we have been accustomed to see in the practice of this country, great advantage would result from the exclusion of men of unripe minds, who now occupy seats which ought to be filled with senators prepared for the office by a long course of study and reflection.

It must be taken into account, that after a man

has fairly embarked in the business of a statesman, he has no longer the leisure for mastering the general principles and comprehensive views of his science ; he becomes involved in details, which a knowledge of principles alone can marshal into order and convert into use. Previous, then, to his entrance into active life, he ought to have possessed himself of the general truths belonging to political philosophy. Years of assiduous study, after he has emerged from the discipline of the school or the university, would not be more than sufficient for a task at once so necessary and so arduous. In the United States of America, no person can be a member of the House of Representatives who has not reached the age of twenty-five : in France, the age of admission to the Chamber of Deputies is thirty. At the latter age a legislator would not find that his understanding was too mature, or his experience too extensive.

But there is a qualification of even still greater importance than maturity of years ; and that is, freedom from all other serious or momentous occupation — a qualification hitherto completely neglected. In common life, we should never dream for a moment of entrusting any affairs, which required incessant attention, much research

after knowledge, and much thought, to a man whose time and mind were already fully occupied with other matters. And yet what private affairs are there that demand more time, research, and thought, than the business of legislation?

It is true, that, as hitherto conducted, a casual attention to it has enabled the legislator to escape without any high degree of blame; and it may possibly be contended, that, provided a small number of the members of the legislature devote themselves to the work, the rest will be of as much service as can be required, if they give the nation the benefit of their judgment on what others devise; which may be accomplished by clever men, although the chief part of their time is devoted to the labours of a profession. A delusive representation of this kind would hardly need exposure, had not it been recently insisted on in a quarter entitled at least to the deference of refutation.

A slight consideration will suffice to show, that every member of the legislative assembly ought to be an effective one, and devote to its business the principal share of his time and attention.

All experience proves, that a numerous legislative assembly is an evil: the smaller the number of members, if they can do the work, the

better; and, to obtain this advantage, it is essential that every member should attend during the appointed hours of meeting, and take an active and efficient part in the business. To give any individual the power of absenting himself habitually, occasions the necessity of an addition to the number of members otherwise sufficient. But this is not the most pernicious effect. Unless he is present during the whole of the sittings, he can be no competent judge of the questions which he has to decide; and the chances are that his vote will do mischief, inasmuch as it must be given in a state of ignorance and misapprehension. Is it in the faintest degree conceivable, that the most gifted individual, after having been exhausted by the labours of a profession, after having had his faculties jaded or perplexed by the intricacies of the law, or by the calculations and anxieties of commerce, can be in a condition of mind fitted to take an adequately cool, keen, and comprehensive survey of a momentous political question, to weigh the evidence conflicting and multifarious, and to estimate all the circumstances which ought to enter into the determination?

To have a great number of members who cannot or will not take a fair share of the business of

the assembly, merely that they may drop in at the close of a debate to dispose of questions by an aye or no—questions which they thus cannot be in a proper intellectual condition to decide—seems an expedient to determine that by a mob, which ought to be determined by a senate; to fling to chance or caprice or prejudice what ought to be entrusted to careful and mature deliberation. It is no wonder, that, under a system admitting of such practices, the constituent bodies have fancied it to be their business to instruct those whom they depute. Such practices, in fact, take away all force from the arguments adduced to show that instructions are inappropriate and injurious.

If the most thoughtless mind will dwell a few moments on the subject, it cannot fail to perceive both the importance and the difficulty of the task which the legislator undertakes. Its importance needs no illustration. Powerless as government is to create happiness, there is scarcely a day in our lives, the enjoyments of which are not affected by the acts of the legislative assembly, and which may not be embittered by one of its heedless errors. The difficulty of the task is not less than the importance. Political science is perhaps that department of intellectual exertion, which requires the greatest powers of mind, and the



intensest application. Its facts are multifarious and complicated, often anomalous and contradictory, and demanding the guidance of clear principles: its principles are many of them abstruse, and to be developed only by long and close processes of reasoning; and the application of these principles requires the sagacity of quick observation and long experience. The whole business calls for that familiarity of mind with the subject, which can be the result of nothing but habitual daily devotion to it.

In making laws, too, not only is there a demand for powers of mind to cope with the disorder and complication of facts, and the abstruseness of reasoning, but there ought to be also a complete mastery of language, that nice and delicate instrument of thought and communication, by the clumsy handling of which so much confusion and uncertainty is yearly produced in legislative enactments. Every word in a law is of importance; every sentence ought to exhibit that perfectness of expression, which is to be looked for only from the skill and caution of undistracted minds. Well might Bentham observe, that the words of a law ought to be weighed like diamonds.

Is this, then, a matter to be dealt with by an

exhausted professional man in what should be his hours of recreation? Can such a one be competent to a task hard enough for the mind which comes to it every day with all its vigour fresh, all its perspicacity undimmed, its spirit of activity unworn, and its feelings of interest unabsorbed? Is the refuse of an individual's time and abilities what a people are to be content with, from a representative to whom they confide the determination of measures, in which their prosperity is deeply implicated? Is this sufficient for governing the destinies of a great nation? And why should the electors place such men in parliament? Why should they choose individuals, whose time is avowedly and unavoidably engrossed by their private pursuits? And why, above all, should they prefer men so occupied, to those who are entirely at leisure, and who, in a country like this, are everywhere to be found?

While the current of life flows on smoothly, the interest which each individual has in good government evidently makes little impression on his imagination: it consists, for the most part, of small fractions of benefit scarcely appreciable; of protection from evils, to which, as they are prevented from occurring, he is insensible; of ad-

vantages, which, to a superficial view, accrue to him only under particular circumstances, such as redress of wrong when he has occasion to appeal to the law. Most people are therefore supine and indifferent as to the general course of domestic policy, and especially indifferent as to the intellectual qualifications and conduct of their representatives. Their minds want awakening to the difficulty and importance of sound and accurate and systematic legislation. They may rest assured, that, in our complicated state of society, it is a business which requires as long and assiduous preparation as any profession which can be named; and as entire devotion to it, when its duties are once undertaken, as the calling of a lawyer or a physician, a merchant or an engineer. One chief reason why there are so many needless, blundering, crude, mischievous, and unintelligible enactments, is, that men have not dedicated themselves to legislation as a separate study or profession, but have considered it to be a business which might be played with in their hours of leisure from pursuits requiring intense exertion. Had members of the supreme assembly no other occupation to attend to, we should no longer see the absurd practice of meeting to legislate for the country at those hours, when the

vigour and perspicacity and soundness of the mind are at the lowest point. No one who had any acquaintance with the mental and physical constitution of man, could expect the best possible laws from nocturnal legislators, already exhausted by the occupations of the day, and frequently obliged to resort to some sort of stimulants to keep up the capacity of attending to what is before them.

No question then can arise, as to freedom from other occupations being a desirable qualification in a representative. Let us examine whether it is susceptible of being predetermined and enforced by enactment; that is to say, whether it can be defined, and whether the possession of it can be accurately ascertained, or whether it can be easily counterfeited.

The qualification in question can be defined assuredly with sufficient precision. No one can well mistake what is meant by freedom from occupation; but the description might be made more particular: we might say, freedom from occupation by a trade, profession, or office, requiring personal attention. Even a distinct enumeration of trades, professions, and offices, might be resorted to.

In the next place, the possession of the qualifi-

cation seems ascertainable with sufficient accuracy. Whether a man, for instance, is practising as a lawyer, physician, or engineer; whether he is on active duty in the church, the army, or the navy, or an envoy at a foreign court, or a public functionary at home; whether he habitually stands behind a counter, or sits at a desk; are circumstances which must be generally apparent. If they are not apparent, it may be presumed that the parties are not engaged sufficiently in the occupation, to interfere with their duties as legislators.

In the third place (and this is only stating the same thing in different terms), the qualification in question is not one which can be easily counterfeited. A man can scarcely simulate being at leisure from occupation, when he really is not so.

It may possibly be alleged, that, although it may be ascertainable whether a man is or is not engaged in any of the busy trades or professions of society, yet he may be equally absorbed by secret pursuits which can never be discovered; as, for example, by literary and scientific studies, quite as much at variance with the office of a representative as any more visible occupation. And it may be further alleged, that employments

are so widely diversified, and pass by such insensible gradations from a private to a professional character, that it is impossible to draw a line of demarcation. Even were this allowed, it would be no reason against the requirement which we are considering. If you can prevent men who are engaged in the principal active pursuits of the world from undertaking public duties for which those pursuits leave them no adequate leisure, you effect a great good; although you may fail to prevent other men from undertaking such duties, who are equally but more secretly occupied. Every one, nevertheless, must be sensible, that private pursuits of this kind do not make that imperative demand on the time and attention, which is made by professional engagements; that they are suspended for very slight reasons; and that, in general, the social and animating duties of the legislator, would have stronger attractions than the silent and solitary studies of the closet. Few men devote themselves to assiduous studies of any sort, except with views in which pecuniary emolument makes a conspicuous figure; and in that case their studies are mostly professional, and are out of the class contemplated by the present argument.

It may be alleged by others, that the object in

view might be better attained by requiring from the members of the assembly strict personal attendance during a certain number of hours. A regulation of this kind would no doubt have the same tendency, and such a one has been proposed by Mr. Bentham. There is one advantage, however, which it would not secure. The members of the legislature might be present in person the required number of hours, but they might be absent in mind. There are certain professions which they would continue still to pursue, and their thoughts would be inevitably distracted from duties which can be properly discharged by no one, whose understanding and feelings are not concentrated upon them.

It may be remarked, too, that if the regulation in question had the effect of excluding men engaged in busy professions, it would have the same result as a direct law to exclude them. If it had not the effect of excluding them,—if they still obtained seats, and were compelled to attend during the prescribed hours, yet they would be perpetually under a strong inducement to absent themselves. Considered as a substitute for a law of exclusion, the plan would in fact amount to this; instead of admitting such members only as were exempt from other important engagements,

it would admit men who were constantly sustaining the powerful attraction of more interesting pursuits, and it would do so in reliance on the counteraction of a powerful check. The more simple method would seem to be, to dispense altogether with men whose propensities required to be thus neutralized, if any others equally intelligent could be met with : to choose persons enjoying full health with ordinary diet and regimen, rather than persons continually prone to disease, and kept from the sick list by nothing but a perpetual course of strong preventive medicines.

If, nevertheless, it were thought advisable, on more general grounds, to exact a strict attendance from members of the legislature, not by the moral force of opinion, but by positive regulations, as Mr. Bentham has proposed, such a proceeding would not be incompatible with a law directly disqualifying members engaged in professions, although it might render a law to that effect less necessary.

In carrying such a disqualification into effect (and of the judiciousness of doing it *by law* we would be understood to speak with some diffidence, from a dread of superfluous legislation), the range of selection left to the constituent body would doubtless be narrowed ; but it is of little avail to have



the power of choosing public servants who have not time to perform their duties ; and the range of choice might be expanded again, by the obvious expedient of annexing a salary to the office of representative. In truth, this expedient seems to be required at all events, in order to secure the services of the ablest men, and to give the greatest intensity to the motives which impel the mind of the legislator to apply itself to the difficulties of the task, as well as to enhance the vigilance of the constituent body, by teaching them the value of his services, and of their own suffrages, in a way which the dullest amongst them can understand. Under such an arrangement, men of energetic and comprehensive minds, trained to vigorous personal and intellectual exertion, but who are obliged to devote themselves to pursuits yielding a profitable return, and are consequently at present either excluded from the legislature, or are mere cyphers in it, would be, with all their faculties, at the command of the public. Men of this description, so gifted, and so placed above private cares, would be invaluable : for instead of giving that lazy gentlemanly attention to public questions, which, in their own apprehension at least, is all that can be reasonably expected from unpaid representatives living in luxurious opu-

lence ; or that casual and intermitting, and brief attendance on their duties, which is all that professional practitioners can bestow, they would make their legislative functions the business of their lives. Strenuous intellectual exertion, except in the case of a few extraordinary minds to which it is a pleasure, as severe corporeal exercise is to a man of great muscular strength, is irksome, and seldom habitually undertaken without a powerful external motive. It is surely policy in a nation to furnish this motive for due application to national affairs\*.

To set against these advantages there appears to be nothing but the expense. On the most liberal calculation, less than half a million sterling would effect the object ; and every one must own that this would be mere dust in the balance, when placed against the benefits to be derived from substituting masterly legislation for the deplorable work which has too often passed under that name.

Another qualification has been prescribed by the constitution of the United States of America, namely, that the representatives should be resident in the state for which they are elected. This is doubtless a desirable qualification, but scarcely of

\* See Note D.

that clear and decisive benefit which calls for the aid of an enactment. In America, where every state forms a sort of independent political body, and might, in extreme cases, detach itself from the confederacy, and is capable from its magnitude of erecting itself into a separate republic, there is more reason for such a regulation than there could possibly be in our own country. With us, a restriction of this nature would limit the choice of the electors, without any adequate counter benefit, and would be attended indeed with a peculiar sacrifice of advantage. Many of our distinguished characters, although of provincial origin, reside in the metropolis, and would thus be precluded from all chance of a seat. Nor would such a restriction be needful for the purpose of securing a due attention to the local interests of the places represented. On the plan of district legislatures, the possession of local knowledge would be no longer necessary in members of the national legislature. The representatives deputed to the supreme assembly would then have to deal solely with questions of general interest and importance, and might be chosen from the pre-eminent men of the whole empire wherever they are to be found.

It may be noticed, too, that in the United States

they exclude from Congress all the members of the executive department, which appears to be a regulation affording no advantage to compensate for the loss of that quick and close communication between the legislative and executive powers, which is effected in England by the admission of the ministers of state \*.

As there are few of the qualifications requisite in a legislator which can be determined beforehand, or the possession of which is ascertainable

\* It may be right to add, however, that on the American plan of conducting legislative business, the presence of the executive functionaries seems less requisite. "Here," says an American journal, "no part of the work of legislation is performed by the executive. The business is distributed at the commencement of the Congress among a variety of standing committees of the two Houses, who regularly prepare all the Bills: these Committees commonly meet every day at ten o'clock, and remain in session till twelve. At that hour the sitting of the two Houses commences, and, as a general rule, the members are all in attendance. They regularly remain together till four; and towards the close of the session, when business becomes pressing, they return and sit several hours in the evening." *North American Review*, No. 82, page 252. In France they proceed on quite an opposite system. There, all cabinet ministers, whether peers or commoners, have the right of being present, and of speaking in both Houses, although they have not the right of voting, unless they are regularly members. It is the common practice, nevertheless, for such ministers as are not peers to obtain seats in the representative chamber, so as to be able to vote.

with the precision necessary to make them subjects of positive enactment, it is the more incumbent on the members of the constituent body to exercise with careful deliberation the large discretion unavoidably confided to them. If they are duly impressed with the importance of making a proper choice, they will see how indispensable it is to understand something of those qualities which are desirable in the man who is to watch over their interests. In showing that freedom from all other serious occupation is an essential requisite, we have already had occasion to describe some of the intellectual faculties and attainments by which the statesman ought to be distinguished. It would be vain to attempt to enumerate or expatiate upon the various moral and mental endowments which would find scope and employment in that important office, and equally vain to erect any precise standard of excellence. Men cannot be created for the purpose; they must be taken as they happen to be found, varying with endless diversity of faculties, acquirements, principles, and passions; and the electors will have to decide, not according to what ideal model of perfection they will have their representative fashioned, but which of the actual men proposed to their choice is the likeliest, on the whole, to promote the public good.

## SECTION VII.

*On the Duration of the Trust.*

The responsibility of the representative, according to the view of the subject exhibited in a former chapter, is in the main constituted by the liability to which he is exposed, of being dismissed from the office, or rather of not being reappointed at the expiration of the trust. The intenseness of the responsibility must obviously depend on the length of the term for which he is elected. If it were the sole object to carry the sense of accountability to its greatest height, the direct and most effectual expedient would be, to subject the representative to instantaneous dismissal at the pleasure of the electors, coupling it with the fixed and absolute cessation of the trust at the distance of a very short period.

But to enhance the responsibility of the representative, is not the sole object to be regarded in fixing the term of service. Responsibility is only one of the conditions necessary for good legislation; and it may easily be pushed to an extreme incompatible with others for which it is equally essential to provide, in regulating the duration of

the office. We must take care that our regulations are such as will not deter the most competent persons from undertaking the task, nor discourage them, when they have once embarked in it, from applying their best energies to the discharge of the duties confided to them. Unless a certain permanence were attached to the office, such men could not be induced to enter upon it; and provided even they could be induced, the precariousness of the tenure would dishearten them from engaging in those measures of long-sighted policy, or those plans of necessarily slow accomplishment, in which they might be so shortly interrupted, and their labours rendered abortive and unavailing.

A very brief and precarious tenure would also destroy that degree of independence, in thought and action, proper to be maintained by every representative amidst the responsibility to which he is subject. It is quite requisite, in order to have the best legislation which the state of knowledge and of society will admit, that the legislator should be left to the unfettered, independent exercise of his own judgment on the questions brought before him; unfettered, at least, by any necessity but that of proving that he has acted in an upright and conscientious

manner. We have already seen, that the end to be accomplished by rendering the representative dependent on the people, is that he should be determined to apply his efforts with a single view to the public good, and not that the direction of his efforts should be prescribed by his constituents. Were a man of integrity and abilities called upon, under an enlightened system of representation, to become a deputy to the legislative assembly, and to give up his other pursuits that he might devote himself to the public service, he would, as a wise man, consider the disadvantages to which such a step would expose him. If he found that he could not depend on the duration of the office, nor on being permitted to exercise his dispassionate judgment, but that he would be constantly subject to the dominant control of a constituent body, inferior on the average in qualifications to himself, and be liable at all times to an abrupt dismissal, and a sudden interruption of his public-spirited labours, he would probably decline the honour intended for him.

Abundance of men might doubtless be found, with plausible qualities and specious eloquence, who would accept the office on these conditions, who would adapt themselves with supple pliancy to the demands of their constituents, and fluctuate



on the tide of public opinion with all the passiveness of foam upon the wave. These, nevertheless, are not the men to be entrusted with political power. You must have, not only responsible representatives, but legislators of independent minds, who will strive to promote no other measures than such as their opportunities of forming a judgment have shown them to be for the public good; and will not sacrifice their conscientious convictions, even to please those who have appointed them. No man is less fitted to become the national benefactor, which a legislator ought to be, than the slave of a constituency.

In order to secure responsibility without sacrificing the services of the best men, and destroying independence of mind, the proper expedient appears to be, to elect representatives for limited periods. Were they elected for life, any special responsibility to the men who had elected them would be entirely destroyed. It is the remark of Burke, that, "if once members of parliament can be practically convinced that they do not depend on the affection or opinion of the people for their political being, they will give themselves over, without even an appearance of reserve, to the

influence of the court \*." Were they elected, on the other hand, for no precise period, and removable at pleasure; or even elected for a very short fixed period, the most competent persons would decline the office; the representatives would be the passive tools of the electoral bodies, and the advantages of enlightened and unfettered legislation could not be attained. It becomes then a problem of some delicacy to fix on a period which shall best combine the desirable objects in view.

From the nature of the human mind it is manifest, that advantages and disadvantages, placed at a greater distance than a few years, have but a feeble and fluctuating influence in competition with such as are close at hand. It seems to be beyond the power of the prospective faculty, to keep them steadily in sight. The mere chances of life, besides, are sufficient to destroy the power of distant evils on the imagination, most men having a vague but strong reliance on their personal good fortune for escaping from any remote painful consequences of their own conduct, — a resistless hope that something will turn out to effect a diversion in their favour.

\* Thoughts on the Present Discontents.

If men thus feel no great apprehension of what is to happen after a few years, to extend the duration of legislative service much beyond that period, would diminish the sense of responsibility to almost nothing; while it is probable that a settled term of two or three years would afford scope enough for the views and desires of those able men, who would shrink from a shorter or a precarious service; and would suffice to give them an opportunity of establishing their character and unfolding their principles.

It is impossible to determine the point with exactness without reference to actual experience; and the experience of our own country, in combination with the preceding considerations, if well weighed, will probably lead the mind to fix three years as the longest period consistent with a salutary sense of accountableness. In England this period would have precedent and historical associations of no mean interest in its favour; a circumstance which would recommend it to many, and which ought not to be despised on a question affording no very precise grounds for its determination.

The conclusions to which we have come, will enable us to appreciate an expedient, which has sometimes been resorted to, in order to enhance

the responsibility of the representative; namely, exacting from him a promise to resign his trust whenever called upon to do so by his constituents. In the first election after the Reform Act, several of the candidates voluntarily offered to place themselves under this obligation. Any one who reflects on the reasons why a fixed term of service is adopted, will soon perceive that they are incompatible with the expedient in question.

Electing a representative for a given period, under a promise to resign when called upon to do so, is to all intents and purposes electing him to fill the office only during the pleasure of his constituents, with the disadvantage of a predestined termination of the trust at a specified time, provided it is not sooner withdrawn.

Such an expedient, therefore, would be attended with the disadvantages already pointed out, of deterring the most eligible individuals from aspiring to the office, and of weakening the inducements to grapple with the difficulties of legislation, as well as of impairing independence of conduct. If any one proceed to trace the actual operation of such a promise under our present system of election, he will discern further evils. To a superficial view of the subject it seems plausible enough, that if a representative should

be summoned to vacate his seat by a majority of his constituents (suppose in a written document authenticated by their signatures, in order to make the case as strong as possible), he ought to comply with their requisition. It is not observed, that such a plan would either furnish only a deceptive criterion of the sentiments of the electors, or must give rise to all the trouble and expense of a new election. This may be readily shown. If such a document were obtained privately, it would deserve no weight, inasmuch as it would be the result of secret cabal and *ex parte* statements. If, on the other hand, an attempt were made to obtain it publicly, all the machinery of an election must be put in motion. The friends of the accused member would not of course remain inactive; they would set themselves to get up a document of an opposite character, and strain every nerve to support their own cause. Both parties, on the present wretched system, would probably resort to the usual arts of cajolery and intimidation. The whole procedure would in fact be tantamount to a new poll under a somewhat different form. The will of the majority could be ascertained in no other way. Committees would be formed, canvassing carried on, addresses, placards, and advertisements issued,

crowds assembled, speeches made, and every expedient put in requisition.

The spirit of animosity to which a proceeding of this nature would give rise, would probably be of a more virulent character than that, bad as it often is, which is produced at a regular election; because an opposition on the latter occasion is usually looked upon as a matter of course, whereas the setting on foot a requisition calling on a sitting member to resign, is a measure of positive hostility, unavoidably creating greater intensity of personal feeling. At a regular election the choice reverts to the constituent body, not by their own act, but by the forms of the constitution; and they have it in their power, without any great offence or any just cause of umbrage to any one, and without any useless injury to the character and reputation of the party chiefly concerned, to set aside a member with whom they are dissatisfied, simply by preferring another.

It may be urged perhaps, that the request to resign might emanate from a public meeting; but it must be recollected, that the decision of a public meeting, might not be a true indication of the wishes of the electors; and if the member resigned his seat in consequence of such

a decision, he might be re-elected, in which event great trouble, expense, and disturbance would have been incurred to no purpose.

On the whole then it appears, that the exaction of a promise from a representative to vacate his seat at the call of his constituents, is an expedient which has little to recommend it, and would be likely to entail on the community considerable evils. It might heighten the feeling of responsibility, but by deterring the best men from becoming candidates, encouraging a spirit of servility, and enfeebling the motives which urge the legislator to apply his whole energies to the task before him, it would reduce the chances of good legislation. It is moreover quite superfluous. Fix a term of service ensuring an adequate degree of responsibility, one, two, or three years, as peculiar considerations may point out, and there will be no evil, but great good, in allowing your representative to serve out the time. Gross cases of misconduct might be left to provide for themselves; that is to say, in nine cases out of ten, the moral call on a man to resign his seat, who had been guilty of some enormity, would be altogether irresistible.

As it would be inexpedient, for these reasons, to give the constituent body the power of recalling

their trust before the expiration of the prescribed term, so it would be unnecessary and impolitic to vest a power in the executive of dissolving the legislative assembly. If the term fixed were the best that could be appointed, if it most completely fulfilled the conditions of the problem, by securing adequate responsibility without impairing the inducements to undertake and discharge the duties imposed on the representative, an abbreviation of it could answer no end of public benefit; and although the act came from a different quarter, it would draw after it many of the same evils, which have been shown to be the consequence of vesting the power of arbitrary dismissal in the constituent body.

The object of exercising such a prerogative seems hitherto to have been to obtain a parliament in harmony with the executive authority, and this end was to be accomplished by the strenuous exertion of government influence over the elections. As a proper system of representation would not admit of such influence, such motives for a premature dissolution would be at an end. The harmony of the executive and legislative powers, must be obtained by a different process. If the proceedings of the legislature were governed by those motives of public utility, which ought to



be the result of a well-arranged system of representation, there could be little room for want of harmony with the executive, the simple function of which would be to carry into effect the measures which the legislature had decreed; and there could certainly be no room for any remedy to discord, but submission to the public sentiment expressed through its constitutional organs, after the requisite inquiry and discussion.

In the preceding remarks we have scarcely adverted to the trouble, disorders, and expense of elections, because they are reducible by proper regulations to an inconsiderable inconvenience and outlay. Under the actual system, indeed, the evils of an election are so formidable, as almost to destroy the wish of seeing the term of service abbreviated. The whole process, from the canvassing for votes to the business of the poll-booth, appears almost as if it had been contrived for the express purpose of discouraging any desire to bring back the constitution to triennial parliaments.

## CHAPTER IV.

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### ON THE ELECTORAL BODY.

THE preceding discussions have brought us to a point, where we shall be able to examine with advantage the principles on which the formation of the electoral body ought to proceed. They have marked out the relation subsisting between the constituents and the representative, and shown how far the latter ought to be dependent on the former.

Hence we are in a situation to determine what qualities it is desirable to have combined in the constituent body, and what are the motives which the public good requires it to be placed under or protected against, by its composition. Knowing the specific purpose for which the franchise is conferred, we are prepared to examine into whose hands it should be entrusted. We are also in a favourable position for investigating the principles which should regulate the distribution of the electoral body into separate

constituencies; and, lastly, the result of these inquiries, in conjunction with our antecedent conclusions, will enable us to define the relation in which the electors stand to other classes, and to the community at large.

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SECTION I.

*On the Constitution of the Electoral Body.*

From the view which we have taken of the relation in which constituents and representatives stand to each other, we see the exact nature of the functions which the electors have to perform. These functions may indeed be summed up in one expression; they may be designated as being the selection of deputies to the supreme legislature. Yet this, without due consideration of all which it implies, would give a very inadequate notion of what is devolved upon the electors, and of the influence which they exercise.

When a new constituency have first to choose a representative, their business may appear simple enough, as embracing nothing more than an examination of the pretensions of the aspirants to the office, and a selection of one out of the number, according to the evidence which happens to be

within their reach. Taking an insulated transaction of this kind, the duty of the electors may seem at once easy and comparatively uninfluential; although even here there is a demand for knowledge and discrimination on the part of those who have to choose. But when a whole system of representation is taken into view, when it is considered that there is a periodical return of this process of selection, and that the attention of the electors is continually drawn to the conduct of their representative in his office, the business strikes the mind as more complicated, and the influence exercised by the electoral body over the national councils appears in a more important light. The candidates, it will be found, are for the most part men who have already been members of the legislature; who have been in the habit of expressing their sentiments; who have participated in a variety of public transactions; who have thus presented to their constituents a train of acts for examination and judgment; and who, in the whole of their career, have had in constant prospect the day when they were again to submit themselves to a public election.

For the electors to be competent to form any thing like a correct opinion of the circumstances thus brought before them, and to exert benefi-

cially that control over the proceedings of the legislature which is thus placed in their hands, they must obviously possess a certain degree of intelligence and discrimination, although the precise degree required cannot be expressed.

It is true, that there is not the same demand for knowledge on the part of the electors, nor the same influence exercised by them on the legislature, as there would be on the erroneous doctrine, that it is their province to instruct the representative how he should act. On that erroneous supposition, it would be requisite that the electors individually should be competent to deal with all the difficult and complicated questions of legislation, and the legislature itself would exhibit nothing but an exact impress of their own character: but according to the sounder principle, that the function of the electors is to incite and check, and not to instruct, both a lower degree of influence is possessed, and a lower degree of intelligence is requisite; a capability, namely, of judging of a man's moral and intellectual character and fitness for the office from his conduct and reputation, with all the aids supplied, in the constant scrutiny to which he is liable, by the assaults of his enemies and the eulogiums of his friends.

Still, however, the business is one, in which knowledge and discrimination cannot be dispensed with; which will be well performed only in proportion as those qualities are possessed, and which will inevitably transmit to the legislature a strong tinge of the intellectual character of the constituent body.

It has been asserted, indeed, that knowledge on the part of the electors is, after all, of no great importance; that, if they are left to choose uninfluenced and uncorrupted, however ignorant they may be, they will make a good selection, and exert their influence over the legislature in a beneficial manner.

This conclusion, nevertheless, will scarcely stand the test of examination. Any one who reflects on the power which is conferred upon the electoral body by the periodical return of the privilege of choice, will perceive, that the character of the electors, in point of intellectual acquirements, must *tell*, not only on the choice of deputies, but on the conduct of the representatives in their official capacity. Unless some method can be found out of converting the usual effects of causes into opposite events, an ignorant body of electors cannot conduct themselves as if they were enlightened: they will, at the outset,

choose ignorantly, and will form their opinion of the conduct of their representative with equal want of discrimination. And he, on his part, having been selected without knowledge of what a legislator ought to be, will probably be prone by character, and certainly under strong inducements by position, to adapt his conduct to that ignorance to which he is indebted for his seat.

Thus, provided the electors are, as they ought to be, the real and not merely the ostensible parties who choose the representatives, and their suffrages are collected in such a manner as to give free scope to their genuine sentiments, the proceedings of the legislative body must partake, to a certain extent, of the ignorance and prejudices of the constituent body.

If it is urged, that the electors, however ignorant themselves, may be guided by the intelligent few who will always be found amongst them, the reply is obvious:—the influence of one mind over another, must depend on the character of both: a great part of what an enlightened man says to an ignorant one falls to the ground, because it cannot be understood. Besides, the intelligent few are always liable to the influence of sinister interest in an inverse ratio to their numbers; and the unenlightened state of the many, in as far as

it renders them susceptible of being led by superior intelligence, will make them liable to be led astray as well as to be led right. In proportion, indeed, to their ignorance, will they easily surrender themselves to the delusions of crafty impostors, and the designs of clever but unprincipled men. In the same proportion, also, will they be liable to be the sport of sudden impulses and violent gusts of passion, beyond the control of reason and virtue. No political arrangements can transmute the effects of ignorance into those of knowledge; or bring it to pass, that an unenlightened people can be as well governed under free institutions as an enlightened one.

Intelligence is a property possessed from the highest actual point, downwards in every possible degree; which degrees cannot be measured by any precise standard, or expressed by any definite terms within our power to employ. It is therefore impracticable to assign the point of knowledge to which men should have attained, before they can be competent to a judicious exercise of the elective franchise. All that can be positively affirmed is, that they will be fit for the duty in proportion to their knowledge. Yet there are considerations, some of which have been brought to view in former chapters, tending to show, that a lower



degree of intelligence may suffice for this purpose than would at first sight appear.

The business of the electors is, not to fashion a representative according to any ideal model or fixed standard, but to choose one from those candidates who present themselves: and what candidates present themselves is usually determined, not by the will of the electors, but by a variety of circumstances independent of them. Hence they have merely to form a comparative estimate of merit: they have to determine, not what constitutes absolute fitness for the office of representative, but whether one man is superior in fitness to another—a much humbler task.

In regard to the political knowledge requisite in the electors to appreciate the career of one who has been their representative, we must recollect, that, to judge of the wisdom of any measure after the event, requires less knowledge and intellectual application than to form an opinion before-hand; and that, from the publicity of legislative proceedings, they are aided in the task by the united intelligence of the country.

It is also much easier, in general, to judge of the honesty and public spirit of a legislator, than of the wisdom of his measures; and the great

object of the control vested in the electoral body is attained, when the superior intelligence of the representative is applied, in his official capacity, with an honest and single view to the public good.

So far as to the demand for intelligence in the electors: but there is another important element to be taken into consideration. Intelligence is evidently only one of the requisite properties in the electoral body; and it may easily be misdirected and misemployed. Let the electors, in point of knowledge, be ever so competent to their duty,—let them be able to discern with the utmost clearness the qualifications of the candidates who offer themselves, and the whole course of conduct which their representative has pursued,—yet all this is far from being sufficient to cause them to choose right.

In order that the best selection should be made for the general welfare, it is needful, not only that they should have adequate knowledge, but that they should be placed as much as practicable under proper motives; that they should give their suffrages for the common good; that the choice which their intelligence shows them to be the best for the community, they should be willing to

make; that they should not only see the better way, but follow it. To combine adequate intelligence to choose well, and disposition to choose well according to that intelligence, is the great object to be kept in view in the constitution of the electoral body. It would be perfectly useless to have a thorough understanding of all that a representative ought to be, and a power to discriminate which of the candidates approached nearest to the ideal model, unless there was also the will to make a corresponding selection.

In the sketch already drawn, of the grounds on which a representative government is to be preferred to any other, the great principle on which the system is founded is stated to be, that where there is a competition of interests, the interest of the whole community will be consulted only when they have a control over the regulation of their own affairs. Any part of the community that may be separated from the rest,—any body of men, however large or however small, which may be selected, will prefer its own interest to that of the whole, when these two interests interfere with each other. In order, therefore, that the general interest may be consulted to the greatest possible extent in the choice of representatives, and in the consequent control exercised over these representatives, all

the members of the community should have a share in the business of delegation. *Quod omnes tangit ab omnibus approbetur.* This is undeniably the most effectual way of preventing the growth and prevalence of partial interests. It is the completest protection from the usurpations of a part over the rest, which the nature of the case allows, or which human arrangements can devise; although, as we shall have occasion to show hereafter, it is by no means so complete as it is often supposed to be.

If we examine the partial interests which are to be apprehended in any body of electors, we shall find they may be discriminated into two. 1. An elector may have an interest in acts of the legislature directed to his particular benefit at the expense of the general good. 2. He may have a private or sinister interest (as in the case, for example, of bribery and intimidation being brought to bear upon him), in choosing representatives, without any regard to their qualifications for the office, or any reference to their probable conduct in their official capacity. In order to see our way clearly, it is necessary to attend to the distinction here drawn.

1. With regard to the first kind of partial interest, it may be remarked, that legislative enact-

ments are not often passed to benefit the electors as a separate body, at the expense of the other portions of the community ; but it frequently happens that laws are made to promote the interest of what may be called the professional class, or social division, to which the electors belong. If we suppose a country to exist in which the electors are freeholders, possessing land of a certain annual value, although in this case it would not be likely that any legislative measures should be carried to favour them specifically as voters, it is exceedingly probable that measures would be adopted for their exclusive advantage as agriculturists.

Even universality of suffrage itself could not exclude the operation of partial interest in the way here described. Under such a system, if one predominant class outnumbered all the others, the advantage of that class might be promoted in a way not consistent with justice to the rest ; and in a state of general ignorance, it doubtless would frequently be so promoted. If, for example, the majority of the electors were agriculturists, there would be a perpetual leaning to their interests in the proceedings of the legislature, in preference to those of the other classes of the community.

This is obviously an evil which no arrangements of political wisdom can exclude, and which

might have place were there no corruption, no bribery, no intimidation. It could be kept aloof only by the prevalence of those enlightened views, which teach us that no class can really benefit by injustice to the rest. With universality of suffrage, however, the probability of its happening would be at the lowest point, inasmuch as there would, in that case, be the greatest counteraction of any such predominant interest, from the number of minor interests arrayed against it; and if, nevertheless, the interested views of any one preponderant class sometimes unfairly prevailed, they would at all events be those of the majority. It is clearly better that the advantage of the many should predominate in this way over that of the few, than the advantage of the few over that of the many.

It may be remarked too, in passing, that this predominance of the interest of the majority, at the expense of the minority, would, in the nature of things, happen only in those instances in which there was a competition of interests, and which might be comparatively rare. In the greater part of the measures of government all classes have a common interest; as in laws for the repression of crime, and for the due observance of contracts. It is chiefly in fiscal and commercial

regulations that partial interests are apt to intrude, and that different classes of the community find themselves placed at variance or in rivalry with each other. The English Corn Laws are a striking example.

2. The second kind of partial interest to be apprehended in the electoral body, is the interest which they may have in choosing representatives without any regard to their qualifications for the office, or any reference to their past or future conduct in their official capacity. This interest consists in the electors being able, by the direction of their votes, to obtain some private advantage, or avoid some private evil, from the candidate and his partisans; the interest, in a word, created by bribery and intimidation. It is obviously one of far greater extent and importance than the other, and likely to lead to greater evils; for although where it prevails the votes are given without any reference to their effect on the proceedings of the legislative assembly, and simply with a view to secure a personal gain, or avoid a personal loss, yet they far more extensively contribute to unjust and profligate acts on the part of government, than those votes which are directly given for the promotion of some private or class interest in the legislature.

Although the electors who are bribed or intimidated give their votes, as the operation implies, without any view to ultimate political effects, those persons who resort to such means of operating on the electoral body are in a different position. Having obtained their seats in the legislature by corruption, and feeling, in consequence, perfectly independent of the control of those whom they nominally serve, but really command, they will make use of their power for their own advantage at every practicable opportunity; they will grasp as much as they can of the public revenue, and cover the statute book with laws subserving their own private ends at the expense of the public weal.

The whole experience of mankind proclaims the difficulty which there is in guarding from this immense source of political evil: it shows with what avidity, on the one hand, every expedient is resorted to for the sake of acquiring power, and how easily, on the other hand, the interest which a man has in the acts of government is overcome by the prospect of a nearer although smaller advantage. The benefit (as we have remarked in a former chapter), which an individual derives from the wise and conscientious administration of public affairs, is remote, uncertain, diffused through



various channels, and not well defined to the imagination; in consequence of which it has little chance of victory, in a contest with the broad, palpable, condensed advantage which may be opposed to it in the shape of a bribe, or the prospect of escaping from a threatened deprivation. And if the benefit derived from good government has so little influence, the difference between the benefit to be expected from one representative and that to be expected from another (which is in general all that the elector has to take into view), will have still less.

The second kind of partial interest above described might also prevail under universal suffrage, for even then a majority of the electors might be brought under the sinister influence; but such a corruption of the majority would scarcely be a probable event. It would be improbable, under almost any circumstances, that sufficient means should be at the disposal of a small number of individuals, to enable them to present to a majority of the people a greater advantage, even in appearance, than their share of the benefits to be expected from having representatives of their own choice, coupled with the pride and satisfaction (which are always to be estimated as resisting forces) of giving an independent vote.

The private means of a small minority, however great, would probably vanish into nothing, when spread over so large a surface. Whether, nevertheless, this would or would not be the case, it is not of much importance to determine, as the result would leave unaffected the practical truth, that, perfect or imperfect, universal suffrage is a greater security than any less extensive exercise of the franchise against the predominance of bribery and intimidation.

The probability of a predominance of this kind increases as the universality of suffrage diminishes. In any state of society, especially, which is marked by striking inequalities of condition, the danger of corruption is always imminent, and can be averted and counteracted by nothing but the numerousness of the constituent body, or at least by nothing without it. Much may be done, as will be hereafter shown, by resorting to proper, and indeed indispensable methods of collecting suffrages; but without a numerous body of electors, even such methods would fail in maintaining their efficacy. Concentration renders the forces of corruption irresistible: increase the points which they have simultaneously to assault, and you weaken their power: multiply these points still more, and the efficiency of the attacking forces is gone.

It appears, then, that in proportion as we abate any thing from the universality of suffrage, we increase the probability of the prevalence of both kinds of sinister interest already described. In proportion as the electoral body is narrowed, it is likely to have a different interest in legislative enactments from the community at large, and to cause that interest to prevail, apart from all corruption of votes; and in the same proportion it becomes exposed to the temptation of voting for some private advantage, without regard at all to the influence of the elections on the welfare of the country.

Let us now gather up and compare our conclusions.

In order that the influence of the electoral body on the legislature may be at the highest point of beneficialness, two qualifications ought to be combined in the electors in the highest possible degree which circumstances will admit; namely, intelligence, and freedom from partial interests. The more enlightened the electors are, the more capable will they be of properly performing their duty of selection and supervision: the freer they are from partial interests, the more certainly will their intelligence be applied as it ought to be for the general welfare.

In a country in which the inhabitants were

thoroughly enlightened (if we may be permitted for the sake of illustration to make use of so vague a phrase), there could be no reason why the elective franchise should not be universal. It unfortunately happens, however, that in all countries, or almost all countries, the great bulk of the population are in a state, which can scarcely be calumniated by terming it intellectual darkness.

When this is the case, the formation of the electoral body is a problem of no small difficulty. To make the franchise universal would subject the legislature to the control of ignorance, and lower the character of its enactments to the injury of the common good: on the other hand, to limit the franchise to a part of the community, would enhance the danger to be apprehended from the prevalence of partial interests. The demand for intelligence in the electoral body, and the demand for numerical magnitude, are antagonist principles: one can be answered only at the expense of the other.

The only thing which can be done in this dilemma is to effect a compromise between them; and the nature of this compromise must be determined, in every community where the question comes to be practically considered, by the character and condition of the people.

Although, however, no general conclusion can

be drawn as to the extent and composition of the electoral body, yet certain principles may be laid down to assist those who may have at any time to take the matter into practical consideration. This assistance we shall endeavour to render.

In every country, then, in which the intellectual condition of the mass of the people will not admit of universal suffrage, the object to be proposed is the formation of an electoral body, the members of which shall at once be superior in knowledge to the mass of the people, possess an interest in legislative enactments and acts of administration identical for the most part with that of the whole community, and be placed by their numerousness (with the aid of suitable regulations) beyond the reach of bribery and intimidation.

This is doubtless a problem of some difficulty. A rough approximation to the solution of it is perhaps all that can be expected, but such an approximation may be close enough to secure the solid practical advantages of a perfect one.

In looking round us for some rule by which to make a selection of such an enlightened class of electors as here described, we shall soon perceive that no direct criterion can be found. An examination of the knowledge of individuals or classes would obviously be impracticable. Who could make it, and by whom would it be submitted to ?

Amongst *criteria* of an indirect character, to which we should be unavoidably compelled to resort, the trade, profession, or other occupation, would evidently not answer the purpose. The learned professions, which might at first sight suggest themselves, would furnish too few electors for securing an identity of interests with the whole community, and exemption from liability to sinister bias; and the lodgment of the privilege in their hands, would exclude larger numbers equally competent with themselves. No other trades or professions could establish any peculiar claims to the privilege.

The next criterion which presents itself is property, or some indication of the possession of property.

This has one considerable advantage over the last. The possession of property is a qualification which pervades all society. It is not confined to any trade or profession, to any rank, to any party, to any sect, to the inhabitants of any one town or district. People with tastes of a thousand hues, and interests of a thousand different kinds, have this qualification in common. There is no individual indeed who has not something which he calls his own, and who may not rise to the possession of something more.

If then a certain moderate amount of property

be taken as a qualification for an elector, the consequence will be, that the privilege will be diffused through a variety of ranks, classes, ages, and professions, so as to render it difficult for any sinister interest to grow up amongst the electoral body. The lower the amount, of course the more surely will the advantage be obtained. It would not be very likely, for example, that if all persons worth one hundred pounds sterling were endowed with the elective franchise, they could have any partial interest in the acts of the legislature, at variance with that of the whole community: and their number would be large enough to raise them, with the aid of suitable regulations, above the danger of bribery and intimidation.

It remains to consider how far the possession of property is a criterion of knowledge. We must admit at once that it is a very inexact criterion, and, in regard to some classes, no criterion at all.

It is not true that knowledge is in proportion to wealth. A man of £50,000 a year would probably be found less intelligent and capable of discrimination than a man of one thousand. Great wealth relaxes the motives to exertion, and efficient knowledge is not to be attained without labour. Place a man in boundless affluence, and

(to use a phrase of a masterly writer) you shelter and weather-fend him from the elements of experience.

When, however, we descend lower in the scale we find a different result. People who are raised above the necessity of manual toil can afford to cultivate their minds, and have time and motives for giving some attention to the acquisition of knowledge. One of the first effects of wealth on those who acquire it, is a desire to bestow a liberal education on their children, which of itself tends to maintain a superiority on the side of the rich. Knowledge, like many other things, is an article not readily acquired without pecuniary expense, nor yet without leisure; and as a general rule, those who can afford to make the necessary outlay of time and money will have the greatest quantity of the commodity. Thus, people of two hundred a year will be found on the average to possess more extensive knowledge than people of fifty pounds a year, and the possessors of two thousand more than those of two hundred. Numerous exceptions to this rule will present themselves; but it is sufficient that it prevails on the whole, and affords the best criterion which we can obtain. If it holds on the whole, it will be practically useful.

In order then to combine the two requisites of



identity of interests with those of the nation at large, and adequate knowledge, the electoral body must be in the first place numerous, and in the second place possessed individually of a certain amount of property. No precise general principles can be laid down on either of these points,—either as to the number or as to the property required. The determination of both, in every particular instance, must greatly depend on the peculiar condition of the people, in regard to knowledge, agriculture, commerce, and wealth. Something would depend on established habits, and something on other municipal regulations.

In a rich, commercial, and manufacturing country like ours, if the elective franchise descends amongst the lowest of those who employ capital in their trades, and are not dependent on mere manual labour, it will be probably found also to reach such of the workmen as are the most intelligent, sober, and industrious; such as have in some way distinguished themselves for their good qualities amongst their own class, and are in fact often more enlightened than the smaller capitalists. In some countries more generally pervaded by knowledge, no limitation of this nature might be required; in others, overshadowed by ignorance and unaccustomed to

self-government, a much higher qualification might be expedient. It is clear that the same regulations on this point could not suit all countries, varying as they do to a great extent in wealth, customs, pursuits, modes of thinking, and degrees of refinement; and that there are no general rules to be laid down, capable of guiding us in individual instances, without minute attention to the circumstances of each case.

It may perhaps be found, that, in the practical adoption of a certain amount of property as a qualification, great difficulty will arise, because the amount of a man's possessions is not always ascertainable. It may be necessary to adopt some other criterion, to determine the station of a man in society, and thence his probable condition in regard to intelligence; such as the amount of taxes levied from him, or the value of the house which he occupies. Such *criteria* are substantially the same as that which is furnished by the amount of property, and might answer the same purpose equally well, or better, all being intended to effect one end; namely, to separate from the mass of the population a body possessing more intelligence than the rest, yet having essentially the same interest as their fellow-citizens in all national regulations, and sufficiently numerous to

be placed out of the reach of seductive or compulsory control.

In constituting or making arrangements for constituting an electoral body, although a certain amount of property may be fixed upon as one qualification, in the character of an index to intelligence, it is not the only circumstance to be taken into account. There are several others which necessarily present themselves, of which the principal are age and sex.

Few can doubt the propriety of making the attainment of a certain age an indispensable qualification in an elector. The age at which a man enters into all his legal rights, is that which is generally fixed upon for this purpose; but a more mature age might be appointed, without violation of the principle on which alone any limitation is justified. As men deriving from property an income of £.500 a-year are generally more intelligent than those who enjoy only the fruits of their manual labour, so men of twenty-five or thirty years of age are, on the whole, more intelligent than men of twenty-one. This point, however, is not of much importance, as the qualification of property would in itself exclude most young men in their first years of legal manhood, except those who had been better educated than the rest; for in a

state of society where any limitation of the franchise was needed, the great body of persons possessing the requisite qualification in property, would probably be always such as had commenced their career with little or nothing but their own abilities.

The limitation of the elective franchise by sex, is a more difficult subject, and surrounded with a host of prejudices; but it surely ought to be decided by the same principles as any other restriction, and not by blind prepossessions and tyrannical prescription. The legitimate object of all government—namely, the happiness of the community—comprehends alike male and female, as alike susceptible of pain and pleasure; and the principle, that power will be uniformly exercised for the good of the parties subject to it only when it is under their control, or the control of persons who have an identity of interests with themselves, is equally applicable in the case of both sexes. The exclusion of the female sex from the electoral privilege, can therefore be consistently contended for only by showing two things; first, that their interests are so closely allied with those of the male sex, and allied in such a manner, as to render the two nearly identical; secondly, that the female sex are incompetent, from want of intelligence, to make a choice for their own good,

and that on this account it would be to the advantage of the community, on the whole, to leave the selection of representatives to the stronger part of the human race, the disadvantages arising from any want of perfect identity of interests being more than compensated by the advantages of that superior discernment which the male sex would bring to the task. Let us examine, for a moment, the force of these allegations. The interests of the female sex are so far from being identified with those of the male sex, that the latter half of the human species have almost universally used their power to oppress the former. By the present regulations of society, men wield over women, to a certain extent, irresponsible power; and one of the fundamental maxims on which representative government is founded is, that irresponsible power will be abused. The case before us presents no exception: the power of man over woman is constantly misemployed; and it may be doubted whether the relation of the sexes to each other will ever be placed on a just and proper footing, until they have both their share of control over the enactments of the legislature. If none of these regulations applied specifically to women as women, and to men as men, and to the circumstances arising from their pecu-

liar connection with each other, their interests might perhaps be considered as identified; but in the actual relative position in which by nature the sexes stand, and must always remain, as two parties marked by peculiar and indelible differences, separate interests cannot fail to grow up between them, and numerous laws must be directed to the regulation of their respective rights and duties. If the enactment of these laws concerning two parties who have distinct interests is solely under the control of one party, we know the consequence.

There is no truth, then, in the argument, that the interests of the female sex in the regulations of the state are identified with those of the male; and even if the allegation were true, it would furnish no reason for excluding women from the elective franchise, unless it could be shown, that, from their general want of intelligence, they are incapable of making a good choice, or that (it may be added) they labour under some other disqualification. If it were alleged, that, inasmuch as all persons who inhabit houses at the rent of ten pounds a-year have an identity of interests in political affairs, one half may be excluded from the elective franchise without infringing the true principles of representation, it would be quite as sound an in-

ference, as that women ought to be excluded because their interests are the same as those of men. There must be not only proof of an identity of interests, but also a specific ground of exclusion from the privilege to be exercised\*.

The specific ground urged in the case of women, is incompetency from ignorance — the same ground which is urged in the case of the poorer classes of the community. It cannot, however, be urged with the same justice. Though the female sex may be allowed, in all existing societies, to be on the whole inferior in intelligence to the men, yet the higher classes of females are superior in this respect to the lower classes of the males. Women, for instance, possessing five hundred a-year, are generally superior in information to men of fifty pounds a-year, although not perhaps equal to men of five hundred. If this is a true statement, the obvious expedient is, not to exclude women, but to place their pecuniary qualification higher. Even the necessity of such a higher qualification may be doubted, inasmuch as in that peculiar intelligence which is requisite for a judicious choice of persons to fill public offices, females are in some respects

\* See the Supplementary Essay, in the present volume, on Political Equality.

greater proficient than men of the same station. Female tact, in the discrimination of at least certain qualities of character, is universally admitted; and it can scarcely be questioned, that such coadjutors would be highly useful in the selection of representatives, were their minds fully brought to bear on the merits of the candidates by their having a voice in the decision. With regard to any other disqualification under which the female sex may labour, if any exists, it has not hitherto been brought into discussion. The inconsistency of the exercise of a valuable political privilege with female delicacy, will scarcely be alleged. Were a proper method of taking votes adopted, and such other appropriate measures employed as will be hereafter suggested when treating on the subject, to disencumber elections of what at present renders them scenes of rudeness and riot, the exercise of the elective franchise would be compatible with the most scrupulous refinement of feelings and habits.

On this subject, doubtless, abundance of sneers will be indulged in, and a thousand sarcasms uttered; but when the happiness of human beings is concerned, and as in this case that of half of the human race, the subject is rather too important and sacred to be sacrificed to the fear of



ridicule. If the exclusion of women is to be maintained, let it at all events be placed on some plain and rational ground.

Even Mr. Bentham, bold as he was in the free expression of his opinions, scarcely ventured to do more than hint his views on the subject of female electors. After justly remarking, that the propriety of disqualifying women for being members of the legislative assembly, and of disqualifying them for being electors, stand on very different grounds, he maintains, that, although there might possibly be some inconvenience in giving them the franchise, there would be no absurdity. "Everywhere," he continues, "have females possessed the whole power of a despot; everywhere but in France without objection. Talk of giving them, as here, the smallest fraction of a fraction of such a power, scorn without reason is all the answer you receive. From custom comes prejudice. No gnat too minute to be strained out by it, no camel too great to be swallowed \*."

In the English Reform Act, a very small concession, without disturbing the legal relations in which the sexes stand to each other, would have

\* Radical Reform Bill, p. 56.

saved the appearance of injustice to females. No evil, in fact, could have arisen from placing men and women on such an equality, in regard to the franchise, as the present system of law would admit. Wives and sisters and daughters, living under the same roof with their husbands and brothers and fathers, and not having independent possessions, would have been excluded, not on the ground of sex, but on account of not being householders; sharing, in this respect, the condition of sons residing with their fathers, and of other mere lodgers. It would have been only widows or single women keeping house, or possessing the requisite amount of property, that could have been entitled to vote; and it is difficult to conceive the shadow of a reason why they should be debarred from the privilege, except the tumultuous proceedings which are the unruly progeny of unskilful arrangements.

## SECTION II.

*On the Constitution of the Electoral Body.*

(In continuation.)

It will be felt, that the view of the subject taken in the preceding section is widely at variance with the opinion generally maintained, that, in the supreme legislative assembly, property ought to be especially represented; an opinion perfectly conformable to our rude notions of morality, which look little beyond the safety of visible and tangible possessions. According to the doctrine of the foregoing pages, the object for which the elective franchise is vested in any portion of the community, is to secure a better choice of legislators than could be made by any other arrangement; to effect that those men shall be elected as representatives, who are most likely to discharge the duties of the office for the common benefit of the whole. The possession of property is considered merely as an index, to point out those who are most competent to make a selection, and not as having in itself any claims to confer political power. If men above five feet nine inches high generally possessed more know-

ledge than men of a humbler stature, height would be as good a criterion for the purpose as property.

Common opinion, indeed, regards property as demanding peculiar care, and its protection as the principal end of government; but surely it stands on no higher ground than person, reputation, liberty, and life. A man may not only be robbed of his property, but be maimed in his person, ruined in his reputation, fettered in the employment of his muscular power or acquired skill, stripped of his liberty, and deprived of his life. The province of government is, not merely to protect one source of enjoyment, but to guard all from injury and destruction, in cases where individual or private efforts are inadequate to do it. On the ground, then, of importance, property can have no peculiar claim to be represented. If this loose proposition has any meaning, it is, we may presume, that, by the arrangements of the law on the subject, persons of property should in some way or other have a superior influence in the election of representatives than other people, on the ground that they are more interested in the acts of the legislature than the rest of the community. By persons of property, in this argument, are meant persons of eminent or

distinguished property, or at all events of a certain amount of property, because, with few exceptions, all persons have property of more or less value.

It might be conceded, that, if the security of property were the sole end of government, there would be some show of justice in such a claim; although, even in that case, there would be the formidable objection, that my property which is worth only a hundred pounds, or even ten pounds, is quite of as much importance to me as your property, which is worth a thousand or ten thousand pounds is to you, and that the loss of any given proportion of it would be felt in an equal or superior degree; whence it follows, on the principle assumed, that I am equally interested in the acts of government, and ought to have equal legal power in the election of representatives.

This claim, however, of greater electoral power in virtue of greater property, overlooks the important fact, that person, skill, reputation, liberty, and life, all demand that their security should be also comprised in the care of government; and that in virtue of these, if the degree of power is to be decided by the degree of interest, every human being is entitled to an equal share. If

there is any difference in the degree of interest, it is at all events placed beyond the reach of human discrimination, and therefore presents no definite ground on which political regulations can be founded.

It must also strike every thinking mind, that in the general notion of property entertained by these politicians, there is no reference to labour. Do they include the skill, the art, the power, the capacity of working, or by what other name it may be designated, possessed by the labourer, in their notion of property, or do they not? If they include it, their argument diffuses itself into a vague indefiniteness or want of meaning: for what in this case becomes of the proposition that property should be especially represented? Every man (a few disabled by circumstances excepted) has either actual possessions, or the capability of labouring, so that the proposition would amount to this,—that all men should be represented.

If these politicians, on the other hand, exclude the art or power of the labourer, they exclude a source of good of the highest moment to the great mass of the community, and give especial care to one, which although of deep, is, by no rule that can be applied, of deeper importance to the people. In fact, it would be ludicrous to attempt

to estimate the comparative importance of two things absolutely indispensable to the existence of society.

It is further remarkable, that the source of happiness which a man has in the power of performing certain processes of labour, is peculiarly liable to be both clandestinely invaded and openly injured. It may be doubted whether property, in the ordinary sense, is more liable to unjust encroachment and damage. Does the history of the world abound with more instances of unjust infringements and violent seizures of property, than of fraudulent and forcible exactions of labour? Has slavery, or the oppression of the poor, been less common than the spoliation of the wealthy by the indigent?

An accurate survey and appreciation of the sources of human happiness, in order to determine how far either one or the other is entitled to superior protection in political arrangements, would evidently be a vain and futile attempt. They are at all events not necessary elements for the determination of the question regarding the composition of the electoral body. If the elective franchise is to be restricted to persons possessing a given amount of property, it is not for the reason that property is of more importance than other springs of human enjoyment and welfare, and there-

fore demands especial vigilance to protect it, or that it is peculiarly liable to injury ; but that it is the best indication of intelligence within our reach.

The limitation of the suffrage by property can justly proceed only on the principle, that by confining the elective franchise to men of a determinate income, a better choice of representatives will be made, in consequence of such men possessing more knowledge than the rest of the people.

But there is one difficulty under which the question seems to labour ? It may be said, " Who are the parties who assert that a better choice will thus be made ? and who are the parties to decide whether it is so or not ? " Why, the wealthier classes themselves are the asserters, and claim to be the deciders. It is evident that in this they act as any smaller oligarchy would act. The peers, for instance, might set up a similar claim, contending that they would make a better choice than the classes immediately below them. Now, if it would be unjust in them to decide this amongst themselves, without the concurrence of the said classes, it would be unjust in those lower classes to decide, after a similar manner, on the exclusion of the still lower classes ; and it would be unjust again in these to decide on the exclusion of females without consulting them. No greater



violations of justice and propriety have been committed, than by classes in this way assuming privileges to themselves to the exclusion of others, on the ground or pretext of doing it for the good of the excluded parties.”

It must be confessed, that all restrictions of the right of suffrage labour under this radical defect and objection, that, however they may be intended and adapted for the benefit of those who are excluded, they are imposed by men who do not exclude themselves, and have an interest in excluding others by whom they cannot directly be called to account. The imposition of restrictions in this way can be justified solely by the necessity of the case ; and it may be added, that the circumstances in which they originate cannot affect the question of their conduciveness to the public weal.

In almost all cases where the question of restricting the franchise comes to be deliberated upon, the power of deciding it unavoidably exists in the hands of a limited number of individuals. If these men are really desirous of benefiting their country, they consider what system of representation would be the best for it. They see, perhaps, that the mass of the nation are in a state of deep ignorance, apparently incapable of making a choice of

representatives to their own advantage, and they therefore limit the elective franchise, as well as they can, to those classes who are enlightened enough to make a good use of it, under the impression that by this policy they are promoting the happiness of the community at large. It is in most instances a matter of necessity, in the origination, or in the alteration of any system of government, not only that some individual or some body of men should exert an initiatory power assumed, and not derived from previously ascertained consent, but that they should have to arbitrate between their own interests, and the interests of others who have no control over them, and are so far helpless in their hands. Even in the calling together a national convention during the suspension of all government, in order to found a new one, both these conditions would have place. Not only must some person exercise underived power, prescribe certain forms, and make certain appointments of time and place, but inasmuch as the deputies to such a convention would be elected for the special purpose alone of forming a constitution, they would be unavoidably placed in the situation of having to decide between their own interests and those of others. For, to make a supposition which will bring the argument

to bear on the objection under notice, suppose that such a convention of delegates were summoned for the especial purpose of devising a representative government, and that they were deliberating whether they should make suffrage universal, or limit it by property. The interest of the deputy, as he would doubtless himself possess the requisite amount of property, would lead him to vote for a limitation. If he really approved of universal suffrage, there could be nothing but a sense of right to induce him to vote for it. The classes below the proposed limit would have no such hold on him as regular constituents have on their representative, although they might have deputed him to the convention; for, if the limitation were imposed, his seat in the future legislative assembly, if he looked forward to such an honour, would not depend on their votes. It would depend on those of the classes above the limit, with whom he would certainly lose no favour by having voted for the restriction of the privilege to them. Thus the deputies to a national convention, as well as the members of any other deliberative assembly, who might be called upon to decide whether suffrage was to be universal or limited, would be in the same position in having to consider whether they should confer the franchise on classes whom

it would be their personal interest to exclude from it. The sufficient answer therefore to the objection adduced against the exercise of the power of deciding in such cases by interested parties is, that there is no help for it. The risk that such power will be used for the benefit of the parties holding it, where their interest clashes with that of others, must be encountered. When, under these circumstances, a selfish use is made of authority which ought to be directed exclusively to the public good, the resource left to the aggrieved party is to expose the delinquency, and contend for reparation of the injustice. If, on the other hand, the decision has been for the welfare of the community, the want of perfect theoretic regularity in the deciding power is of little importance in a case so uncommon and peculiar. Every one however must admit, that he who has the least interest in having a question determined one way rather than another, ought to be especially careful that his own advantage shall not lead him to commit injustice.

The grand question for the people to consider, and for the political philosopher to examine, is, not how the restriction on the universality of suffrage has arisen, but whether it is, on the whole, conducive to the common benefit?

In discussing the constitution of the electoral body, we have been hitherto occupied with the consideration of it in relation to the principal end in view, the election of the men who will most efficiently discharge their duties in the national legislature.

Other purposes must be regarded as subordinate. It sometimes happens, nevertheless, that two courses of action are so nearly equal in their conduciveness to a given end, that the adoption of one of them may be decided upon, by taking into view collateral or incidental consequences. This sort of equality of effect may perhaps be remarked in some of the rival regulations which offer themselves as expedient on the present question. Whether, for example, the electoral body should consist of householders inhabiting houses of the yearly value of ten pounds and upwards, or householders of any other description, is one of those dubious points not susceptible of being determined by the direct effects of either arrangement on the main purpose to be accomplished. Here then collateral considerations must necessarily enter into the decision, and of these a very important one would be, the effect of the possession and exercise of the franchise on the mind of the elector. So long as elections are conducted in such a manner as to

expose him to the debasing seduction of bribery, or the humiliating influence of intimidation, the possession of the privilege would be fertile in pernicious consequences to his own character : but if recourse were had to the simple expedients which the case admits, in order to shelter him from such abuses, the exercise of his little share of political power would tend to enlighten his understanding and elevate his self-respect. He would be naturally led into a consideration of the merits of different political questions and characters, and induced to seek information on subjects respecting which he would otherwise have felt no curiosity : his importance in society would be raised, his attention to the discreet direction of his own conduct enlivened, and his good-will and respect for laws, emanating from an authority in the appointment of which he felt that he had enjoyed a participation, would be enhanced.

Another consideration, too, is to fix the qualification at a point to which every individual might have the opportunity of rising in the course of his life. The wish to gain the franchise, would operate as a salutary stimulus to his exertions, and tend to engender that early economy, by which every man who chooses may raise himself into a respectable condition.

## SECTION III.

*On the Division of the Electoral Body into separate Constituencies.*

It is necessary not only to determine what portion of the community are to form the electoral body, but, for the more convenient exercise of the elective franchise, to divide that body into a number of distinct parts.

There are divers ways in which this might be done. The several professions or ranks of society might be set apart to form separate constituencies, or constituencies might be formed from persons connected by nothing but local proximity. The latter is the method which most obviously suggests itself; nor has the most comprehensive view of the subject, which experience and reflection have been able to take, yet presented any better plan.

It has already been incidentally explained, that the really valid reason why the election of each member ought to be assigned to a separate constituency is not, that he may urge and advocate the particular interest of that constituency, but that by such a regulation the business of selection

is better done, as in other instances where recourse is had to the distribution of work amongst a number of hands.

By forming these constituencies on the principle of local proximity this object is promoted; there are two advantages in fact gained by it. In the first place, the votes can be collected more readily; and in the second place, as the electors in each constituency will belong to various trades, ranks, and professions, there will be less of a peculiar and exclusive spirit amongst them — the choice will be made on more general grounds.

It is needless to enter into any further argument on this point, for it has probably never been disputed, in this country at least, that district constituencies are better than class constituencies, in the sense here intended by those terms.

We may therefore proceed to inquire, whether there are any particular principles to guide us in preferring districts of one size to those of another, understanding by the size of a district, not its geographical or territorial extent, but the number of its population.

There are many reasons why a constituency should not be small in number. When this happens to be the case, the electors are in proportion easily bribed and intimidated. The votes are



of greater value, and are more likely to be the objects of intrigue and traffic, while there is a higher probability that they will be influenced by local and personal prejudices, as well as by narrow and exclusive views. In addition to all which it may be stated, that the plan of secret voting, which is the only independent voting, could scarcely be carried into successful operation amongst a constituency comprising an inconsiderable number of voters.

For these reasons, if in a small state the proper number of deputies to form the representative assembly could not be obtained without making the electoral districts too contracted, it would be advisable to increase the size of the districts, and augment the number of representatives to be elected by each. Suppose, for the sake of illustrating the subject, that on the plan of single representation, the division of the country into such a number of districts as would furnish a sufficiently numerous legislative assembly, should yield a constituency of no more than three hundred electors in each district, it would in that case be the best course of proceeding to throw four of these small districts into one, with the privilege of sending conjointly four representatives. This would have the good effect, not only of interposing

difficulties in the way of bribery and intimidation, and of facilitating the preservation of secrecy, but of rendering the representatives less dependent on mere local and partial interests.

It must be owned, that on the other hand it would diminish the sense of responsibility in some cases, by dividing the business to be done amongst four agents; but if general interests alone had to be attended to, this effect could not be of material, or at least paramount importance. Each member would be an independent legislator for the whole country, and would be judged by his own personal acts, without being implicated in the defects and merits of his colleagues.

This hypothetical case is however, as the reader will see, introduced merely by way of illustration, and not as a probable incident. In a country of any considerable geographical extent and population, in any country indeed of sufficient size to form an independent state, there would be no need to have recourse to such an expedient. The way of proceeding would be simply to fix on the number of deputies proper to form the legislative assembly, and divide the country into a corresponding number of districts, which in all but extraordinary cases would yield constituencies sufficiently large.

On the simple principle that no political in-

equality should be created without some positive reason, these districts ought to be as nearly as possible of the same numerical extent in point of population. An inequality in rights and privileges, for which no special reason exists, is self-condemned, inasmuch as its tendency, if it has any, must obviously be to engender discontent and ill-will. In consonance with this universal rule, the same number of people ought to have the same number of representatives, unless some peculiar benefit can be shown in a departure from strict equality. Slight deviations in this respect would scarcely be felt, and slight reasons would justify them. The convenience of existing territorial divisions, and the attachment of the inhabitants to ancient boundaries, would be sufficient justification for admitting even considerable latitude. It is one thing to admit inequality without reason, and another to admit it to a large extent on satisfactory grounds. The latter course is inevitable in the nature of all political arrangements\*.

The want of strict equality in this matter is at the utmost of little moment, compared with the serious fault of numerical smallness in constituencies. In England both defects exist to a considerable extent, and the latter, after all that the

\* See the Supplementary Essay on Political Equality.

Reform Bill has done, is of too glaring a character to remain long without some attempt to apply a remedy. If the independent exercise of the elective franchise is to be secured, no constituency should contain less, perhaps, than several thousand electors. Even with the assistance of the ballot, a smaller number could scarcely be placed beyond the reach of those unjustifiable expedients which ambition and party spirit will always be on the alert to employ.

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#### SECTION IV.

*On the Relation in which the Electors stand to other Classes and to the Community at large.*

The principles on which the electoral body ought to be constituted having been investigated, we may conveniently proceed to examine its relations to other classes of society. Having erected the structure, we may take a survey of its position in respect of other objects.

It has been already remarked, that all political power is to be considered as held in trust for the benefit of the community: and the share which is confided to the elector is no exception to the general rule. Whether the electors are few

or many, and on whatever principle of arrangement they are selected from the rest of their countrymen for the exercise of the important privilege entrusted to them, their plain duty is to vote for the man whom they conscientiously regard as the best fitted for the office of representative, and thus the most likely to promote the common good. As the elective franchise cannot be personally exercised by every individual member of the community, although every individual is interested in the result, it is by the necessity of the case devolved on a part, and becomes virtually a trust, which a man discharges for the benefit of others as well as himself, and which he is therefore bound in conscience to fulfil in a manner conducive to the general welfare. Even this consideration, however, is not necessary to constitute the proper exercise of the privilege a duty, although it may enhance the importance of it; for if every individual member of the community, without exception, were to have a vote, he would necessarily lie under the implied obligation of carefully and conscientiously voting with strict regard to the public object in view, inasmuch as he would be performing an act affecting the welfare of others.

These views, which appear simple and obvious enough, have not however been generally enter-

tained. It has been common to regard those who are entrusted with the elective franchise, as persons holding a power which they are quite justified in exercising as they please, and they have not been backward in regarding themselves and the privilege in the same light. They have looked upon it as a commodity to be bought and sold, given as a favour, offered as a propitiation, or yielded as a tribute of gratitude.

If the electors themselves have entertained these erroneous views; it is not to be wondered at that other classes peculiarly interested in their conduct should have participated in them; that the man of property or rank, who could control their suffrages by wealth or power, should have considered himself perfectly justifiable in seducing or compelling the electors to vote according to his pleasure. Thus the landlord has commonly constrained his tenants to vote as he wished, on pain of being dismissed from their farms or houses. In modern times we have seen customers attempting to exercise the same control over shopkeepers, merchants over manufacturers, manufacturers over their workmen, and the workmen in their turn over the keepers of the taverns and pot-houses which they frequented. Any inquiry into the morality of this compulsory control seems seldom to have suggested itself to the parties concerned. Sus-

picious of its iniquity, when they have happened to intrude, seem to have been dim and powerless, except in the few who have suffered for rebelling against the despotism.

It has been, in particular, a very prevalent notion, that the relation subsisting between landlord and tenant confers on the former a sort of moral right to political influence over the latter, and imposes on the latter the obligation of political subserviency to the former. That the relation leads to an influence of this nature, is unquestionable; but that it confers a moral right to the influence on the one hand, and an obligation to submit to it on the other, is an erroneous and a pernicious doctrine. There are doubtless reciprocal duties and obligations between the parties, some fixed by law, some by morality; but the landlord, whatever may be his other rights, has notoriously no legal claim to the votes of his tenants, and a very slight consideration is sufficient to show that he is equally destitute of a moral one. If it is a true representation, that every one to whom the elective franchise is confided has a duty to perform to his country—namely, to vote according to his conscientious conviction of the merits of the candidates—the obligation under which he thus lies cannot be altered by the mere wish of his land-

lord. That wish, backed as it may be by a control over his welfare, has no power to change his opinion of political measures or persons, no tendency to make him think an unsuitable candidate a suitable one, no magical charm to transmute distrust into confidence, and it ought therefore to have no influence on his suffrage. As far as it operates to induce the voter to act against his conscientious conviction, it occasions him to do wrong, and degrades him in his own estimation; and it is very clear, that no landlord can have any moral right to influence a tenant to be guilty of a breach of duty: on the contrary, it is too plain a truth to be insisted upon, although too much neglected not to be proclaimed, that a landlord, by exerting such influence, would be guilty of a gross breach of duty himself. No landlord, then, can be justified in holding out any advantage to a tenant, or menacing him with any penalty, in order to control the direction of his vote. The instances of this kind which abound at every election, only indicate the deplorably low state of political morality existing in the highest as well as the most subordinate classes. This lamentable fact is further shown, by the sort of argument which has been used, even by honourable men, to justify the landlords in influencing the suffrages of



their tenants by enticement or intimidation. "We admit," say the maintainers of this argument, "that a landlord is not justified in using intimidation to prevent his tenants from voting according to their conscientious conviction; but we hold, that the tenants in general are not under the influence of conscientious motives in voting contrary to the wishes of their landlords: they are, in fact, either bribed to do it, or misled by false representations; and therefore the landlord is fully justified in employing threats or promises as counteractive expedients. Is he to stand by, a passive spectator of the machinations of others, to draw his tenantry from the side which he has himself embraced?"

The landlord in this case, or in any case, would be justified in exposing the clandestine trickery and corruption practised on his tenants, and counteracting false representations by true statements; but he would not be justified in opposing bribery to bribery, and intimidation to intimidation, unless it were right to counteract immorality by immorality, unless it were proper to prevent a robber from taking your neighbour's property by stealing it yourself. "But," it is rejoined, "the landlord has certainly a moral right to

turn out a tenant from a house or a farm, who is proved to be a poacher or a thief, or has committed some other crime. For such an act of expulsion, no one could blame him. Why then may he not turn out a tenant for being guilty of receiving a bribe, and even threaten him with dismissal before-hand, as the consequence of venality?"

Here the ground is evidently changed. This proceeding, it is to be observed, would not be an attempt on the part of the landlord to compel his tenant to vote in a particular way, but an attempt to save him from the guilt of receiving a bribe; and if the landlord had really this laudable object in view, he would equally dismiss the tenant, in which way soever he voted, provided it was a clear case of corruption. But any one at all acquainted with the practices of elections knows well enough, that such is not the nice delicacy of him who wields on such occasions the power of property. When tenants are dismissed, it is purely for voting against their landlord's wishes; and in nine cases out of ten, no bribery on their part can be proved. No man of sense would pretend to act towards any of his dependents under the plea of preserving him from corrupt motives by intimidation, or of punishing him for being under such

influence. However justifiable such a ground might really be, it would be one in acting on which a landlord would be liable, not only to misinterpretation, but to powerful self-delusion. If a man is determined to have his tenant's vote, and is not weak in understanding as well as defective in moral delicacy, he will avowedly proceed on the ground of right to the control of it; or, setting morality at defiance, on the ground of mere power.

It is not difficult to see what would be the magnanimous course on the part of a landlord to his tenants, or of any other person in authority to those who might be dependent upon him. Far from threatening them with painful consequences if they opposed his wishes, or alluring their votes by the prospect of future advantages, and thus degrading them into the slaves of his will or the tools of his pleasure, he would seek to elevate their minds to a due sense of the important business committed to their charge, and to inspire them with a determination to pursue an independent line of conduct. If he stated to them his own opinion of the merits of the candidates, it would be solely with a view to the exercise of that influence of understanding on understanding, to which every man who can maintain it has a right, and which, in-

stead of debasing, raises those over whom it prevails; and such a statement of his own opinion would be accompanied by an express injunction, that they would consider it with as much impartiality and independence as if it came from any other quarter. If any undesirable consequences were to be apprehended from such a course of conduct as this,—manly at once and generous, befitting the man of wealth and intelligence,—it would be, perhaps, that the landlord who so acted would have too much influence from the extraordinary magnanimity of his procedure, rather than too little. The inference would be a very natural and very prevailing one amongst the electors, that a man who could so distinctly see and so disinterestedly pursue the truly noble line of action, would be a safe guide to follow regarding the merits of the candidates. Men of rank and property are not yet alive to the irresistible influence which they may command by an upright, impartial, and magnanimous conduct. What has been said of the relation of landlord and tenant, applies of course to all cases in which there are a superior and a dependent. In no single instance, in no combination of circumstances, can any one be justified in controlling the vote of an elector by bribery and intimidation, in any of their forms.

If there are such things as virtue and vice, morality and immorality, if such distinctions are not wholly fanciful and arbitrary, no doubt can be felt how the exercise of a control of this kind should be designated. If acting under this control against his conscience is vicious in the poor man, the exercise of it to force him to violate his sense of duty is a thousand times more vicious in the rich, and deserves to be put down by universal execration.

The objection sometimes urged against these sentiments, that it would be highly pernicious to destroy the influence of one class over another,—that of the rich over the poor, the powerful over the weak, the intelligent over the ignorant,—proceeds, when it is sincere, on a misapprehension of the subject, and confounds two very different operations. Were all direct and intentional exertions of power by one class over another in the election of representatives, except the influence of understanding on understanding, utterly extinguished, as justice requires that they should be, a strong indirect influence would still remain,—an influence which would be ever maintained by the richer classes over the poorer, the landlord over the tenant, the employer over the workman. There is an unconquerable, and to a

certain extent (in the present state of society at least) a beneficial proneness in man, to rely on the judgment and authority of those who are elevated above himself in rank or riches. From the irresistible associations of the human mind, a feeling of respect and deference is entertained for a superior in station, which enhances and exalts all his good qualities, gives more grace to his movements, more force to his expressions, more beauty to his thoughts, more wisdom to his opinions, more weight to his judgment, more excellence to his virtues. Even the wisest find it difficult to keep themselves from this illusion; and in society at large it is apt to be so strong, that there are always individuals, who, from mere servility, or blind veneration, will do what they conceive will be agreeable to their superiors, even when not the slightest wish is expressed to direct them.

Hence the elevated men of society will always maintain an ascendancy, which, without any direct exertion of influence, will affect the result of popular elections; and when to this are added the capabilities which they possess, or ought to possess, from their superior intelligence, of impressing their own opinions on other classes, it will be seen, that, if any sort of despotic control were justifiable, it would be superfluous for any good purpose.

The propensity of mankind is, not to make choice of an individual for a desirable office on account of his bare merits, of his mere aptness to discharge its functions, estimated by their own independent understandings; but it is, even in a pernicious degree, to give him their suffrages on account of the opinion entertained of him, and the favour manifested towards him, by those whom they wish to please, and whose judgment they have been accustomed to respect.

The error of confounding the different kinds of influence here adverted to, may be fairly charged on Mr. Canning, when, in his celebrated anti-reform speech at Liverpool, he said, "I hold it to be frantic to suppose, that, from the election of members of parliament, you can altogether exclude by any contrivance, even if it were desirable to do so, the influence of property, rank, talents, family connection, and whatever else, in the radical language of the day, is considered as intimidation or corruption."

The artifice of confounding two things under one name (often unconsciously resorted to) seems indispensable to a bad cause. No one of any weight in the controversy ever thought of excluding all influence. The advocates of what has been called purity of election maintain two very

simple propositions, which Mr. Canning would have found it difficult to gainsay, on any theory of morals which he might venture upon :—1. That an elector is morally bound to give his vote to that candidate whom he regards as best fitted for the office. 2. That the acts of conferring upon him or promising him any benefit, and inflicting upon him or threatening him with any evil, in order to cause him to vote otherwise, are morally wrong. They therefore necessarily condemn that influence of property, rank, talents, family connections, or of any thing else which is employed in committing such an act of moral turpitude ; but any influence which cannot be brought under this description, they leave unassailed and unopposed. What they condemn is power over the will, employed directly and purposely to control a vote, the direction of which is a matter of duty to the individual who has to give it.



## CHAPTER V.

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### ON ELECTIONS.

It has been the object of this Treatise, to arrange the various parts of the subject in such an order that each should prepare the mind of the reader for that which succeeds it. If the attempt to do this has been at all successful, the consideration of the questions which belong to the present chapter will have been greatly facilitated.

Those parts of the representative system which have already come under examination, have generally attracted more attention, and been regarded as of more consequence, than the part we are now to treat of. They are doubtless of high importance; but it must be obvious to a very cursory glance, that how admirable soever might be our arrangements, in respect to the number, composition, and other circumstances of a representative assembly, and how wisely soever the electoral body might be constituted in relation to the business to be done, yet all the purposes of

these judicious regulations might be defeated by a vicious mode of proceeding at elections. It is vain to constitute an electoral body on the best principles, unless an effectual mode is adopted for ascertaining its genuine sentiments; and vain to have a properly-regulated legislature, if the men who compose it are permitted to win their way into the national council by degrading practices, or are sent under conditions which incapacitate them from discharging the proper functions belonging to members of a deliberative assembly. Let us then proceed to examine, in the present chapter, what is the best method of collecting the suffrages of the electors, and the proper way of conducting the other business of elections.

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#### SECTION I.

##### *On the Process of taking Votes.*

In prosecution of the design just sketched, we have first to enter upon the inquiry how the votes of the electoral body are to be collected. The questions to be examined under this head are not numerous, but one of them at least is of high importance.

There appear to be three points which ought to be chiefly attended to in making arrangements for taking votes. The votes ought to be taken, first, with as little inconvenience as possible to the electors; secondly, with as little inconvenience as possible to the public; thirdly, in a way which is most likely to give effect to the objects which have been aimed at in the construction of the electoral body.

The first and second objects, which, in comparison with the third, are of subordinate importance, are to be secured principally by taking the votes on the spot where the elector resides. The privilege is thus exercised without expense or loss of time to the electors; and the public inconvenience arising from the tumults which attend the practice of bringing large multitudes together is avoided. The custom, in England, of taking the votes for a county at only one place, frequently obliged the electors to travel to a great distance. In Yorkshire, for example, many of them had to go fifty miles to the poll-booth. This produced evil in various ways: on some freeholders, it operated as an effectual disfranchisement: on others, who did not choose to forego the exercise of their constitutional privilege, it inflicted a fine for availing themselves of

it. In other cases, the effect of the custom was to legalize bribery. The man who could afford to carry the greatest number of electors to the poll, obtained the greatest number of votes. Even the most conscientious voters did not feel that they were accessory to corruption, by submitting to be carried to the place of election at other people's expense.

The Reform Act has, in this respect, done essential service; but the multiplication of polling-places, and the consequent division of the voters, might be carried still further, for the double purpose of saving trouble and expense, and of preventing the assembling of a multitude on any one spot.

The point, however, of greatest importance in the process of taking the votes of the electors, is the third: they should be taken in the way which is most likely to give effect to the objects aimed at in the construction of the electoral body. It would be inconsistent to adapt that body to the production of certain results, and yet to permit those results to be counteracted or prevented by any thing in the manner in which its functions are performed.

A former chapter has shown, that the electoral body should be constituted with a view to secure, as far as possible, adequate knowledge in its

members to make a good choice of representatives, combined with the will to exercise the privilege for the public good.

It has also shown, that the sinister interests which are apt to prevail amongst the electors, and to prevent the privilege in their hands from being exercised for the public good, are of two kinds; an interest in acts of the legislature, by which the common benefit is sacrificed to that of a part of the community; and an interest in voting without any reference at all to the proceedings of the legislature: and that consequently in the construction of the electoral body, it is a matter of primary importance to guard against the intrusion of both these sinister interests. It is obvious that the mode of collecting the votes of the electors, should be auxiliary as far as practicable to the same ends. The purposes aimed at in the disposition and regulation of the elective franchise, are all comprised in the right direction of the votes; and unless the same purposes are kept in view during the election, and carried through the process of voting, the previous arrangements are nullified.

In examining how far it is possible to promote these ends by the manner of collecting the suffrages, it soon appears that the assistance to be derived from this source is of a negative or preventive character. By this operation, however con-

ducted, neither knowledge can be infused into the electors, nor disposition to vote for the public good. If any thing can be done to promote the latter of these objects, it can be only by assisting to keep off the sinister interests already adverted to.

But it is impossible, by any mode of taking votes, to prevent the first-named sinister interest from having effect. If the electors have an interest in the election of an individual, because they expect that individual to promote certain acts of government, from which they would derive an advantage at the expense of the common benefit, nothing in the process of election can prevent or remove it, so as to leave the field clear for the operation of the interest which they have in common with the rest of the community.

It is liable to be counteracted indeed by bringing into play, through the publicity of the votes, the second kind of interest, that which the electors may have in voting without any regard to the effect of their suffrages on the proceedings of the legislature. But the employment of this sort of counteraction could never enter into any good constitutional arrangements. To attempt it would manifestly make the matter worse. It would realize the fable of the horse calling in the assistance of man in his contest with the stag. The reason for adopting arrangements to get quit of the first kind

of sinister interest, is because it is at variance with the common good, but to attempt to get quit of it by the help of the second kind, would be to set in operation a principle still more widely at variance with the common good. In a word, it would be irrational to permit or facilitate bribery and intimidation, on the ground that they might occasionally be employed for the public advantage, when nine times out of ten, as will be shown by and by, they would be employed against it.

Nor is it possible that the operation of this sinister interest in the election of one man rather than another, on account of his being likely to promote some partial advantage of the electors, should be counteracted by the action of public opinion on the electoral votes. When a large number of men act in the same way, and thus no praise or blame can fall on an individual without being shared by the mass, the approbation or censure of the rest of the community has but a weak effect. In the matter before us, public opinion would be especially inoperative, for it could not be apparent merely from the direction of his vote, whether the elector had voted for any partial interest, or from a conscientious regard to the public good, and there would consequently be nothing in the vote itself to approve or reprehend. In addition to all this it must be recollected, that

in a numerous constituency, the circumstances attending the suffrage of a single elector are too unimportant to attract general attention.

These considerations bring us to the conclusion, that it is impossible, by any device in the process of taking votes, to guard against the operation of any sinister interest which the electors may have in legislative enactments, and consequently this is an object which may at present be discarded from our contemplation.

The second species of sinister interest, the interest, namely, which the electors have in voting without any reference to legislative proceedings, is in a different position. A preceding chapter has shown the necessity of guarding against it in the construction of the electoral body, by making that body numerous ; but there is also a necessity for guarding against it in the mode of taking votes. To attempt to prevent its influence, by precaution on either of these points separately, would be vain.

This interest, it must be recollected, consists in some private or personal advantage held out to the electors, usually in the shape of positive gain or avoidance of loss, in order to induce or compel them to vote according to the wishes of the party presenting the motive : and we have to examine what expedients can be adopted to prevent the



operation of this interest, or to reduce its influence to the lowest point. At this stage of the inquiry, it is of course presumed that such prevention is desirable; that it is in fact more—that it is imperatively demanded by the public good.

It has indeed been sometimes argued, and may yet be urged, that amidst all our boasted modern civilization, the majority of the people, of whom the electoral body must consist (as in England for example), are so uninstructed, and so easily misled by their passions and prejudices, that, in political affairs, they are not to be trusted to their own discretion. The direct and intentional influence, therefore, which the rich and the great exercise over the hopes and fears of humbler individuals, is needed to correct the imperfections of the electoral body, and give their proceedings a salutary direction.

This argument, as far as the counteraction of one sinister interest by another is concerned, has already been considered in the present section, and was before virtually answered in its whole extent in the section on the relation in which the electors stand to other classes, where it was sufficiently shown, that the exercise of such a direct influence over the will is in every case immoral. But, strictly considered, it is an argument which belongs to the inquiry into the proper construction of the electoral body. If the electoral body is not to be

trusted, there must be something wrong in its composition; for if it is rightly constituted, the more faithfully the votes represent its sentiments the better: but on the supposition that it is wrongly constituted, the course of true policy is clear. The right way of correcting an evil is, if practicable, to remove its cause, and not to resort to some expedient for counteracting the mischief as it is continually evolved from its unmolested source. If the electoral body is composed of such unsuitable elements, that if left to itself, the perpetual result would be the election of improper representatives, and consequent bad legislation, there cannot be a simpler or more effectual plan than altering the constitution of that body. It is surely a strange procedure to attempt to remedy the evil, by preventing the electors from expressing their real sentiments in their votes, and substituting by means of fear or corruption the will of some other party. In point of morals, it must be granted to be an extraordinary way of promoting the public good, to endeavour to correct the defects of the electoral body through the instrumentality of bribery and intimidation. But overlooking for a moment the moral character of the means, we must be struck by their inefficacy to accomplish the end. The supposition is that the electors, if left to follow their own uninfluenced sentiments,

would make a bad choice, a choice injurious in its results to the community, and this is to be prevented by some one stepping in and making a choice for them. The bad choice of the electors would proceed from ignorance, or from sinister interest at variance with the public welfare; and the doctrine we are engaged in rebutting, teaches that a better choice is to be secured by throwing the virtual power of election into the hands of a few, who, inasmuch as in the very exercise of such power they would be committing an immoral act, could hardly be prompted by views of public good; who would be infinitely more likely, even from the smallness of their number, to be under the influence of a sinister motive; who might, for aught that could be antecedently told, be themselves incompetent from ignorance to choose well, and in whom even the highest intelligence would be mischievous, inasmuch as it would only instruct them more fully how to sacrifice the public good to their own private ends. It is in reality preposterous to suppose that bribery and intimidation would be resorted to by any class, for the purpose of promoting the welfare of the community.

If the electoral body is properly constituted, the very grounds on which its constitution rests, demand that its real sentiments should prevail. Certain classes have been singled out from the

rest of the community, and endowed with the elective franchise, because they possessed the best attainable combination of *knowledge* to choose proper representatives, and *will* to choose according to their knowledge. To carry into effect the reasons for which they have been entrusted with the electoral privilege, their will must have free scope and accurate expression. If their genuine sentiments are not collected, what becomes of the grounds on which they have been appointed to choose ?

We may then venture to assume, that whatever private objects may be promoted, nothing but public mischief can be likely to arise from the employment of bribery and intimidation in any of their forms ; and we may proceed to inquire what expedients, in the process of election, can be adopted to prevent such corrupt practices, and all their consequent moral and political evils.

The first expedient which naturally suggests itself is, to prohibit by law all palpable means of corruption. This would doubtless have some efficacy ; but experience shows that the effect of such a law would be on the form in which inducements were presented to the electors, and not on the substance : at the best, a legal prohibition would reach only gross and palpable instances, leaving untouched the subtler agency of personal hopes

and fears. Allowing, then, that such an enactment might prove of some benefit; that it might serve at all events as a ground for the moral sentiments of the community to stand upon, and lift their voices against corruption and tyranny, it must also be allowed that it is not at all commensurate with the evil.

He who, after all the experiments which this country has made, continues to look for any great good from the strictest laws against bribery and intimidation, exhibits a fine illustration of what Dr. Johnson has called "the triumph of hope over experience." So far back as the beginning of the last century (to mount no higher) these mal-practices and the feeble efficacy of such remedies, were notorious. "We have lately," says De Foe, "had two or three Acts of Parliament to prevent bribery and corruption at elections. I have already noted that we have in England the best laws the worst executed of any nation in the world. Never was treating, bribing, buying of voices, freedoms, and freeholds, and all the corrupt practices in the world, so open and barefaced, as, since these severe laws were enacted \*."

\* *Life and Times of Daniel de Foe*, by Walter Wilson, Esq., vol. ii, page 362; the passage is from De Foe's *Review*, and

An expedient which has proved for centuries so inefficacious for preventing the arts of corruption, cannot be looked forward to with much hope now.

was written in 1705. It proves that corrupt practices at elections had at that period attained as great a height almost as they could reach. Mr. Hallam, in his valuable Constitutional History, appears to have under-rated the extent to which these arts were carried before the middle of the eighteenth century. "The smaller boroughs," says he, "which had been from the earliest time under the command of neighbouring peers and gentlemen, or sometimes of the crown, were attempted by rich capitalists, with no other connection or recommendation than one which is generally sufficient. This appears to have been first observed in the general elections of 1747 and 1754; and though the prevalence of bribery is attested by the statute book, and the journals of parliament from the Revolution, it seems not to have broken down all flood-gates till near the end of the reign of George II. The sale of seats in Parliament, like any other transferable property, is never mentioned in any book that I remember to have seen of an earlier date than 1760." [Constitutional History, vol. iii, p. 402, 2d edition.] From the writings of De Foe, nevertheless, we learn that the sale of seats was a regular traffic as early as 1701; for in that year De Foe published "The Freeholder's Plea against Stock-jobbing Elections of Parliament Men." In this tract he states that there was in his time a regular set of stock-jobbers in the city, who made it their business to buy and sell seats in parliament, and that the market price was a thousand guineas \*. The prevalence of election abuses is attested by his own personal observation a few years subsequently. In 1708 he tells us that he was pre-

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\* Wilson's Life of De Foe, vol. i, 340.

Nor would the imposition of oaths on either electors or candidates, abjuring the employment of such improper means, be likely to improve the efficacy of the law. The imposition of an oath is a relic of barbarous times, when the true nature of moral obligation was little understood; if it ever had any beneficial tendency, it must have been indebted for it to the general prevalence of co-ordinate and concordant errors, which have now lost their hold on the mass of society; and in the present state of civilization, it may be pronounced to be a practice radically vicious in all its forms, being in all cases either inoperative or

sent himself at many of the elections, and witnessed with shame and regret the mode in which they were conducted. "I have not," says he, "so far sat still at the coffee-houses all this summer, as some of you have done, forming elections, telling noses, and casting up parties over a dish of coffee; but I have been among a great many of your electors myself. I have been an eye-witness to many of the most fulsome and loathsome stories I have told you; I have seen the possibility, aye, and too much the practice of men's voting implicitly; here for ale, there for influence, here again for parties, and there by persuasion. And, God knows, I speak it with regret for you all, and for your posterity, it is not an impossible thing to debauch this nation into a choice of thieves, knaves, devils, or any thing, comparatively speaking, by the power of various intoxications\*."

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\* Wilson's Life of De Foe, vol. iii, page 24.

delusive, and carrying with it no advantages which may not be obtained by the exhibition of ordinary punishments to the fears of the party whose fidelity it is wished to secure. These objections, it is true, would not lie against a simple declaration ; but the effect of either an oath or a declaration for preventing bribery and intimidation at elections, would probably be, to render evasions more artful, and subterfuges more circuitous, and to throw an advantage into the hands of the dishonest and profligate, at the expense of the pure and upright. At best, the expedient would be ineffectual.

The only other expedient which has been prominently brought forward, with a view to emancipate the mind of the elector from the improper influences in question is, to provide that his vote shall be given in secrecy. The end to be attained is so highly important, that any plausible measure proposed to effect it deserves a close and careful examination.

Let us then investigate and compare the effects of open and secret voting on the employment of bribery and intimidation.

On the system of open voting it is manifest, that the anticipation of the direct consequences of his vote to the elector, from the candidates and their partisans, has all the force of which it is suscepti-



ple. Publicity is, indeed, an essential circumstance, without which the hope or fear of such consequences could not operate on his mind. Reward could be conferred, and punishment inflicted upon him, only in consequence of his vote being known. Let the direction of his suffrage be unknown and undiscoverable, and by that single provision you render it impossible that he shall be either rewarded or punished for it. You surrender him at once to the undisturbed operation of his real feelings towards the candidates, to the play of those principles on which the legislature calculated in the construction of the electoral body; you enable him, in one word, to vote as he likes, which is in fact all that it is possible to accomplish towards securing a right decision, and which is the immediate object to be kept in view.

It will scarcely be denied by any one, that secret voting puts an end to intimidation. Menaces would be absurd, when, as the conduct of the party to whom they were addressed could not be ascertained, it would be impossible to execute them; and they would even tend to defeat their own object, by the exasperation which they would engender.

But it has been contended, that whatever might be the fate of intimidation under a system of secret voting, yet bribery might still flourish, because, far from producing exasperation, it would create a feeling of good-will and gratitude, a sense of obligation, which would have its effects under the profoundest secrecy. Without denying this influence altogether, we may nevertheless safely pronounce it to be so weak and uncertain, that no one would practically trust to it. Few are less disposed than those who win their way by corruption, to rely on kind and honest feelings, especially in the minds which they corrupt. Allowing, however, that to a certain extent this species of seduction might still prevail, how stands the account? Intimidation, which is of far more extensive power, would be annihilated, and bribery itself reduced to a feeble and uncertain efficacy. The most mischievous kind of influence would be swept away.

To set against these advantages, it has been contended that secrecy of suffrage entirely annihilates that influence of public opinion, which it is alleged would otherwise be brought to bear on the conduct of the electors. Open voting places them under the hope of approbation and fear of censure

from the public voice, and thus counteracts with one hand the allurements and menaces to which it exposes them with the other.

Every one must see, however, that the influence of these feelings on the votes of electors is exceedingly feeble. The direction of an individual's vote, as we have already had occasion to remark, although important enough to attract the attention of a candidate and his friends, and to rouse them to the most strenuous exertions in order to command it, is too unimportant for the public eye to fix upon. The motives of the elector, too, must be always more or less a matter of doubt, and as he shares public approbation or public censure with a great number of others, he feels them lightly, and covets and fears them little. Hence we shall not greatly err, if we pronounce that the influence of public opinion, on the votes of an election, may be estimated at nothing : it is a quantity inappreciable from its minuteness.

These observations lead us to a clear view of the cases in which open and secret voting are severally proper. It will be found that open voting is required—First, In those cases which involve responsibility on the part of the voter to a constituent or controlling body. Secondly, In those cases of public concern in which the direction of the vote

is of sufficient importance to attract public attention.

Secret voting, on the other hand, is required in those cases which are destitute of both these features; in which there is neither responsibility to a constituent body, nor importance enough in the single votes to draw public notice to the direction which they may take.

In almost every public question brought to a vote, there are persons strongly interested in the decision from private motives, from some personal advantage or disadvantage foreign to the merits of the question itself. When the process is open, such individuals watch every vote with the keenest interest, and employ every art to give it the direction of their wishes. In these circumstances, should the suffrage be fettered by responsibility to a body of constituents, or of importance enough to attract public attention, any machinery which may be put in play to give it a sinister direction is counteracted more or less effectually by such responsibility, or by the influence of public opinion, or by both; but if the vote is neither fettered by responsibility, nor important enough to draw public notice, the sinister interest prevails, and is enabled to prevail solely by the circumstance of the vote being known.

We have examples of all these different cases in the British constitution. In the House of Commons we have voting under responsibility to a constituent body, and under the keen vigilance of the public eye: in the House of Lords we have voting without responsibility, but of importance enough to fasten public attention upon it; and in the election of representatives we have voting without either effective responsibility or individual importance attached by the public to the votes.

In the proceedings of parliament there is often a strong sinister interest at work, but it is kept down in the Commons, by the consciousness that the eyes of their constituents and of the public are fixed on their transactions: in the Lords it is less effectually kept down by the apprehension of public opinion alone. In both, the publicity of their proceedings is indispensably necessary for the operation of the salutary check, and of course the publicity of the votes, which form in reality the capital part of those proceedings, is required.

At an election, on the other hand, the publicity of the votes only enables the sinister interest to come into play, without any check worthy of the name. There is no responsibility on the part of the electors, as there is on the part of the repre-

sentatives, to a constituent body. They are not chosen by the rest of the community, and liable at stated periods to be deprived of their privilege, but are appointed by a law emanating from the supreme authority, and are answerable to no one for the direction of their suffrages. It is true, that all political power, even the humblest portion, is to be considered as held for the benefit of the community, and the share of it confided to the electors is no exception to the general rule. No penalty, however, can be inflicted for any perversion of the privilege, and the insignificance of each individual vote, combined with the uncertainty of the motives which have governed its direction, enable it to evade the grasp of public censure. Here then open voting, instead of protecting the suffrage from sinister influence, yields it up a defenceless prey to bribery and intimidation; and secrecy becomes as necessary in this case, as publicity has been shown to be salutary in the other cases.

If secret voting, as the preceding observations attempt to show, conduces more effectually than open voting to the great end which every mode of taking votes ought to propose to itself, namely, to carry into effect the objects aimed at in the construction of the electoral body; which amounts

in fact to the same thing as leaving the electors to the undisturbed influence of those motives by which they would naturally be actuated in the choice of representatives; any incidental disadvantages must be of surpassing magnitude indeed to entitle them to much consideration. The objections usually brought against secrecy of suffrage, are rather declarations of the feelings of its opponents, than assertions of evil consequences to be apprehended from it; and therefore, according to a universal rule in political reasoning, go for nothing. Thus it has been stigmatized as unmanly, un-english, cowardly, unworthy the dignified port of a free man: aspersions which deserve to be met by nothing but a direct contradiction. One real evil consequence however has been ascribed to it: the objection has been urged, that it will directly promote breaches of promise on the part of the electors, and other acts of bad faith and hypocrisy; an allegation to which it is a sufficient answer, that promises and pledges will not be exacted when there are no longer any means of ascertaining whether or not they have been fulfilled; and it is not likely that professions of support will be hypocritically volunteered, when they will be no longer of any value.

To all these cavils and objections however there

is one general answer, — that such evils, whatever they may be, are light in comparison with those which secret voting enables us to escape. Secret voting is the direct means of sheltering a man from the degradation of being seduced or intimidated to desert his duty and violate his conscience, while open voting exposes him to both. If it is manly and worthy of the English character, if it is frank and dignified in an elector to vote under the menaces of a superior or of a mob, or under the temptation of a bribe from any body; if, on the contrary, it is unmanly and un-english, base and hypocritical in any one to vote from the spontaneous and independent feelings of his own mind, then indeed the practice of secret voting ought to be condemned to universal execration.

The great opposition to secret voting, does not however arise from the consideration of its being unmanly or un-english, or leading to insincerity and deception, but from a deeper source — from a feeling which many who entertain it perhaps would not avow even to themselves, although others make no scruple of publicly declaring it. The higher classes fear to commit the election of legislators to the genuine sentiments of the people. They have so long exercised a power over the community, by means of the brute force



of rank and riches applied to the hopes and fears of those below them, that they have accustomed themselves to regard it as a salutary and even necessary control. It has relieved them too from a great part of the trouble of being intelligent, active, and virtuous. They have found it much easier to arrive at the office of legislator, by throwing away a few thousand pounds for a seat, or ejecting a few miserable tenants as a terror to the rest, than by winning affection through their virtues, or commanding esteem by their superior intelligence and well-directed activity. To men accustomed to domineer over the wills of their fellow-creatures, it is intolerably irksome to be reduced to the necessity of appealing to their understandings. Having been obliged to concede, nevertheless, a more popular system of representation, having been reduced to the necessity of ostensibly yielding the elective franchise to those who never before possessed it, they are unwilling to trust the real exercise of it to the parties on whom it is conferred by law. They consent to confide the privilege to a popular constituency, but only as instruments to receive a direction from a higher guidance. They cannot bear the idea for a moment of trusting the machinery to work by its own inherent power. They therefore oppose

a system of voting which would snatch this domination out of their hands, which would really give to the people what the law professes to bestow upon them, which would effect what has never yet been effected in this country, that the issue of the elections should express the genuine sense of the constituent body.

Here indeed would be an end to all the despotic sway of rank and riches; by this would be established the fatal necessity of combining them with moral and intellectual excellence: on this system there would be a lamentable predominance conferred on talents and virtues. Those therefore do perfectly right to oppose the ballot, who fear that it would annihilate that unjust influence in elections, which they have hitherto enjoyed from mere wealth and station; who are apprehensive that to maintain themselves on the vantage-ground where they have been set down by fortune, they would have to task all their faculties; who recoil from the labour of thought, and shrink from the hardship of being useful. All those, in a word, who wish to retain any unfair domination over others in the business of elections, should rouse themselves to resist the adoption of the ballot, as utterly destructive of the object of their desires. There can be no doubt whatever, that any just system must be fatal to injustice.

As to the sincere friends of popular representation, who yet object to the ballot on the ground that it would deprive the higher ranks of their influence, assuredly against them may be justly brought a charge of weakness and inconsistency. If a politician of this description approve, on principle, of confiding the elective franchise to certain classes of the community, his approbation must proceed on the ground of such classes possessing sufficient intelligence to make a right use of the privilege: yet with strange inconsistency he fears, that if these electors are not placed by open voting under the influence of the higher classes, or, in other words, if not bribed or intimidated into giving their suffrages as their superiors please, they will exercise their privilege in a pernicious manner. Thus in the same breath he pronounces the electors to be fit and unfit for their duty. It would be much more to the credit of his judgment, to avow at once, that the electors are not competent to the proper exercise of the franchise. A law which confides an office to any one so ill suited to it, that he requires to be bribed, cajoled, or intimidated, to discharge it well, should be immediately blotted from the statute-book, and the function entrusted to worthier and more competent hands. The electors in any

case are either fit or unfit for the privilege which the name implies: if they are fit, the more faithfully the result of an election is the expression of their genuine sentiments, the better: if they are not fit, the franchise ought to be withdrawn from them, and confided to those who are.

With regard to the proper and salutary influence of rank and riches, the ballot would not touch it. By the constitution of the human mind, it is placed in perfect safety beyond the reach of political arrangements; and if it ever becomes weakened, it will be so only in proportion as it is rendered unnecessary by increasing wisdom, only in proportion as it is replaced by higher principles.

When will our men of wealth and station rise into something like elevation of sentiment on the subject of their influence over those below them? When will they direct their aspirations after a power, which has been thus described by an eloquent advocate of the true interests of his species?

“Far from enslaving, it makes more and more free those on whom it is exercised; and in this respect it differs wholly from the vulgar sway which ambition thirsts for. It awakens a kindred power in others, calls their faculties into new life,

and *particularly strengthens them to follow their own deliberate convictions of truth and duty.* It breathes conscious energy, self-respect, moral independence, and a scorn of every foreign yoke.

“There is another power over men very different from this; a power, not to quicken and elevate, but to crush and subdue; a power which robs men of the free use of their nature, takes them out of their own hands, and compels them to bend to another’s will. This is the sway which men grasp at most eagerly, and which it is our great purpose to expose. To reign, to give laws, to clothe their own wills with omnipotence, to annihilate all other wills, to spoil the individual of that self-direction which is his most precious right,—this has ever been deemed, by multitudes, the highest prize for competition and conflict. The most envied men are those who have succeeded in prostrating multitudes, in subjecting whole communities to their single will. It is the love of this power, in all its forms, which we are anxious to hold up to reprobation. If any crime should be placed by society beyond pardon, it is this \*.”

\* Dr. Channing, on the Character of Napoleon.

After this long discussion of the subject, it may possibly be still alleged, that, allowing the advantages of secret voting, yet, in a representative system tolerably well constituted, the introduction of such an expedient would be superfluous; that although the electors might perchance be exposed by open voting to the influences described, yet such influences are not likely to be brought to bear upon them, nor to be generally and extensively employed.

Let him who holds this opinion consult the proceedings in the first election under the Reform Act, and he will find that the power of this class of motives almost universally predominated. Never were bribery and intimidation more generally, more avowedly, and more unblushingly employed; and employed, not only by the rich and great, but by political parties, religious sects, masters of manufacturing establishments, local combinations, nay even by the lowest rabble. Not only did tenants vote under the dread of their landlords' displeasure, but shopkeepers and manufacturers under fear of their customers, workmen under fear of their masters, pothouse-keepers under the fear of those who frequented them, members of religious societies under the fear of their teachers, debtors under the fear of

their creditors, and many persons under the fear of popular violence. It would not be easy to conceive an election, in which less should be left to the unbought, unbiassed, unintimidated choice of the voters. In a country where great inequalities of wealth and station exist, it is in vain to expect that open voting will ever yield any other result, except as despotism sometimes produces good government—namely, by accident. The suffrage may be extended, the number of electors increased, and direct bribery by that means rendered less easy; but such an extension will only augment the number of those who will be subjected to the influences just described. It is not the actual bribe which it is of most importance to get rid of; it is the thousand secret, intangible, invisible, inaudible modes in which the vote is perverted from its proper direction. A hundred and thirty years ago it was said, by a shrewd observer \*, “Till the freeholders will forbear to be led by persons and parties, and to vote from the sordid motives of interest and submission, it will be impossible they should be well represented.” After the lapse of this long period, we have seen no progress made in the species of for-

\* De Foe.

bearance here pointed out; and it is no great hardihood to predict, that, if we persevere in the same system of open voting, the lapse of a hundred and thirty years more will be equally barren of improvement.

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## SECTION II.

### *On the Conduct of a Candidate.—Canvassing.*

In treating of the process of election, it appeared necessary, in the outset, to determine the best method of collecting the suffrages, before entering on the consideration of the conduct of the candidate, inasmuch as the former must necessarily have some influence on the latter. The plan of secret voting must inevitably affect many of those practices which have hitherto marked the proceedings at elections, although it leaves the real duties and proprieties to be observed on these occasions just as they were.

The proper line of conduct to be observed by a candidate is easily drawn. As it is the part of those who have the power of choice, to select the man who will fill the office with the greatest efficiency, so it is the part of any one who aspires



to the office, to show that he is capable of filling it, and to place his cause on no other ground. To this end alone should his efforts be directed.

If it is wrong in the electors to appoint or reject a candidate on any other ground than his merits, it is equally wrong in the candidate to do any thing for the purpose of obtaining the office, further than showing his qualifications for it. Any other step would be an attempt to induce the electors to act on unjustifiable motives, and would therefore be unjustifiable in itself. None of the arts of persuasion, no means of compulsion, no endeavours to prevail, except through the conviction of the understanding, can be honestly resorted to. What, then, is to be said of the system of canvassing for votes, so venerable for its antiquity, so generally stooped to by the haughty aristocracy of the country? of that system of cajolery, flattery, pretension, and intimidation, from which any plain man of independent feelings must recoil with insurmountable loathing?

If the moral sentiments of the community had not been debased on this point by the long prevalence of a corrupt practice, they would feel that there was something not only degrading but ludicrous in the procedure of a candidate, who circulates himself from house to house for the purpose

of soliciting votes from electors as so many gracious boons. On the supposition that the candidate happens to be really the best man for the office, it is asking them to have the condescension and kindness to consult their own interest out of pure favour to him. On the supposition that he is otherwise, it is craving them to be so exceedingly liberal and obliging as to disregard their own interest, and give a preference to his. In the one case, the request bears no mark of wisdom; in the other, none of modesty: in both cases, it is utterly inconsistent with manly independence.

It is true, that what is called canvassing does not necessarily assume this form. A candidate, when personally visiting the electors at their own homes, may limit himself to an explanation of his opinions, and to a proper and dignified exposition of his qualifications for the office, without stooping to the ludicrousness or servility of craving as a boon what ought to be either withheld, or given because it is the interest at once and the duty of the elector to give it. But even in this case, mark the inefficiency, the uselessness, of a personal visit; consider in what degree the candidate can set forth his pretensions in the few minutes which he can dedicate to the task of enlightening the minds of the individual electors

on the subject of his merits and opinions. How degrading soever the procedure may be, there is some purpose answered by visiting a man, even for a few minutes, with the view of prevailing on him to give a promise ; a few minutes may suffice for obtaining from him a yes or a no : but to devote to him only so brief a period, with the view of enabling him to form a judgment of the qualifications of the candidate, is a fruitless sacrifice of time and labour, for a purpose which can be effectually accomplished by public addresses. Of this folly, few, it may be presumed, are guilty. The usual object of a personal canvass is to sway the will, not to guide or enlighten the judgment ; and it must be admitted to produce in general a considerable effect. The more servile the candidate shows himself to be, the freer from scruples, from dignity, and self-respect, the fuller of artifices in adapting himself to the feelings and prejudices of the electors, so much the greater is his success likely to prove.

In every way in which the system of canvassing can be regarded, it is evil : there is nothing to recommend it ; and if it prevails in any country where public sentiment does not promise to put it down, it perhaps might be put down with ad-

vantage by a legal prohibition. The experiment of prohibiting candidates and their friends from canvassing, has been tried by some public charitable institutions in the election of their officers, and has proved decidedly beneficial in the few instances which have occurred since the adoption of the rule.

But under a system of proper regulations for taking votes, no legislative prohibition of this practice in parliamentary elections would be necessary. It would be one of the advantages of the ballot, that the candidate would be driven by it from such unworthy expedients, and compelled to address himself to the good sense and good feeling of the electors, instead of attempting to work on their personal hopes and fears, their vanity and their credulousness.

All the real absurdity of canvassing would reveal itself, when it was no longer possible for the candidate to tell how far he himself was the sport of those whom he was endeavouring to cajole,—when the silent ballot-box refused to betray to the disappointed candidate the fair in words and faithless in deeds. If, then, the practice in question were needlessly persisted in after the adoption of secrecy of suffrage, it would assume

a manly and rational character; it would be an appeal to the understanding, instead of an attempt to inveigle a vote or to extort a promise.

To any discontinuance of the practice of soliciting votes as personal favours, many of the electors would doubtless themselves be opposed. The circumstance of being waited upon and flattered and importuned for a vote by a man of wealth, or rank, or distinguished abilities, gratifies their vanity and self-importance. They feel a sort of triumph in witnessing the transient suppleness and servility of one, who, at other times, is held aloof by his station and pursuits. It is, however, not only an unworthy, but in truth a foolish feeling. They must be men of very weak minds, who are pleased at the hollow courtesy of a candidate, who puts it on to gain his own ends, and throws it off with a laugh as soon as he has left their door.

It has oddly enough been maintained by some politicians, that it is highly useful for this sort of intercourse to take place every four or five years, when parliament is dissolved, between men of distinction and the less fortunate classes of society; useful, that the former should come down from their elevated position, and mingle with

humble condescension in the ranks of the latter. Those persons must have a singular idea of utility, who think it useful that one man should degrade himself by hollow flattery and assumed kindness for his own selfish ends, and that another man should have the weakness to be deluded, and the folly to be pleased, at being a dupe.

The manly intercourse between the parties, that which would be an honour and a benefit to both, is the free interchange of opinions, alike without servility and without haughtiness, conducted with perfect good faith and singleness of purpose. And surely electors of any sense will consider themselves as treated with far greater deference and respect by the man who simply lays his opinions before their understandings, than by him who lavishes upon them smiles and blandishments and courtesies, assumed for the occasion, and thrown off with all the alacrity of repugnance as soon as it is over.

## SECTION III.

*On the Conduct of a Candidate (in continuation).*

*Expositions of Opinion, and Pledges.*

If the practice of canvassing for votes is, as we have maintained, an unworthy expedient, and not adapted to the occasion, it is the more needful to examine what other means can be pursued by the candidate for the necessary purpose of showing the nature of his qualifications for the office to which he aspires.

It is obvious that the electors cannot form a proper estimate of his fitness, without a knowledge of his moral character, his intellectual qualities, and his political opinions. In general, these points will be already in some measure ascertained; or, in other words, any one who steps forward as a candidate for so important an office, will have established some sort of reputation in the world; and whatever is obscure in his previous conduct and character, will scarcely fail to be forced into open day by the praises of his friends on the one hand, and the assaults of his enemies on the other. The fervid ordeal of an election, will not fail to bring out in distinct relief the latent marks, which, although inscribed on his mind by nature or education, have remained as imperceptible to

the eyes of others, as those characters traced with sympathetic ink, which imprint no stain on the purity of the paper where they lie concealed till it is exposed to the fire. He may himself, to a certain extent, enter into an explanation of points connected with his moral and intellectual fitness, but the slightest sense of propriety will restrain him from becoming the trumpeter of his own merits. No one who is aware of the power of self-deception, will for a moment consider himself as the proper judge and expounder of his own virtues and abilities.

Leaving the electors then to gather his moral and intellectual character chiefly from other sources, a candidate of sound judgment will more particularly address himself to an exposition of his opinions in regard to those questions, on which as their representative he would have to decide. A merely written explanation is hardly sufficient. As part of the business of a legislator is to express his opinions in a public assembly, it seems requisite that the electors should have some proof how far he is competent to acquit himself in that task: nor can it be overlooked, that a man's personal presence, and the sort of manifestation of moral and intellectual qualities which takes place in public speaking, convey much information which could scarcely be obtained in any other way. To



an explanation of this kind no candidate can reasonably object. A knowledge of his political opinions, constitutes an important part of the grounds on which the electors have to form their estimate of his fitness for the office; and he is therefore bound to let those opinions be fully and clearly seen.

It has accordingly been usual for the candidate to make his appearance amongst the electors, and to enter freely on all political questions, in regard to which they might feel desirous to hear his sentiments. Not content however with this proper and salutary procedure, and desirous of binding the representative more closely to his duty, electors have frequently wished to extort from the candidate positive pledges to vote for or against particular measures. But between a mere explanation of opinions, and a promise to vote in a precise way, there is an important distinction which has been seldom adverted to. In the discussions consequent on the Reform Act, these two very different things were frequently confounded. It appeared to be by no means clearly understood, what was to constitute a pledge; what it was to comprehend; and accordingly it sometimes happened that electors, obstinately determined on exacting pledges, were satisfied

(unconscious of inconsistency) to accept from a candidate who was averse from entering into such stipulations, an unreserved explanation of his opinions, without any promise whatever: and sometimes, on the other hand, a candidate who was sternly opposed to pledges, as unconsciously volunteered promises of what he would perform, should he be returned as a representative to parliament. Such inconsistencies could scarcely have occurred, had the subject been clearly and fully apprehended. And yet it requires no great perspicacity, either to discover the distinction between giving pledges and entering into the completest explanation of political opinions, or to perceive the inadmissibility of one of these practices, and the perfect propriety of the other.

A close examination of these two different modes of proceeding, will be successful, it is hoped, in placing the matter in a convincing light, while it will also serve to illustrate still further the relative position of representatives and constituents.

The question involved is, indeed, essentially the same as that which has been already discussed in the section which treats of the propriety of instructions from constituents to their representatives. Pledges extorted on the hustings are in-

structions beforehand, given under the most unfavourable circumstances for being dispassionately and judiciously framed ; and all the arguments already employed against those instructions, which might run parallel with the legislative course of the member, and be almost contemporaneous with his votes, apply with additional force against directions fastened upon him so long before the occasion on which they are to be carried into effect.

If from this identity of instructions and pledges we are drawn into some repetition of arguments employed in former chapters, it will be pardoned by every one who reflects, that on so important a subject it is desirable to have a complete and independent disquisition.

Let us then briefly recal to the mind of the reader the purpose for which representatives are deputed to parliament, and the nature of the responsibility under which they lie.

A representative assembly, it must be recollected, is a body brought together for inquiry and deliberation, as well as a court for the passing of laws. Men are not sent thither for the purpose of enacting measures already determined upon, but to collect knowledge from every source, to interchange information, to compare their views, to

submit their conclusions to rigorous examination, to argue, to refute, to convince or to be convinced, and finally to decree what, after this long process, may appear in the eyes of the majority to be the best.

For the purpose of effecting all this, they are usually invested with the power of calling for information from all parts of the empire, and of summoning all classes of persons to their bar, to give evidence on the subjects of their inquiry. Official documents are laid before them to which a private individual could not gain access, and competent agents are employed in various investigations, the results of which are submitted to the legislature. Now it is a very obvious inference, that a representative should take his seat in the assembly of which he is a member, in a condition to avail himself of all the information thus laid before him, of all the opinions unfolded, and all the arguments employed by the able men there collected from all parts of the country, and of that exercise of his own judgment which such circumstances necessarily force upon him. It is surely of the highest moment to the community, that all the members of the representative body should be governed in their decisions by the fullest knowledge which they can obtain of the subject before them.

Let us call to mind, in the next place, the sort of responsibility to which a member of such an assembly is subjected by his position as a representative, the kind of hold which the constituents have upon him for his acting with propriety and good faith. And first it is manifest, that there is no judicial penalty to which he is liable for deceiving their expectations, or acting contrary to the public good. He cannot be fined, or banished, or imprisoned. The most substantial and palpable loss which can be brought upon him, is the loss of his seat as soon as the legislative assembly is dissolved. In addition to this, there is the less definite penalty constituted by forfeiting the esteem, confidence, and favour of his constituents, as well as of the people at large. In the liability to a loss of his seat, and to a fall in the estimation of his fellow-men, consist those checks to his misconduct which depend on others; and the power of applying those checks, constitutes the hold which the constituents have on his actions.

Keeping in mind this description of the province and the responsibility of a representative, let us examine which of the two modes of proceeding under review, is best adapted to the purposes to be accomplished: let us endeavour to determine,

first, which of them is most consistent with the object for which a representative is deputed to the legislative assembly; secondly, which of them is superior as a check on his public conduct.

The first point is easily decided. To send a man to parliament bound to vote positively for a particular measure, under all circumstances, is to render useless all inquiry, all collection of facts, comparison of opinions, and exercise of his reasoning powers, as well as to withdraw all motive for intellectual exertion. It is to say to him, "We send you to a place where you will have access to a great deal of information, to many instructive documents, and to much oral evidence; where you will hold communication with some of the ablest and wisest men of the country, and hear them unfold their arguments and explain their opinions; and where your mind will be necessarily called into vigorous action, if you are properly alive to the duties of your situation: but recollect, that although in this process unknown facts may be discovered, new trains of reasoning developed, established errors exploded, and inveterate misconceptions dissipated; although, in a word, new light may break in on your understanding, we insist on your making no use of it, we insist on your permitting it

to have no influence on your vote. To show our disinterestedness, we insist on your not giving us the benefit of any such fresh information, but that you shall decide at all events, and at all risks, in the manner pre-appointed. In an age distinguished for inquiry and progressive knowledge, we send you to a deliberative assembly without the power of deliberation."

It is quite palpable, then, that such a pledge, to act at all events in a prescribed manner, does not leave a man in the condition in which it is desirable that he should be sent to parliament. It is equally evident, on the other hand, that requiring from him merely a full and explicit declaration of opinions held by him, leaves him quite at liberty to avail himself of all the peculiar advantages for forming an enlightened decision, which are presented to him by his seat in the legislative assembly of his country. While the apprehension of being accused of inconsistency may redouble his caution and assiduity in examining the grounds of any new opinions which he may embrace, it will not prevent him from avowing a change of sentiment founded on reasons which he is at all times ready to produce.

Up to this point there will probably be little

difference of opinion ; but the important inquiry remains, which of these two modes of proceeding affords the better security for the honest and upright conduct of the representative ?

We have seen in what the peculiar check which the constituents have on his conduct consists. In the case of a positive pledge to vote in a determinate manner, the application of this check is clear. The representative must perform his promise at all events, or lose his reputation and his seat. He has no option : he must keep his word, or be condemned by public opinion, and cast off by his constituents.

But suppose that he has not given such a pledge, but that, instead of it, he has made a full and explicit declaration of opinions. In this case it is obvious, that he is equally liable to the loss of his reputation and his seat, in the event of his conduct proving inconsistent with his declarations, except in one particular contingency — namely, when he is able to show, to the satisfaction of his constituents, that his alteration of opinion has proceeded on the most substantial and justifiable grounds. If he cannot satisfy them of this, there is nothing to prevent him from suffering the same consequences as if he had broken a positive promise.

The penalties, then, to which a representative



is liable, whether he gives a positive pledge, or whether he contents himself with an explicit declaration of his views, are just the same, and the whole difference of the two cases consists in one point. In the one case, he is tied down under all circumstances; in the other, he is equally bound, with the single privilege of deviating from his declared opinions without lowering his character or endangering his seat, provided he can justify the deviation to his constituents; that is, he has the privilege of deviating at his own risk for their advantage.

This view of the matter deserves to be the more insisted on, because it has been said by some people, that they will trust no man's honour, they will have his pledge. Now there might be some force in this remark, if by a pledge were meant, that a man should set his hand to a document, which would legally bind him to a certain line of conduct, under a pecuniary penalty. In that case, the matter would not be left to a man's honour; the security would be on his property.

But it is the very characteristic of the positive pledge which these politicians would exact, to bind a man in honour; which is also equally the characteristic of that obligation under which a man places himself, when he makes a declaration of opi-

nion. The substantial part of the penalty to which a representative is liable—namely, the loss of his seat — would remain, and might be inflicted, although he made neither promise nor declaration of opinion, the infliction of it being dependent solely on his pleasing or displeasing his constituents. The additional hold which such promises and declarations give, is on his honour, and nothing else.

In order to exhibit the subject in a more striking light, let us trace the operation of these two modes of proceeding in the cases of honest and dishonest representatives. When a man of integrity has given a positive promise, he feels bound to keep it without evasion : but no integrity can prevent an individual from changing his opinions, in consequence of fuller knowledge and ampler consideration. An honest representative therefore, under such circumstances, may be placed in a dilemma which no upright mind would wish to encounter — the dilemma of being compelled either to break his promise, or to vote against his conscientious convictions.

When, on the other hand, an honest representative, after having made a declaration of opinion, finds that opinion changed by subsequent investigation or accession of intelligence, he will vote according to his actual judgment, and openly and

candidly submit to his constituents the reasons on which his conduct has proceeded.

The course of a dishonest representative, under the same circumstances, will be very different from that just described. Although he may have given a positive pledge, he will regard nothing but the single consideration, whether breaking his promise, or keeping it, will prove on the whole more advantageous to his own selfish interests, and he will conduct himself accordingly. If he has made only a declaration of opinion, he will be governed by the same motives. It will not make the slightest difference to him, whether he has promised, or whether he has merely explained. He will be at no loss in either case for some plausible subterfuge to save appearances.

We seem, then, naturally brought to the conclusion, that, of the two requirements under review, a simple declaration of opinion has the decided superiority in point of advantage, inasmuch as it leaves the representative at liberty to avail himself of all the sources of knowledge and the opportunities of instruction to which he has access in a deliberative assembly, and thus fulfil in the completest manner the purpose for which he is deputed by his constituents; while such a declaration is equally binding on an upright man,

except in circumstances where it is of high importance to the welfare of the community that he should be free.

Whatever objections conscientious individuals might have to pledges or promises to vote in a prescribed manner, they could not reasonably object to an explicit declaration of opinions on those subjects which would come before them in their legislative capacity. The upright candidate would unreservedly communicate the actual condition of his mind on political questions. It may be urged indeed, that, amidst the variety, complexity, and magnitude, of these questions, a candidate might feel himself in a state of indecision on some important points: he might not be able, in regard to some of them, to arrive at any conclusive views, and the method here recommended might force him into rash and premature declarations. This supposed case, however, presents only an imaginary difficulty. If he is really undecided on any question, his proper course of conduct is the simplest in the world; he has only to say that he is. Nothing can be required on the part of the electors, but to learn the states of his mind, and his doubtfulness on any point is one of those states which it is wished to know. All therefore that he has to do, in a case of this

nature, is to declare that he has not formed a settled opinion ; and if, fortunately, he has to deal with sensible men, he will lose no ground in their esteem on account of any suspense or hesitation which arises from an acquaintance with the conflicting arguments on the question, and not from sheer ignorance of matters within ordinary reach. If he has to deal with unreasonable men, he must submit to the consequences. Should he lose his election, he will preserve his self-respect. Let no one expect to combine the incompatible advantages of an honest, straightforward course, and of a hollow, insincere conduct.

It seems, indeed, to be held out as a sort of discreditable thing, that a man should not have made up his mind on all public questions ; but every one who has examined for himself, knows, that doubt and hesitation must be the frequent result of intricate inquiries. So far from these mental conditions reflecting any discredit on the candidate, it may be affirmed, with little fear of contradiction, that considering the new facts which are hourly brought to light, the better methods adopted of recording and classifying them, and the hitherto dimly seen or undiscovered principles daily evolved by thinking men, an openness to conviction from novel information and additional

experience, is an essential quality in the legislator of a free country.

A settled set of opinions on public questions, stamped with the seal of immutability, and supported by an orderly array of arguments trained and disciplined for the purpose, may be very convenient for the demagogue or the hereditary politician, but would be a poor preparation for a man who has to sift the evidence and examine the conflicting considerations of those difficult inquiries, which form the principal business of a modern statesman.

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#### SECTION IV.

##### *On Popular Excitement during an Election.*

An election of deputies to the representative assembly is an event, which unavoidably creates a warm interest in the great body of the people. The single consideration, that the happiness of the community is implicated in the result of it, ought of itself to inspire emotions of this nature: but a number of other circumstances concur to produce the same effect; party zeal, regard for the candidates, personal concern, private animosity, all unite to swell the general interest.

These feelings are apt to manifest themselves in bustle and clamour ; but natural as something of this sort is at periods of public excitement, the occasion is obviously not one for turbulence and revelry. The electors themselves ought to feel that they are called upon to exercise a serious and important and elevating duty.

It is sometimes indeed maintained, that the spirit which is raised amongst the people during a popular election, and which manifests itself in a thousand extravagances of conduct, is a species of wholesome excitement, infusing new patriotism into the minds of the lower classes, and indeed of all classes, and leading them to value the blessings of the government under which they have the happiness to live. It is further contended, that such extravagances of conduct, afford a salutary vent for the political feeling of different parties, who after so profuse an expenditure of zeal and animosity, settle down in peace and tranquillity, till another election presents them with another opportunity of disencumbering themselves of the rancour and enthusiasm, which in the interval may have gradually collected in their breasts. It is therefore admirable policy to permit the humours and freaks of a popular election ; to refrain from any arrangements, which would be

likely to interfere with their free play ; and even to give them force and animation by a few gentle stimulants.

Let us bestow a short examination on this point. When any measure or course of policy is commended, it is well to examine it in reference to the object to be accomplished by it. Now the object of a popular election is nothing obscure or mysterious : the end which it ought to effect is the choice of the best men, the election of such of the candidates as are likely to prove of the greatest service to the community, by the way in which they will discharge their official duties. To enable the electors to make such a choice, on which important consequences to themselves and their country may depend, and for which they have to weigh the moral and intellectual qualities of the candidates to the best of their ability, they ought to be in that state of mind which is found by experience to be most favourable for the exercise of sound judgment ; they ought, in a word, to be cool, serious, and dispassionate.

If then they are prudent, they will endeavour to guard their minds from all excitement, and surround themselves by circumstances which will promote the tranquillity of their feelings ; and if any arrangements are prescribed on the subject by



the constitution of the country, such arrangements ought to proceed on the same principle. To prevent excitement, is the most direct way of effectually obtaining the object in view. That object is not that patriotism should be infused into the people, or that a vent should be afforded to political feeling, but that the best choice of a legislator should be made by those on whom the task is devolved. If any thing counteracts the attainment of this object, it must be sternly rejected, how full so ever it may be of other beneficial consequences. The end in view is not to be sacrificed, because, by employing means which will involve its failure, you may attain other good ends. If this were really the state of the case, it would show that you had committed an error at the outset, in proposing to yourselves the original object, instead of something much better. If your object is worth having, you must employ the proper means to attain it, and not be seduced to neglect it by the attraction of some other advantage.

Tried by this test, it is obvious that the arguments of those who advocate popular excitement during elections, completely fail. In a matter where the object to be attained requires the greatest calmness and coolness of judgment, they con-

tend for giving a free licence to the passions of the people ; not because the indulgence of these passions will best effect or promote the purpose to be accomplished, but because it will be fertile in other alleged salutary consequences.

Even admitting, then, the consequences which they allege to be as salutary as represented, the pursuit of such advantages must be abandoned, as incompatible with the primary object in view : but this admission would be sanctioning an important error. The excitement attending a popular election, as now conducted, is in the main of a vicious and degrading character. Instead of the proceedings common on such occasions infusing into the hearts of the people a spirit of patriotism, they infuse little but rancour and malignity : instead of their affording a wholesome vent for pent-up feelings, they create for the most part the feelings which are displayed, and give opportunity for the indulgence of vicious passions, which are born, but do not die with the emergency. The most shameless abandonment of principle is exhibited during the temporary effervescence. The gross, vulgar morality too prevalent amongst all classes of people, then becomes eminently conspicuous ; that morality which, provided you do no injury to a man's person or possessions, sees nothing in your

conduct towards him to condemn ; which is near-sighted to the turpitude of slander and misrepresentation directed against him, and blind to the iniquity of needlessly wounding his feelings ; a morality which is incapable of comprehending that one source of happiness ought to be as sacred from wanton encroachment and disturbance as another ; and that visible property is not the only thing which can be purloined or invaded.

All this, it may be said, does eventually no harm ; it is a mere temporary ebullition of spirit, attended by no lasting consequences. It does, however, a great deal of harm, as every course of conduct must do which is unprincipled and unjust. By letting loose the passions of the people, and yielding up their minds to a contempt of every consideration but that of having their own way, the system on which an election is now conducted, tends to form a habit of setting aside candour, equity, and public spirit. It thus lowers the general tone of morality ; and every one must be aware that it frequently produces mischief in a more condensed form—in the form of bloodshed and death.

And yet these consequences are by no means essential to a popular election ; they proceed, not from the necessity of the case, but from unskilful

and mistaken arrangements. Let every thing in an election be conducted with a view to the legitimate object to be accomplished, and the occasion may become a means of raising, instead of debasing the moral character of the people. Let every arrangement be concerted and carried into effect, as if it were wished to leave the elector to the cool exercise of his judgment, and you will inspire him with respect for himself, for the character which he has to sustain, and for the institutions in which he thus bears an honourable part. Let there be no processions, no party badges, no music : let not even a speech be heard during the poll ; let not the candidates even be present while the exercise of the important privilege is going on. In a word, throw aside all the mummery which can produce nothing but illusion, all the exciting appeals which rouse the passions to triumph over the judgment, and treat the electors as if you considered them as rational beings engaged in a business of serious importance.

A great part of these beneficial results might be attained by the electors themselves, if they were fully alive to their own interest and their own honour. If the more intelligent amongst them were to discountenance all means of excitation, such means would soon fall into discredit and

disuse. But it unfortunately happens, that reformations of this kind, carried into effect by private endeavours, usually throw an advantage into the scale of the least scrupulous candidates; and the law might, therefore, wisely interpose to put down some of the grosser expedients of agitation. Music, banners, party-badges, and the presence of the candidates during the days of the poll, might be wisely prohibited by legislative enactment.

It shows how little nations profit from experience, how slowly foolish and even mischievous practices are discarded, "with what small wisdom the world is governed," that after centuries of experience in this country, the monstrous evils of excitement and agitation during elections are still permitted. The following picture of a scene in 1710, represents to the life many a scene in 1832. "Honest men," says De Foe, describing an election in the city of London, "have been afraid to come to the poll, for fear of being abused; and many that attempted it have been so beaten and bruised, that they thought it a happiness to get safe back again without getting up to the books, and so have not polled at all. A lane of these furies was formed from the entrance of the hall to the hustings, and in the avenues through which

every man that came to the poll was obliged to pass. Here such insufferable insults were committed, as is a shame to this well-governed city\*.”

Such are the disgraceful incidents which have been suffered for ages, and still continue to mark what ought to be the solemn and deliberate act of choosing men to govern the destinies of a nation, which calls itself highly civilized and enlightened. Such are the evils which have been submitted to without any strenuous attempt to remove them, as if they were not a mere excrescence, but formed an integral or essential part of the system which they deform and debase. If any proof were wanted that they are the results merely of bad arrangements, it would be found at once in the example of elections among people, who have the good sense to adapt their regulations to the end which they wish to effect †. Let us only do the same, and the choice of a parliamentary representative might be made with as little popular commotion as that of a parish officer.

\* De Foe's *Life and Times*, by Walter Wilson, Esq., vol. iii, page 108.

† See an account of an election in the State of New York, in *Stuart's Three Years in North America*, vol. i, page 237. Elections there, however, are not invariably so peaceful.

These remarks will scarcely be misconstrued, as intended to denounce music, or processions, or other festivities amongst the people on suitable occasions. The hostility which has been shown by well-intentioned but mistaken moralists against popular amusements, would be pernicious, if it could have any effect. Such amusements are required for the healthy play, both of the moral and of the physical constitution of man; and the propensities which they gratify, if not allowed to take a salutary, will assuredly take a mischievous direction. Amidst the monotonous employments arising out of the extreme division of labour in civilized states, excitement and exhilaration are especially demanded and must be had: if they are not to be got in the active game, the absorbing representation, the animating burst of music, the splendid pageant, the spirit-stirring address, they will be sought and found in the tavern and the gaming-house, or the want of them will people the infirmary and the asylum.

But an election is not an occasion designed for yielding wholesome excitement; it is an affair of deliberation and decision, in which the less perturbation of mind there is the better. If it is of any importance to mankind to have securities for good government in their own hands, it is also of

importance that they should not trifle with them. These securities are not written documents deposited in a State Register Office: they consist mainly of certain acts to be done by the people themselves, and require the exercise of discrimination and judgment on the part of those for whose benefit they are instituted. Let the people then apply themselves to the business of elections in the spirit of sobriety and wisdom, and they may find other occasions for indulging in those joyous amusements, which true morality will never discourage, so long as they are harmless and seasonable.



## CHAPTER VI.

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### ON THE INTRODUCTION OF CHANGES IN POLITICAL INSTITUTIONS.

A TREATISE, which has for its object to examine the principles of a political system, with a view to the improvement of its practical arrangements, cannot be more appropriately concluded, than by briefly adverting to the considerations which ought to be attended to in the introduction of constitutional, or rather institutional changes.

The present chapter purposes, therefore, to investigate and exhibit, in the first place, the general principles on this head which a wise policy points out for our observance; and, in the next place, the manner in which we should avail ourselves of them in regard to particular measures. These two parts of the subject will necessarily run into each other; but the division, if it prove of no other service, will, at the worst, present us with a convenient point of rest during the inquiry.

## SECTION I.

*On the General Principles to be observed in regard to Political Changes.*

It happens only on rare occasions that a community has to form new institutions for its own government; and if an acquaintance with the principles on which such institutions ought to be fashioned, were of use merely on these rare occasions, the questions which we have been employed in discussing would have comparatively little claim on public attention.

The general case is, that nations find themselves with a government already established, and all its parts settled and determined. In either condition, however,—whether a nation has to form a government, or whether it already possesses one,—this branch of political knowledge is of high, if not of equal importance.

From the very constitution of mankind, all existing governments must have imperfections to be removed, abuses to be corrected, and deficiencies to be supplied. Perfection in this matter could be the result of nothing but perfect intelligence; and since knowledge is imperfect and progressive, political institutions must partake of the

same character, and submit to the same mutation. Even if at any given point of time institutions were without fault, and could be subsequently maintained without abuses, the changes amongst the people which arise in the lapse of any considerable period, the new wants, powers, emergencies, and combinations of circumstances, which inevitably spring up, would demand corresponding changes in the institutions by which the welfare of the community is protected. What then must be the necessity for changes, when not only circumstances alter, but abuses creep in, and imperfections continually manifest themselves?

It has indeed been contended, that when a nation is once in possession of a constitutional government, the constitution, in all its forms, is to be considered as a sacred and unalterable establishment; that the views and intentions of the men who modelled it, are to be venerated with implicit submission, and that no deviation from actual usage is to be hazarded, unless it can be shown to be a return to pristine practice or original principles. Of all the strange whims that ever seized the human mind, that of not only looking to men who lived hundreds of years ago, in a ruder stage of civilization, and under essentially different circumstances, for guidance and

direction as to what we should do now, and picking our way in cautious alarm, lest we should place a foot where no print of their steps can be seen, but absolutely binding ourselves to their institutions as unalterable and unimprovable, is one of the strangest. Nothing could more vividly show at any time the abject state of political science than the prevalence of the doctrine, that a nation is not at liberty, or ought not, or has not a right, as the phrase is, to adopt a beneficial measure, or introduce an advantageous alteration, because the improvement is not mentioned, or, if mentioned, is prohibited in a document consecrated by the lapse of a few centuries. Who will be bold enough to stand up and undertake to assign a valid reason why men at any time should not directly consult their common interest, without any reference at all to the transactions of past times, except with the single view of throwing light upon what their common interest is?

It is surely time to discard the puerility of trying the present value of measures and institutions by their agreement with the opinions of men, who could know nothing of the circumstances on which that value depends; of men, who might be excellent judges of their own interests and their own times, but of whom it may be asserted,

without any disparagement, that they could not possess the prophetic sagacity competent to determine the arrangements which would be advantageous to a country some centuries after they had quitted it.

The judgment of such men on the affairs of their own age is worthy of attention and respect: it is highly instructive to find out the reasons on which they grounded their proceedings; and where those reasons do not appear altogether sufficient and satisfactory to us, some allowance must be made, some deference conceded, on account of those incommunicable considerations which could be felt and entered into only by men living at the same place and at the same time.

But this is a deference to their opinions merely on their own affairs, on contemporary transactions, of which our knowledge is inevitably imperfect, because it is only a small selection of circumstances at the best which can be conveyed from mind to mind, and a still smaller selection which can be transmitted from one age to another. When it is attempted to extend this deference to the wisdom of our predecessors further, to erect their opinions into a standard by which to try the excellence of our own measures, and into a guide by which to direct our own course, the principle

on which that *just* deference proceeds is itself violated. If *they*, on account of a number of considerations to be felt and understood, but not susceptible of being imparted, are justly entitled to be regarded in many cases as better judges of their own affairs than we can be in the present day, *we* in the present day, for precisely the same reason, are better judges of ours. Of all that is general in the reasons which influenced past times, of all arguments founded in human nature, of all considerations arising from universal laws, we are, to say the least, and to omit all mention of additional experience and further inquiry, quite as competent to judge as a former generation. A rational deference to our ancestors is a deference to them, not in general principles, but simply in the peculiarities of their own affairs. And even here we have frequently an advantage, as we can take into view the posthumous consequences of their measures, and pronounce on their policy from the fruits which it has produced.

To make occasional changes in political institutions is then unavoidable; and every constitution must be imperfect, which does not provide a legitimate mode of effecting them. There remains, however, an inquiry, at once interesting

and momentous, an inquiry into the principles on which the introduction of all such changes should be regulated.

It will be manifest, on the slightest reflection, that there is a great difference between the adoption of any political machinery on the formation of a new government, when the field for legislative wisdom is quite open and unencumbered, and the introduction of it into a country possessed of established institutions. Those arrangements, which a careful examination of the principles of human nature and the general condition of mankind may have shown to be the best, if we were free to choose and had all the command which it is possible to have over the state of society, may not be the best with our present powers, and in our actual condition, owing to the existence of circumstances not under our control.

It is allowed on all hands, indeed, that changes in established institutions must be considered in reference to existing interests, habits, manners, and modes of thinking. In vain should we try to promote the common weal, by introducing alterations, however well designed, which have no hold on the feelings of the people, or are at variance with them; which are hostile to their immediate

interests, or which shock their deeply-seated prejudices. Confusion and turbulence and misery would be the result of inconsiderately forcing on a community even the wisest measures; or rather, what would be the wisest measures, if their excellence were universally appreciated.

“If circumspection and caution,” says Burke, “are a part of wisdom, when we work only on inanimate matter, surely they become a part of duty too, when the subject of our demolition and construction is not brick and timber, but sentient beings, by the sudden alteration of whose state, condition, and habits, multitudes may be rendered miserable\*.”

“Were only a single individual,” says Bentham, “made unhappy by innovation, it is worthy of the attention of the legislature †.”

It is this, and not a blind regard to precedent and antiquity, which is the true reason why existing arrangements should be cautiously treated.

It sometimes appears as if, in descanting on the subject of innovation, politicians confounded two different considerations; the propriety of re-

\* Reflections on the Revolution in France.

† De L'influence des Temps et des Lieux en Matière de Législation.



taining institutions merely because they have been sanctioned by our ancestors or transmitted to us through a series of ages, and the propriety of retaining them because they are strongly settled in the actual habits, tastes, and prejudices of the people. While it would argue extreme imbecility to spare cumbrous or hurtful institutions on no better ground than the former, it is absolutely indispensable to pay a cautious regard to the latter. The existing habits, tastes, and prejudices of the community, equally with the universal properties of human nature, are material elements of the politician's calculations. They are all sources of pleasure and pain, all springs of action, which call, on his part, for tender handling and accurate appreciation. He should never unnecessarily bring himself into collision with them; and even when it is necessary to act in opposition to any of their venerated prescriptions, when some great and undoubted benefit demands that they should be trespassed upon, he will in general do wisely to wait till he has in some degree mollified these refractory elements, and enlisted the good sense and intelligence of the more enlightened portion of society in his favour, by a lucid exposition and repeated

discussion of the grounds on which he proceeds.

After all, however, that the statesman can do, he will frequently have to sigh, that his purposes are frustrated by an incapacity in the well-intentioned, of distinguishing what is perfectly clear to himself; that his comprehensive plans must submit to be limited by narrow conceptions as well in his coadjutors as in his opponents; that he must half spoil his measures, in order to accommodate them to indomitable prejudices, or equally insurmountable selfishness, struggling to preserve the existing arrangements of society. He will continually feel the truth of the maxim, that we must often be content to do good to people in their own way, and in the degree which they are prepared to receive. There are certain limits prescribed by the actual state of opinion and feeling, which it is impossible to pass.

Such is the nature of human society, and it is vain to attempt to set it aside. If we spurn at the obstacles interposed to wise measures by interest, custom, and prejudice, and insist upon introducing comprehensive changes in the institutions and policy of a country, beyond what the

minds of the people are prepared to receive and support, we shall not only inflict on society all the evils arising from interests injured, prejudices shocked, and habits disturbed, but we shall probably be providing for the ultimate overthrow of our own improvements. Under such circumstances, their security and permanence can never be reckoned upon.

It is truly remarked by Burke, that, as it is the interest of government that reformation should be early, it is the interest of the people that it should be temperate, because temperate reform is permanent, and has a principle of growth. "Whenever," he continues, "we improve, it is right to leave room for further improvement. It is right to consider, to look about us, to examine the effect of what we have done. Then we can proceed with confidence, because we can proceed with intelligence. Whereas in hot reformations, in what men, more zealous than considerate, call *making clear work*, the whole is generally so crude, so harsh, so undigested; mixed with so much imprudence and so much injustice; so contrary to the whole course of human nature and human institutions, that the very people who are most eager for it are the first to grow disgusted at what they have done. Then some part of the

abdicated grievance is recalled from its exile, in order to become a corrective of the correction. Then the abuse assumes all the credit and popularity of a reform. The very idea of purity and disinterestedness in politics falls into disrepute, and is considered as a vision of hot and inexperienced men; and thus disorders become incurable, not by the virulence of their own quality, but by the unapt and violent nature of the remedies\*.”

The English revolution, in the reign of Charles I, affords a striking instance of the insecurity of changes carried beyond the real sentiments and intellectual state of the community. The first struggles proceeded from those feelings of wrong, and repugnance to oppression, which are deeply seated in the nature of man. In the fervour of the contest, these feelings were extended to other objects than those which originally excited them, while they became mixed with hopes of positive social improvement, and visions of good gradually dawning on the mind; and the whole combination of ardent resentment and exhilarating expectation, carried the people to a position in which they could not be sustained by their habitual

\* Speech on Economical Reform.

modes of thinking and acting. These are the result of a long series of impressions fixed in the very substance of the mind, and with most men of mature age are not susceptible of fundamental alteration, although they may be transiently overpowered by extraordinary passion. There were a few minds capable of maintaining themselves in this position, by the clearness and steadfastness of their principles, or by sectarian prejudices, or by complexional peculiarities; but as they could not retain the sympathy of the multitude, they were left without support in the prosecution of their systems of improvement. When the old oppressions had been overthrown, the public fervour, of which they were the source, gradually cooled, and with many persons an indifference to political improvements supervened; while there was a want of unanimity, which equally disabled others for action. An auspicious career for that personal ambition, which never sleeps and never tires, was then opened; the enterprising usurper triumphed, as in such circumstances he is almost sure to do; the people became weary of the insecurity of unsettled institutions, and the oppression of masters transiently elevated in the scramble for power: their habitual feelings resumed the control, and their recollections clung

to the peace and happiness of times, the grievances of which had faded away. Disagreeing in projects of government, and unanimous only in the desire for repose, they saw no prospect of extricating themselves from their difficulties but in reverting to past arrangements ; and the result of the whole was (in the language of Burke), that a part of the abdicated grievance was recalled from exile.

A similar lesson is taught by the French Revolution : a similar attempt was made to introduce institutions, which, whatever might be their recommendations, could have no general hold, either on the feelings or the understandings of the people. Too widely at variance with national habits for the one, and depending on reasoning too abstruse and refined for the other, these institutions fell to the ground, because they had nothing to support them but the opinions of a comparatively small number of individuals ; opinions, to which the transitory ardour of public enthusiasm had given an appearance of generality altogether deceptive, and which were seen to have a very circumscribed authority, and to be very superficially understood, when that enthusiasm had subsided.

If the original leaders of the people had stopped

short, or had been permitted to stop short by the insincerity and intrigues of the court ; if they had availed themselves at once of the old sentiments still rooted in the nation, and the new spirit rising into strength, and satisfied both in the judicious establishment of a guarded and limited monarchy, it is highly probable that all the good of the revolution might have been secured, and almost all the evil avoided.

“I was much acquainted,” says an American statesman, who was at Paris at this great crisis, “with the leading patriots of the Assembly. Being from a country which had successfully passed through a similar reformation, they were disposed to my acquaintance, and had some confidence in me. I urged most strenuously an immediate compromise ; to secure what the government was now ready to yield, and to trust to future occasions for what might still be wanting. It was well understood that the King would grant at this time, 1. Freedom of the person by Habeas Corpus : 2. Freedom of conscience : 3. Freedom of the press : 4. Trial by jury : 5. A representative legislature : 6. Annual meetings : 7. The origination of laws : 8. The exclusive right of taxation and appropriation : and, 9. The responsibility of

ministers; and with the exercise of these powers, they could obtain, in future, whatever might be further necessary to improve and preserve their constitution. They thought otherwise, however, and events have proved their lamentable error. For, after thirty years of war foreign and domestic, the loss of millions of lives, the prostration of private happiness, and the foreign subjugation of their own country for a time, they have obtained no more, nor even that securely\*.”

The advice was wise, was founded on right principles. The statesman who gave it, doubtless regarded a republican government as the best under certain conditions, or in what are sometimes rather vaguely called its abstract consequences; but he knew that the state of interests, opinions, feelings, and mental associations amongst the community, must be taken into the estimate of a wise and comprehensive policy. When a republican government is said to be abstractedly the best, the assertion must mean, that if the people were clearly convinced of its excellence, and felt a settled determination to support that form, it would be fraught with greater advantages than

\* *Memoirs of Thomas Jefferson*, vol. i, p. 80.



any other. But this conditional excellence would evidently not justify the policy of introducing it, even supposing the ground for political improvement to be quite clear and open, if the people, from having been long subjected to the sway of a monarchy, had contracted strong associations of fealty and homage and veneration for a throne, an habitual taste for the splendour of a court, and a traditionary prejudice for hereditary power, all inseparably mingled, perhaps, with feelings of personal interest and national importance.

A conviction of the advantages of the republican form in a few superior minds, could never bring over a nation, with feelings like these, to such a preference for it as would constitute a safe and permanent basis on which to found democratic institutions. The minds of the majority of mankind cannot undergo that sudden transformation, on which sanguine benevolence is prone to calculate, before it has learned the intractability of the materials with which it has to work. Reformers are too apt to be misled by a temporary fervour, and to forget that they may have "the accidental passions of the people" in their favour, while they

have "the settled habits of thinking against them\*."

The constituent assembly, says Madam de Stael, "treated France like a colony, in which there was no *past*; but, wherever a *past* has existed, it is impossible to prevent it from having influence†."

The same considerations which urge upon us caution in the introduction of changes, forbid the rashness of needlessly postponing them. The same principle which requires that attention should be paid to the prevalent habits and sentiments of the people in the introduction of new measures, requires that ancient institutions should not be retained, when they have lost their hold on public estimation and been condemned by the general voice. The want of harmony between the feelings of the community and an old institution may be as great and pernicious, as between the feelings of the community and a new one. In either case, when the discrepancy exceeds a certain point, the order, tranquillity, and enjoyments of the community are liable to be interrupted or destroyed. The bigoted adherer to

\* An expression of Lord Bolingbroke's in his *Dissertation upon Parties*, Letter 5.

† *Considerations on the French Revolution*, chap. xiv.

things as they are, may cause as extensive suffering or as violent a political convulsion, as the rash projector who forces his measures against opposing prejudices and hostile interests. Caution is necessary in retention as well as in innovation. It is justly remarked by Burke, that "early reformations are amicable arrangements with a friend in power; late reformations are terms imposed on a conquered enemy: early reformations are made in cool blood; late reformations are made under a state of inflammation. In that state of things, the people behold in government nothing that is respectable. They see the abuse, and they see nothing else. They fall into the temper of a furious populace, provoked at the disorder of a house of ill-fame; they never attempt to correct or regulate; they go to work by the shortest way. They abate the nuisance—they pull down the house\*."

In addition then to the direct advantage which the community derives from a continual improvement of its institutions, it avoids, by such a prudent course, the calamity of those violent and sudden revolutions, and all the other forms of suffering, which an obstinate retention of antiquated arrange-

\* Speech on Economical Reform.

ments, at variance with the spirit of society, has a tendency to occasion. Although it would be reason enough for exciting us to the correction of abuses and defects, and the adoption of new salutary arrangements, that each measure of this kind implies a specific benefit, it materially strengthens the motive when we perceive, that the neglect of such seasonable reforms leads to violence and convulsion.

The greatness of the changes which the state of France absolutely required under Louis XVI, arose from the accumulation of abuses, and the neglect of those salutary reforms, which, by adapting the government to the growth of population, the progress of knowledge, and the altered relative position of the various classes of society, would have precluded all desire of revolution by preventing the field for it from even being created. A necessary consequence of the magnitude of the evils, was the risk that the whole institutions of the country would be subverted, whenever the inevitable moment of reformation should arrive.

A similar, but not an equally extensive neglect of adapting her institutions to a change of circumstances, had placed England a few years ago in a dangerous position, from which she was rescued by the recent Reform Act. The measure was

bold, but not bolder than the occasion required. Although opposed to partial interests, it was in harmony with public sentiment, and prevented a crisis, which an obstinate perseverance in long-standing abuses would have soon brought on. This instance furnishes another illustration of the principle, which no legislator should ever forget, that sweeping reforms can be diverted only by gradual and timely improvements.

There is scarcely a question in the whole compass of politics, on which there is a greater unanimity amongst philosophers and statesmen, than there is on the policy of cautious and gradual, in opposition to rash and sudden reforms on the one hand, and to a pertinacious retention of incongruities and abuses on the other. The whole question was long ago put into a very small compass by Bacon.

“Surely every medicine,” says he, “is an innovation, and he that will not apply new remedies, must expect new evils; for time is the greatest innovator: and if time of course alter things to the worse, and wisdom and counsel shall not alter them to the better, what shall be the end? It is true, that what is settled by custom, though it be not good, yet at least it is fit. And those things

which have long gone together, are, as it were, confederate within themselves: whereas new things piéce not so well; but, though they help by their ability, yet they trouble by their inconformity. Besides, they are like strangers, more admired and less favoured. All this is true, if time stood still; which contrariwise moyeth so round, that a froward retention of custom is as turbulent a thing as an innovation; and they that reverence too much old times, are but a scorn to the new. It were good therefore that men in their innovations would follow the example of time itself, which indeed innovateth greatly, but quietly, and by degrees scarce to be perceived: for otherwise, whatsoever is new is unlooked for; and ever it mends some and impairs others: and he that is holpen takes it for a fortune, and thanks the time; and he that is hurt, for a wrong, and imputeth it to the author. It is good also not to try experiments in states, except the necessity be urgent, or the utility evident; and well to beware that it be the reformation that draweth on the change; and not the desire of change that pretendeth the reformation. And lastly, that the novelty, though it be not rejected, yet be held for a suspect: and, as the Scripture saith, *that we*

*make a stand upon the ancient way, and then look about us, and discover what is the straight and right way, and so to walk in it\*.*"

A later statesman, Burke, whose views of the policy of making reformatations at once early and temperate, have already been cited, abounds with strong declarations and strenuous exhortations to the same effect.

Even the sternest republicans, and those whose views extend to an almost entire transformation of the political institutions existing in the world, urgently insist that alterations should be slow and progressive, and carefully adapted to the interests, habits, and sentiments of the people. Mr. Bentham, particularly in his earlier works, continually repeats his injunctions on this point. "Innovators," says he, in one place, "engrossed with their own

\* *Essays Civil and Moral*, No. 24. See also his papers on *Church Controversies*, and on the *Pacification of the Church*. In the latter he explains himself further in regard to the quotation from Scripture. "It is excellently said by the prophet: *State super vias antiquas, et videte, quenam sit via recta et vera, et ambulate in eu.* So as he doth not say, *State super vias antiquas, et ambulate in eis*: For it is true, that with all wise and moderate persons, custom and usage obtaineth that reverence, as it is sufficient matter to move them to make a stand, and to discover, and take a view; but it is no warrant to guide and conduct them: a just ground, I say, it is of deliberation, but not of direction."

notions, pay attention only to abstract advantages. They count dissatisfaction and discontent at their changes as nothing. Their impatience to enjoy the benefit of them is the greatest obstacle to success. This was the great error of Joseph II. The major part of the alterations which he wished to introduce, were abstractedly good: but the imprudence of neglecting to consider the disposition of the people, caused the best designs in his hands to miscarry."

Again: "the general result of these maxims is, that the legislator who wishes to introduce great changes, ought to maintain calmness, coolness, and moderation in the pursuit of good. He should fear to kindle the passions, to provoke a resistance which may irritate his own mind: he should shun, if possible, making desperate enemies, but surround his work with a triple rampart of confidence, enjoyment, and hope: he should spare, conciliate, humour all interests, compensate those who lose, and ally himself, so to say, with the age\*."

"The greatest merit of a good administration," he says in another place, "is to proceed slowly in the reform of abuses, to abstain from sacrificing

\* De l'influence des Temps et des Lieux en matiere de Législation.



actual interests, to humour individuals in possession, to prepare good institutions by degrees, and to avoid overturning rank, fortune, and establishments\*.”

“As to the improvements which are to be introduced into the political system,” says another far-going writer, “their quantity and their period must be determined by the degree of knowledge existing in any country, and the state of preparation of the public mind for the changes that are to be desired †.”

A passage in the correspondence of Mr. Jefferson, whose views were as democratic as those of almost any philosopher of modern times, contains a highly instructive exposition of his opinion on this subject, expressed in his happiest manner.

“I am certainly,” says he, “not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with, because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human

\* Examination of a Declaration of Rights.

† Godwin's Political Justice.

mind. As that becomes more developed, more enlightened; as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. It is this preposterous idea, which has lately deluged Europe in blood. Their monarchs, instead of wisely yielding to the gradual changes of circumstances, of favouring progressive accommodation to progressive improvement, have clung to old abuses, entrenched themselves behind steady habits, and obliged their subjects to seek through blood and violence, rash and ruinous innovations, which, had they been referred to the peaceful deliberations and collected wisdom of the nation, would have been put into acceptable and salutary forms\*.”

\* *Memoirs and Correspondence*, vol. iv, p. 298.

## SECTION II.

*On the Practical Application of these Principles.*

It will doubtless be said, and it is not to be denied, that in all such precepts and recommendations as those which have been here maintained and supported by the authority of eminent writers; in the propositions, that a statesman should proceed neither too fast nor too slowly; that he ought to be cautious not timid, bold but not rash; that he should neither fall behind nor place himself too much in advance of his age; that he should not make sudden and sweeping changes, for which the mind of the community is unprepared, nor attempt to preserve institutions alien to the spirit of the times, and condemned by the public voice;—there is a vagueness or generality, which appears to render them of little practical use. In applying them, it may be said, to any actual occasion, there is some danger of their being misconceived or perverted; and, at all events, both the defenders and the assailants of any proposed measure may find, in such an armoury, abundance of suitable weapons.

It is doubtless true, that although we may have possessed ourselves of the best general directions, there will always remain the difficulty of applying them to actual circumstances. Should any one, therefore, ask how it can be ascertained whether a measure is too narrow or too comprehensive, whether a grievance ought to be borne with or removed, whether an institution has still a sufficient support in public sentiment, or whether the interest of the community calls for its subversion; should he inquire how we are to tell in what cases the statesman is to submit to the public voice, which it is not always easy to distinguish from party clamour, or in what cases he must adopt that decisive conduct, which, rising above hostile habits and opinions, plants a beneficial institution amidst feelings of blind antipathy and outcries of factious dissent — should any one ask such questions, the reply is, that these are points which must unavoidably be left in a great measure to be determined by a cool and careful survey of actual circumstances. The sagacity of the statesman, for example, aided in a survey of the peculiarities of his position by a full knowledge of general principles and the light of public discussion, must be trusted to detect the occasion

on which he can benefit his countrymen by a well-timed trespass on their customs and prejudices.

General views, like those which we have laid before the reader, are useful, not by superseding the necessity of close attention to particulars, but by guiding us to the circumstances which are to be taken into consideration. Every political measure, every proposed improvement or innovation, ought to be determined by an accurate appreciation of all its consequences, as well as of all the consequences of omitting to adopt it; and general directions afford valuable aid, inasmuch as they point out both the sources whence the elements of the calculation are to be drawn, and the sources which ought not to be resorted to.

Such a computation of consequences, to be complete, must include the effects of the adoption or rejection of the measure on the interests, habits, and feelings of the people at large, of classes, and even of individuals; and the reaction of these effects on the measure when it comes to be enforced. We must take into account both the numbers which it would benefit and please, and the numbers which it would injure and render discontented, as well as the intensity and duration both of the benefit and the injury.

Nor must we even omit to make an allowance for unforeseen evils, which changes often inflict.

On the other hand, the general view which we have taken shows us, that such a computation has nothing to do with any mere congruity or incongruity between the measure and the opinions of men formerly existing, or with the circumstance that the proposed regulation is a departure from some ancient law or document, or with the abstract consideration that it is new. All consequences to be taken into such a calculation, must be consequences to human beings; some assignable good or evil to somebody living or expected to live; and by the preponderance of the good over the evil, or the evil over the good, must the matter under deliberation be decided.

If, then, any politician were to resort for weapons against any proposed improvement to the armoury of general directions here furnished, if he were to contend that the measure was too bold, not a sufficiently gradual reform, not duly accommodated to existing interests and prejudices, such a general declaration would have no force. He must show what are the precise evils, and by whom or by what classes to be suffered; he must specify the prejudices likely to be shocked, the interests injured, the feelings

wounded, and the parties who would sustain these hardships; and he must further show, that these evils would counterbalance the good to be derived from the measure, joined to the advantage of escaping the evils which would follow its rejection.

As no statesman can be justified in bringing forward a new measure without the ability to assign specific advantages, either positive or negative, to accrue from it, so an opponent is bound to disprove these alleged advantages, or to assign specific evil consequences outweighing them.

Such general directions, then, on the subject of innovation, are useful as guide-posts for the statesman, but can be neither effectual shelters for his policy, nor batteries from which to attack it. To require the allegation of specific consequences, instead of the vague assertion of some general effect (often a fantastic effect), would keep many an orator mute, and reduce many a politician to insignificance.

This rigorous computation of consequences is the more necessary, as maxims on the subject of rash innovation and sweeping reform are sometimes raised into appalling phantoms, on occasions where they are out of place; and sometimes they are fashioned into masks for injustice and corruption.

It is by no means to all changes, that the recommendations of cautious respect for interest and prejudice, and of patiently waiting till the minds of the people are prepared for alteration, apply. Abuses and bad institutions frequently exist for a long time, although they might be abolished without any injury to feelings or prejudices, and any detriment to interests, except what might be readily compensated;—such are sinecure places and useless offices. Other institutions or customs are positively unjust, without any argument in their favour, without any good consequences to any body, but what is implied in a dishonest saving of expenditure to the public;—such, for example, is the impressment of seamen, the abolition of which is a question not clouded by a single disadvantage, except of the most pitiful kind; a question of economy against morality; a question whether a powerful nation, “the island-empress of the sea,” should have the heart to pay for services involving the risk of life and limb, according to the value of those services in the market, however high, or resort to the dastardly expedient of seizing them by violence at her own price, and forcing her victims to encounter destruction. With such an abuse, it is difficult to see why a moment’s parley should be held. It might be



thrown off without infringing one maxim of salutary precaution, without trenching on any one interest, or violating any one prejudice entitled to a particle of respect.

In France, at the commencement of the Revolution, a vast mass of abuses were swept away, which, while they caused immense wretchedness, yielded benefit to no one or to very few, and could not from their nature have any hold on the affections or prejudices of the people. The abolition of the torture, lettres-de-cachet, unequal imposts and privileges, feudal services, oppressive game-laws, vexatious restraints on industry, and other barbarities, had evidently no difficulties of this sort to encounter, except the sinister interest of a small minority.

The only rational way, then, of dealing with a measure of abolition or innovation, is to apply ourselves, by the light indeed of general principles, but without fear of vague allegations, to a close examination and rigorous estimate of all its consequences; not consequences which would ensue under certain suppositions, but those which would ensue in the actual condition of the community for whose benefit the measure is professedly designed.

No reason can exist, why men collectively or

individually should endure removable evils, or refrain from possessing themselves of attainable means of happiness; why they should fold their arms, and be supinely content with their actual state, when a happier condition is within their reach. All that they have to take care of is, that they make no mistake in their calculations; that they do not sacrifice a greater advantage for a less; that they do not part with an actual good for a merely possible one in prospect; and, on the other hand, that they do not rest satisfied with deprivation of enjoyment and positive suffering, when, by their own efforts, they can cast away the causes which obstruct or which injure their welfare.

To the test of a rigorous computation of consequences of every kind, the various suggestions for the improvement of our representative system, which have been incidentally hazarded in the course of the present treatise, must be submitted. On taking a review of the measures suggested, there appear to be some, which, if carried into effect, would really injure no one, which militate against no interests but such as are indefensible, and which the public mind is in a state of preparation to receive: there are others, on the contrary, which might raise great opposition, for

which the community is not adequately prepared, and which therefore, however conditionally excellent, it would be impolitic at present to introduce, although it is by no means too early to discuss them.

Of the former class of measures, the principal are shortening the duration of parliaments and taking the electoral votes in secrecy. These regulations would obviously occasion no derangement in any branch of public business, no change in any department of the state, nor would they interfere with the other parts of the established machinery of representation: they would have the support of the people, and the only opposition to them would arise from a comparatively small section of the community; from an aristocracy, whose power and importance (no further however than these are founded in injustice) they would abridge.

The often-proposed regulation of meeting for the transaction of legislative business in the day, instead of the night, would have little but custom opposed to it, were it not for the effect which it would have, in no long time, of excluding professional men in great practice from seats in parliament; an exclusion highly desirable, but which, whether attempted directly or indirectly,

would provoke the hostility of a powerful phalanx of passions.

To the several suggestions for instituting provincial assemblies, for diminishing the number of members in the House of Commons, for paying members for their attendance, for creating district instead of borough constituencies, and some others (supposing them even proved to be founded in wisdom), the public mind is probably as yet unprepared to listen with much favour, although the first measure, or some other equivalent arrangement, seems absolutely called for, to relieve parliament from private and local business. Still less are the minds of men prepared for tracing with impartiality the rational limits which should circumscribe the political rights of women.

There are other suggestions, which from their nature must be carried into effect, if carried into effect at all, not though the power of legislation, but directly by an improvement in the intelligence of the community; and it is in fact to this improvement, produced by unshackled and reiterated discussion, that all beneficial measures, which are unsupported or opposed by prevailing opinions, must virtually owe their final success\*.

The present is not the occasion, however, for

\* See Note E.

a minute examination of the policy of attempting to introduce, or of adopting any of these regulations in the actual state of British interests, feelings, and intelligence; and this slight glance at the subject is intended merely to show, that every suggestion has been made under a full impression, "that the true point of political wisdom consists in distinguishing justly between what is absolutely best in speculation, and what is the best of things practicable in particular conjunctures\*."

This description of political wisdom is itself an assertion of the great importance of bringing as near as possible to perfection the theory of government. In the present day, the changes which are introduced into any of the great departments of public policy, should be not mere temporary expedients, but changes on principle, resulting from a comprehensive survey of the general facts on which legislation ought to proceed, and tending to form parts of an enlightened system, gradually evolving itself, as time and opportunity permit, under the genius of the philosophic statesman. Hence the importance of such investigations as those which have occupied the present treatise, the indispensable necessity of examining the founda-

\* Bolingbroke's Dissertation on Parties.

tions of the subject, of bringing every regulation to the test of some principle on which it can be shown to depend, instead of contenting ourselves with the bare empirical reason, that it has been found to answer or to fail in practice. Hence too the great benefit of erecting a model of excellence, to which gradual approximations may be effected. "In all cases," says Hume, "it must be advantageous to know what is most perfect in the kind, that we may be able to bring any real constitution or form of government as near it as possible, by such gentle alterations and innovations as may not give too great disturbance to society."

The statesman who thus understands the principles on which all improvements ought to proceed, will be able to introduce salutary alterations more safely and more rapidly than the mere empiric; because he will be able to see what lies before him, the whole ground of his operations, the possible conjunctures which may arise, the points to which the knowledge of the community, for some years at least, will successively come up, as it advances in the career of civilization.

The discrepancy which is proverbially and in one sense truly noted, as existing between what is best in speculation and what is best in practice, lies mainly in the ignorance of mankind, in their

inability to perceive what is really for their own good; and as this ignorance is dissipated, the two things will more and more approximate. If men were thoroughly convinced of the wisdom of the wisest institutions, the wisest institutions would be introduced without difficulty.

If we narrowly examine the subject we shall find, that the conditions required for the introduction of a measure, whether of abolition, or change, or positive innovation, may be comprised in two :

1. That the measure shall be for the public good.
2. That the majority of the people shall have a clear and steady conviction that it is so.

The latter condition, indeed, is more than is absolutely required in all cases. To justify the introduction of some measures, the negative condition might be alone sufficient; namely, that the majority of the people should be exempt from any prepossession against them. In laying down the second condition therefore, in its positive form, we assume less than would be probably conceded.

Either the absence of all obstacles, in the way of introducing a measure, is implied in these two conditions; or if there are any, the absence of which is not implied, they cannot be obstacles of much resisting force. It is, for example, implied in the conviction of the majority as to the

expediency of any proposed alteration, that their feelings and prejudices, if they ever were, are no longer arrayed in opposition to it: or if some of these moral elements occasionally rebel against the decisions of the understanding, the transient insubordination must be comparatively feeble and ineffective.

It is also implied in the conviction which the people at large entertain of the expediency of a measure, that they no longer regard it, if they ever did, as inimical to their interests. We might, indeed, suppose the measure to be one of those wise proceedings which reach at a grand remote good by a sacrifice of present enjoyment, and that the majority of the people, although convinced of its wisdom, and of its being adapted to promote their happiness, on a comprehensive estimate of all consequences, would resist it on account of the immediate loss of pleasure which it might threaten to involve.

This is perhaps a possible, but assuredly not a likely case; nor, if the convictions of the people as to the ultimate and substantial policy of the measure were on his side, would the statesman hesitate to disregard their temporary displeasure, which, under the supposed condition, if it existed at all, would have little force, and a daily lessening force, as a principle of resistance.



Partial interests would still undoubtedly exist, and oppose their collected strength to the innovation : but what partial interests could prevail, or ought to be listened to (except to propitiate them), when both the measure was for the good of the whole, and the majority of the people were convinced that it was so ?

This statement of the matter again brings round to our view, with more vividness and in ampler magnitude, the importance of publicly discussing, incessantly repeating, and intrepidly urging all great principles and measures of policy ; certain as we are that a true knowledge of their character will continually spread, and animated, as we cannot fail to be, by the consideration, that all which is required to enable them to pass into the laws, is that general conviction of their utility which public discussion will sooner or later inevitably establish.

Fortunately, in the present day, there are always philosophers preceding the legislator, and preparing the way for his measures, by the examination of difficult problems, and the dissemination of enlightened principles. If such principles are luminously explained, and their consequences clearly traced, the hostility of the community, always roused at what is new, gradually

relaxes and falls before the doctrine, which, when once fixed by the hand of genius, stands like a rock amidst the waves. The spirits of men become changed, and they learn to desire with eagerness what they before recoiled from with apprehension.

It is in seizing, during this process, the proper moment for introducing his regulations, that the skill of the statesman, beyond what rules and precepts can teach, is displayed; not rushing with them into the midst of an army of hostile prejudices, where they perish under a simultaneous attack from all sides, nor yet holding them back till the spirit of the times, grown impatient at the delay, and smarting with the sense of unredressed wrong, chafes itself into a violence, no longer to be appeased by such appropriate and judicious measures as would have formerly been welcomed with the fervour of exultation.

Nor must it be overlooked, that in future the introduction of enlightened measures will be facilitated by the great step which in our days has been taken in the science of legislation. Sixty years ago there was a great deal of good sense extant on the subject of government; political science exhibited many profound observations, much cogent argument, much eloquent declama-

tion, many comprehensive views, and no small degree of excellent feeling ; but it wanted a broad foundation, laying in first principles, and the adoption of a regular and methodical procedure. The whole subject required to be reduced into form, its objects to exactness, and its language to precision. Even Burke, the most philosophic statesman that England had ever seen, wasted much of the power of his great mind in needless and futile arguments, in consequence of a defect in the fundamental principles of his science\*.

In a department of knowledge thus unreclaimed and undetermined, argumentation may go on for a long time, great abilities be displayed, high pleasure enjoyed, the taste pleased, the passions gratified, without any real scientific progress, and without any great advantages accruing to social institutions. The subject may be expounded with sagacity, expatiated upon with feeling, illustrated by fancy, and illuminated by wit, while yet it affords no certainty to the inquirer : opinion seems to fluctuate with every new writer or speaker ; any strong partial view carries conviction for the time ; the last argument seems unanswerable till the next appears. While the subject is in this

\* For some proof of this, see the supplementary essay on Rights at the end of the present treatise.

condition, taste and habit will resent any attempt to reduce it to precision ; they will cling to the field of their favourite exercise and old associations. It seems a free domain, in contemplating which, the value of its produce, of the rude fruits and wild game flourishing in its woods and glades, is almost lost sight of in the exhilarating enjoyment of the chase, or the imposing effect of the scenery ; and the reduction of which into a number of regular farms, affording a constant supply of sustenance to man, would destroy the pleasures of the sportsman, and offend the taste of the sentimentalist.

What any man would do who should bring such a wild tract under skilful cultivation, Bentham has done for legislation. In so distinctly showing, illustrating, and exemplifying the truth, that every legitimate argument, for or against any measure or institution, must consist in ascribing to such measure or institution some good or evil which it produces to mankind, he has at once liberated the subject from a host of sophisms, empty phantoms, and vague generalities, which filled the eye or the ear without enlightening the mind ; which in fact did more—which enveloped the understanding in an impenetrable cloud. Arguments consisting of metaphors, fictions, chi-

merical principles, vapours of the brain, consequences shown with retrospective ingenuity to threaten past ages, good and evil seated in the moon or the imagination, have fallen before the simple principle of conduciveness to human welfare.

The business of the political philosopher, although still arduous enough, is now comparatively simple. It is the ascertainment of the effects produced on human happiness by the various arrangements and regulations, actual or possible, of political society. He may be misinformed as to these effects, misconceive their nature, or mistake their magnitude ; but the principle on which he proceeds being right, even his errors will lead to their own correction : his very deviations will enable others to mark out the true line of utility. Never more can the domain of moral and political science be reduced under the empire of caprice, prejudice, or imagination.

These views, with regard to the introduction of improved arrangements, may be further illustrated, by offering some strictures on a passage in a recent historian, which, although just in some parts, seems in others strangely at war with the expectations which may be rationally entertained from the progress of political science. He tells

us, "that Governments are not framed after a model, but that all their parts and powers grow out of occasional acts, prompted by some urgent expediency or some private interest, which, in the course of time, coalesce and harden into usage; and that this bundle of usages is the object of respect and guide of conduct, long before it is embodied, defined, and enforced in written laws. *Government may be in some measure reduced to a system, but it cannot flow from it.* It is not like a machine or a building, which may be constructed entirely and according to a previous plan, by the care and labour of man. It is better illustrated by comparison with vegetables, or even animals, which may be in a very high degree improved by skill and care, which may be grievously injured by neglect, or destroyed by violence, but which cannot be produced by human contrivance\*."

The conclusion which the historian has here drawn is certainly one which does not logically follow, nor is the comparison introduced to illustrate the subject a happy one. The growth, which in the last sentence he describes and illustrates as something independent of human contrivance, he had himself previously shown to con-

\* History of England by Sir James Mackintosh, vol. i, page 72.

sist of a *succession* of human contrivances,—“ of occasional acts, prompted by some urgent expediency, or some private interest.”

In the generality of instances, the governments existing in civilized countries may have grown up in the way here described ; but, allowing the fact, it is no proof that they may not in some cases originate in system. We have many examples of such origination in the States of America, not to mention others. Because governments which have taken their rise in rude and uncultivated ages have been enlarged and modified in the progress of civilization, and may be said to have been brought to their present condition by the successive operations of partial interests or transitory exigencies, this is no reason why, amongst enlightened men, governments may not be the offspring of well-digested design. There is a point in the progress of nations, at which they raise themselves from the despotism of mere impulse and temporary expediency, and begin to fashion their institutions from a more comprehensive survey of the just objects, and remote as well as proximate effects of political arrangements. When this is done to any extent, what becomes of the appropriateness of the doctrine,

which holds up government as a sort of natural production, vegetating independently of the contrivance and labour of human beings?

It might as well be argued, that "towns are not built after a model, but grow out of occasional acts prompted by expediency; and the houses thus arising come to form streets and passages, long before any formal regulations as to width and direction exist. Towns may be in some measure reduced to regularity in their streets, but cannot be originally built on any regular scheme."

In rude ages, certainly, a regularly-planned city, with streets of proper width and orderly construction, may be an achievement beyond human capability, and towns have doubtless originated for the most part in the way here described; but so far from this being a proof that they cannot be built after any systematic design, no one in a refined age would think of founding a town, and letting it grow up by chance. He would take care that it was built after a well-considered plan; and accordingly we find that this is the usual procedure in new settlements. It would be degrading human wisdom below the rank to which it is entitled, to suppose, that, on taking a survey of the objects to be ac-



complished, both in building towns and in establishing governments, and the modes in which those objects have been hitherto attained, it was not capable of improving upon these gradual and fortuitous creations of temporary expediency, by an original structure according to a comprehensive and well-matured design\*.

What, however, is more to our present purpose, is the illustration which this comparison affords of the method in which alterations should be introduced. That which may be done in building a new town, may to some extent be effected in altering an old one. It might be an irreparable and pernicious destruction of property, a wanton violation of the pleasurable customs and associations of the inhabitants, and an incalculable interruption of their comforts and enjoyments, to pull down their ancient residence in order to erect one on better principles,—one which, when completed, would be more conducive to their health, safety, and convenience. To the existing generation, especially if they were not unanimous in wishing for the change, the evil might outweigh the good: their lives might be spent in building a place in which to live, and quarrelling

\* See Note F.

about plans and details of construction: but it would be perfectly rational, perfectly consonant with sound policy, to ascertain what the principles are which ought to be observed in erecting a town, and to seize every occasion to conform all needful alterations to them.

The same regulations regarding the width of the streets and passages, the admission of air and light, the supply of water, the drains and sewers, the spaces to be left for business and recreation, which would be most expedient and effectual were we building a new city, ought in wisdom to be kept in view, and adopted as far as practicable, in devising improvements in towns already existing.

In making such changes as circumstances call for, in those irregular collections of buildings which have grown by casual and unsystematic additions, there surely would be no sense in pursuing the same random course through which they have reached their actual form, disposition, and dimensions.

The comparison is an apt illustration of the manner in which it is wise to proceed in the alteration of existing institutions. Grown up for the most part, as described by the historian, out of occasional acts, prompted by the necessity and

narrow view of the moment, they ought in an enlightened age, as suitable occasions present themselves, to be altered in accordance with the comprehensive principles, which the far-searching eye of sagacity embraces in its widest survey, and the profoundest wisdom approves.

The ...

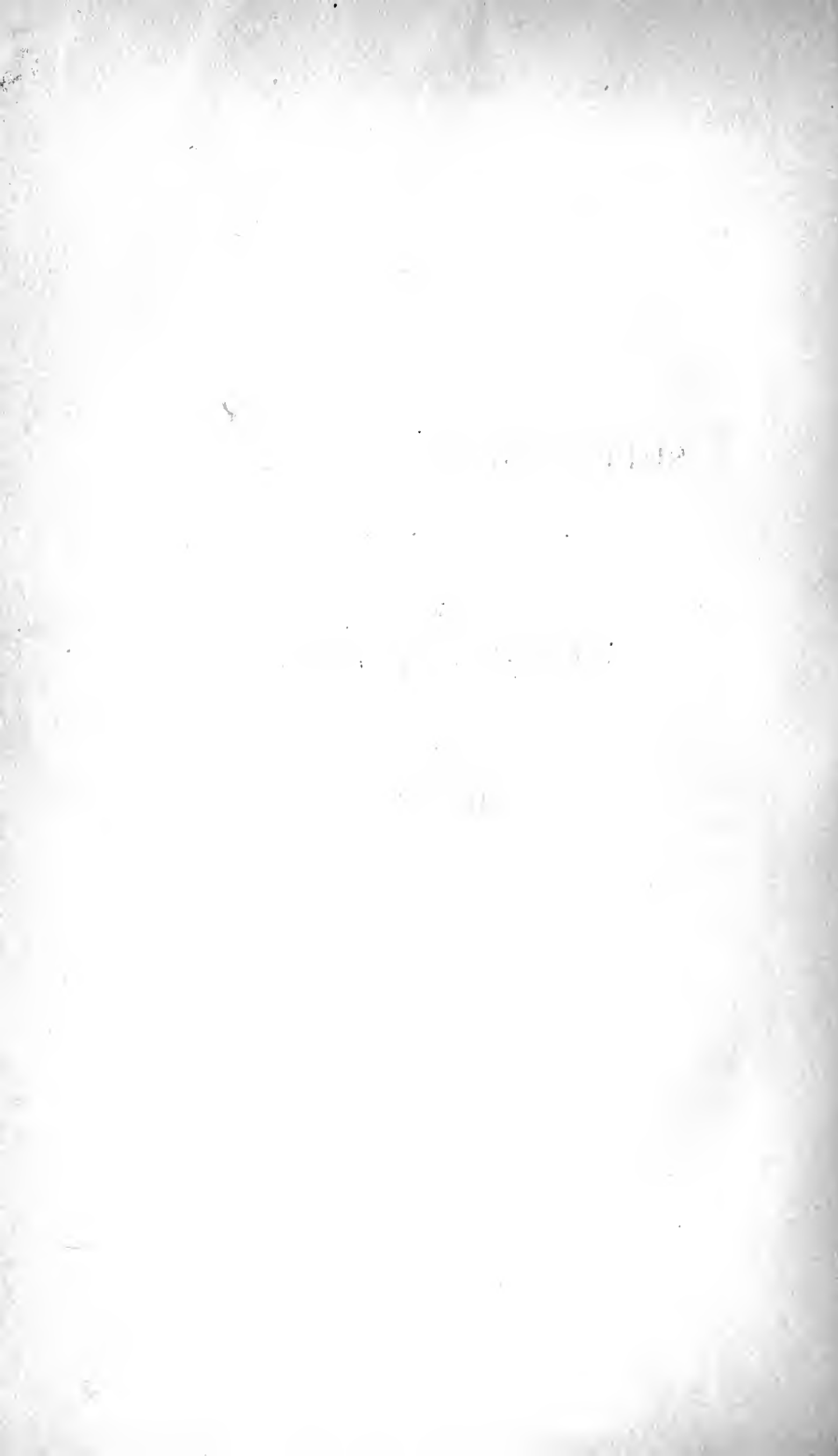
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SUPPLEMENTARY ESSAYS.

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ON  
POLITICAL EQUALITY.

ON  
RIGHTS.



## ON POLITICAL EQUALITY.

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FEW persons would probably be inclined to deny that the proper object of government is the good of the community; but it is not every one that can see the importance of the principle which he admits, or that has the intellectual *nerve* to pursue it to its results.

It follows as a direct consequence from this description of the object of the supreme authority, that there can be no valid reason for any measure of government, but some public advantage. Every consideration urged on behalf of such a measure, in order to have the least weight, must express or imply some benefit to the community. An argument that proceeds on any other principle must be wholly fallacious. This may be shown by a very brief process. The object of government is the public good: but government cannot fulfil this object except by acts or measures; and, in order that these its acts or measures may all promote

the end in view, each individual measure must be beneficial. A reason for any measure must therefore necessarily be the statement of some definite benefit which will accrue from the adoption of that measure. Consequences of an injurious character can obviously form no reason for adopting it, and consequences of a neutral character, it would be puerile to adduce. The sole reasons therefore which can be rationally assigned, must be beneficial consequences. Conduciveness to the public good, is the only proper and universal criterion of political acts and institutions.

It must immediately appear from this, that in all constitutional arrangements, as well as in all subsequent proceedings or regulations, political power can be properly conferred for no other purpose than the common weal. According to the principle just laid down, there can be no valid reason for conferring power on any individual or class, except some specific benefit to be derived from it by the public. Of course there can be no valid reason why political power or privilege once conferred should continue to exist, except some assignable advantage which it causes to the community.

It is only putting the proposition in another form to say, that no political inequality ought to have place except for the general welfare, inas-



much as political inequality implies a privilege enjoyed by merely a part of the community. In political society, every individual counts one, and only one, whether rich or poor: in other words, the happiness of one man is not to be consulted *for itself*, more than the happiness of another; or, to vary the phrase, it is not to be considered as a more important object. If the person of the chief of a nation is guarded with greater care and surrounded with greater pomp than that of any other individual, it is not because his happiness is in itself rightly an object of more sedulous attention, but because either his position subjects him to more than ordinary risk and annoyance, or the welfare of the community is more implicated in the protection of his personal safety, and the splendour of his appearance. All the power and pageantry lavished upon him, if rightly bestowed, are bestowed, not for any peculiar merit or on account of any personal claim in him as an individual, but simply because such power and pageantry are, by the supposition, expedient for the common good.

The same truth applies to all political offices and to all political privileges, from the highest to the lowest, from the monarch on the throne to the humblest elector of a borough. Whatever inequality exists in political privileges or powers

between them and the rest of the people, ought to be for the welfare of the community. There can be no valid reason for its existence but the public advantage.

Take as an instance the hereditary power of legislation, enjoyed by a peer of the realm under the British Constitution. A number of reasons for the existence of such a power may be assigned, but it is obvious that there can be no reasons of any force, except such as imply some advantage to the community. It might be alleged, that the privilege of a peer is an inheritance from his fathers, and ought as such to be respected; that it is an integral part of the British Constitution; that it is an indispensable ornament of the noble structure handed down to us from our ancestors, and consecrated by the lapse of ages and the admiration of the world. Excellent topics as these undoubtedly are for rhetorical declamation, they could form no valid reasons for the continuance of such a power, if the power were injurious to the public interest. To urge such allegations in such a case, would be to argue, that the existing inhabitants of this country should continue to suffer under a removable evil, because people who are no longer in existence had established it; or, secondly, that we are to submit to injury from a political institution,

on the ground, that, to remove the cause of the mischief, would be (as no one can deny) to take away one of the constitutional arrangements under which we live, so as to leave the total no longer the same; or, thirdly, that we are to undergo preponderant pain, for the satisfaction of gazing on some antique and mysterious and much-extolled beauty in the source whence the pain proceeds.

Whoever assigned such reasons as these, would show that he little understood what he was about. A true friend of the institution in question, would point out some positive benefit conferred by it; and, accordingly, all its judicious supporters have endeavoured to set forth the beneficial influence which it exerts on the character of British legislation.

These considerations will enable us to determine what truth there is in the doctrine of political equality, as usually taught. "All men are born equal," was the declaration, not only of the French Constituent Assembly, but of the soberer legislative bodies in America.

It has been often remarked, that, if this is meant as the statement of a fact, it is notoriously untrue; some human beings are born slaves, some are born free men, and some are born princes. The proposition, in this sense, is so evidently

preposterous, that we may be sure it was not intended to convey that import: there must have been some obscurity or confusion of ideas in the minds of those who regarded it as true.

If we alter the expression a little, we obtain another proposition, which probably has been the meaning of many who advocated the first — “All men *ought* to come into the world equal.” This proposition has been extended to other things besides political rights; but we may limit our attention, at present, to political equality.

If the principle on which we have maintained all political reasoning to be founded is correct, the meaning of the proposition, thus modified by the word *ought*, must be, that the happiness of the community would be promoted by men coming into the world on a political equality; that is, that no man can be permitted, consistently with the public good, to enter by birth into the possession or enjoyment of any political privileges.

What strikes the mind on a first view of such an assertion is, that although it may be true, it does not carry its own light with it: it is not self-evident, or immediately obvious, but is one of those propositions which can be proved by nothing but experience. For any thing that we can tell antecedently to trial, the public good may

be promoted by ordaining that certain rights and privileges shall be acquired by inheritance. And so deeply has this notion, whether true or false, been impressed on mankind, that even now there are abundance of intelligent men to be found, who contend, that the safest and most salutary method of determining who shall be magistrates and law-givers is, not to take into consideration the qualifications of the individual to whom is committed the destinies of a people (as the importance of the matter would seem at first sight to demand), but to let the power devolve in certain families from father to son, in utter disregard to all considerations of fitness or competency.

If it were the whole meaning of those who maintained the doctrine of political equality at birth, or as the consequence of birth, that no political power or peculiar privileges should thus be inherited, it would have been better and simpler to say so. And it would have been natural for them to say so, if those terms would have completely represented their ideas. That they did not express themselves in such terms, proves that they had a different meaning.

It is probable, that the truth which presented itself to their minds with various degrees of dis-

tinctness at various times, and in various states of confusion with the other notions just mentioned, was the proposition already explained, that *no political inequality ought to exist, except for the public good*. This is a simple, clear, and unconfused proposition, about which there can be no mistake. There may be a wide difference of opinion as to its application. Men will vary very much in their views of the utility of certain political privileges, but they can scarcely differ in their views of the principle itself.

Other mistakes have also been committed on the subject of equality. It has been contended, not only that all men should be *politically equal*, but that it is the duty of government to establish and maintain *equality of condition* among the people.

This latter doctrine is one of those multifarious errors which have sprung from regarding government as a sort of omnipotent power, commanding all the sources of human happiness, and instituted for the purpose of moulding entirely the destiny of the community. If, indeed, it were a power of this kind, distributing to the people all the good which they enjoyed, it would seem only consonant with its general end, to make an equal dis-

tribution of property ; it would be proper, and wise, and equitable, that no one should be more richly endowed than another ; that no disparities of condition should exist, except those few which the public service itself might imperatively require. But when we regard the sources of human happiness in the proper light, and the power of the state in its just character,—the one as irremovably seated in the individual, and requiring the incessant vigilance of personal interest ; the other, as having for its proper province to make and enforce such regulations, chiefly of a preventive character, as individuals or subordinate associations are incompetent to carry into effect for their own benefit ; we see at once that government has nothing to do, or ought to have nothing to do, with regulating those inequalities of condition among the people, which must necessarily arise in every society, from diversities of bodily powers and mental abilities, from difference of efforts, peculiarities of situation, or uncontrollable and inexplicable incidents.

If it be true, as we have shown in another Essay, that the greater part of every individual's actions can be beneficially directed by none but himself, then it is clear that it would be a pernicious

cious attempt in government to regulate those disparities of condition, which arise in a great degree out of such actions. In the management of their resources, different individuals will adopt different expedients, different courses, which will lead to different results. One man will regard present enjoyment, with scarcely a glance at what lies before him ; another will look to the future, and carefully husband the means of happiness : *this* individual has scarcely a capacity for gaining a bare livelihood ; *that*, on the other hand, is skilful in the management of whatever he undertakes. If government attempted to preserve equality of condition amongst such individuals as these, it would be tampering with matters of which it was utterly ignorant ; it would be taking the management of their private concerns out of their own hands, where they were best understood ; it would be doing that which we have shown to be altogether beyond the ability and proper province of the state : or, worse than this, it would be confounding, perplexing, and, in many cases, extirpating the ordinary and salutary motives of action. The result would be an equality, not of wealth, but of wretchedness.

Political inequality is the creation of the sove-



reign power, and is wholly under its command : inequality of condition is necessarily neither ; it is the result of individual exertions or uncontrollable circumstances, or of these combined. The very end of government requires that the former disparity should not exist, without some clear specific benefit to justify it ; the end of government, on the other hand, is not at all concerned with the latter.

As government should not propose to itself to effect an equality of condition amongst the people, it is plain, by parallel reasoning, that it ought not to endeavour to make a greater inequality than that which the natural operation of the principles of the human mind and the circumstances of the community would create. Such an attempt, just as in the other case, would be a meddling, without the possibility of adequate knowledge. This maxim is manifestly contravened by entails, the right of primogeniture, and other regulations and practices which have the effect of accumulating property in masses, into which it would never otherwise be collected. The present essay is not the place for examining the whole effects of these pernicious arrangements. It is sufficient to have indicated, that amongst their other characteristics,

they are an infringement of the principles of good government, a departure from the legitimate province of the supreme authority on one side, as the projects of the levellers are on the other.

## ON RIGHTS.

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FEW terms have been so vaguely employed as the term rights, and perhaps no term has occasioned more controversies. In this instance, too, want of precision has led to very considerable practical evil.

Mr. Bentham appears to have been the first political writer who attempted to limit the word to one definite meaning. At the beginning of his career, the phrases *rights of man*, *natural rights*, *indefeasible rights*, were bandied about on all sides, and he soon saw that they were both the effects and the causes of perplexity and confusion of ideas. He insisted, therefore, that the term *rights* ought to be confined to what are usually designated by the expression *legal rights*.

In his Examination of the French Declaration of the Rights of Man, he says, "There are no natural rights, no rights anterior to the institution of government. The expression, natural right, is purely figurative; and when we wish to give it a

literal sense, we fall into errors, which are not simple speculative errors, but pernicious errors." In another part of the same treatise he says, "It is in England that this jargon of the rights of man\* had its birth. The word right, in the English language, is used both as an adjective and as a substantive. As an adjective it has only a moral sense; it signifies expedient, reasonable, useful; as when we say, "it is right that laws should be made for the common good: it is right that every one should enjoy the fruits of his labour." As a substantive, this word has two meanings, one a legal, the other an anti-legal meaning. The law gives me the right of disposing of my goods: this is the legal sense, and the only sense which we ought to give to it. But when we say that the law cannot contravene natural right, we employ the word right in a sense superior to the law: we acknowledge a right which attacks the law, which overthrows it. In this sense the word is the most dangerous weapon of anarchy.

\* Whether this assertion of Mr. Bentham is correct or not, it is certain that English writers have largely employed the term. Hobbes, in his *Treatise De Corpore Politico*, makes great use of the phrases "right of nature" and "law of nature."

“A real right is the creature of the law. real laws give birth to real rights; and this kind of *right* is the friend of peace, the protector of every body, the only safeguard of the human race. Right, in the other sense, is the chimerical creature of an imaginary law, a pretended law of nature, a metaphor used by poets, rhetoricians, and legislative quacks.”

In contending that there are no such things as natural rights, Mr. Bentham was in fact merely taking a term used loosely in several meanings, and appropriating it to one technical meaning. By doing this, however, he did not prove that to employ it in any other sense would be futile or absurd. No expression ever comes into general use without a real basis of meaning, however indistinct and indeterminate that meaning may be in the minds of those who employ the phrase. It is always useful to ascertain, in such cases, what the varying signification really is,—what is the undefined and shifting collection of ideas which the word is employed to designate. It is not difficult to see how the term natural rights may have established itself, and what is the real amount of its meaning. Men in civil society are accustomed to regulate their conduct by the laws under which they live, and hence they acquire

certain peculiar feelings, as well towards those actions which are forbidden, as towards those which they are left at liberty to do, and are in fact protected in doing. The liberty of doing these latter is zealously maintained, and the least infringement of it is resented and complained of: and thus such actions are invested with associations easily roused. Rights defined or guarded by law become consecrated by feeling. When men with these impressions contemplate other actions not permitted by the law, and see no reason why such actions should be prohibited, and when especially they find the prohibition injures their welfare and thwarts their wishes, they appear to transfer to these actions the feelings and associations which they have connected with legal rights. That sense of injury and injustice which they have, when they are forcibly withheld from what is sanctioned by law, is felt when they are prevented by the law itself from doing what would add to their happiness, without any injury to others. Such an action they regard as one which ought to be permitted, which men ought to have the right of doing in the nature of things; and although it has no legal sanction or permission, they consider it as sanctioned by nature, as one of the natural rights of mankind; and any

prohibition of it as an infringement of these rights. If they regard in this light any prohibition of an innocent or useful action, with still deeper feelings of the same kind, as a still more violent infraction of natural rights, will they regard any unnecessary privation or burden inflicted upon them under the sanction of the supreme authority.

The province of government being chiefly to prevent evil in cases where individuals are incompetent to do it, when it steps out of this province, and prevents good or inflicts evil, it seems to act like a man who forcibly interrupts enjoyments sanctioned by the law.

This account of the origin of the complex idea involved in the phrase, leads us to see that there is really a substantial meaning in the expression, although it may have seldom been clearly and definitely apprehended. There are certain actions which men can do without injury to others, and which therefore they cannot be restrained from doing without the production of evil; actions with which, from their very nature, the interference of government must produce mischief. These may be designated natural rights. As a mode of conduct permitted by the law, and which therefore no one can legally prevent, is a civil or legal right; so a mode of conduct, harmless, or perhaps

beneficial from the very constitution of things, and which therefore cannot be prevented without occasioning evil, may be termed a natural right.

But although I contend that there is something besides a figure, that there is a substantial meaning in the phrase natural rights, and that this substantial meaning must have been present, with more or less distinctness, to the minds of men when they so largely employed the term, yet I fully concur in the propriety of confining the term rights, in political science, to the designation of those which are of a legal character. Employed in the other sense, it is not only superfluous, but the source of infinite perplexity and confusion.

If it is agreed that a natural right implies a mode of action which can injure nobody, or which may benefit somebody, to contend for natural rights, is the same thing as to contend for the application of the standard of utility in all political enactments and measures: for in order to know whether any modes of conduct are to be considered as natural rights, you must determine whether they are or are not inimical to the general good. Having determined that they are not, you may contend that they ought to be permitted or sanctioned by the law, in virtue (as the phrase is),



of their being natural rights ; while an advocate of simple utility would say, that they ought to be permitted because they are innocent or useful ; the sole difference between you and him being, the employment on your part of a superfluous term.

But this is in itself an evil : the superfluous term serves only to disguise the truth, to keep out of sight the plain fact which the terms innocent or useful action would at once announce, and to give rise to disputes by the almost unavoidable substitution of different ideas for each other.

If we take up any author who has treated of the rights of man, natural rights, or inalienable rights, we shall soon be convinced of the vagueness and confusion of ideas into which the use of these phrases betrays the clearest and most vigorous understandings. The following passage from Burke's *Reflections on the Revolution in France*, shows how a mind of great sagacity, of deep reflection, and extensive knowledge, may be perplexed by a vague and ambiguous term, which it has never taken the trouble to analyze and fix.

“Far am I from denying in theory, full as far is my heart from withholding in practice (if I were of power

to give or to withhold), the *real* rights of men. In denying their false claims of right, I do not mean to injure those which are real, and are such as their pretended rights would totally destroy. If civil society be made for the advantage of man, all the advantages for which it is made become his right. It is an institution of beneficence, and law itself is only beneficence acting by a rule. Men have a right to live by that rule ; they have a right to justice, as between their fellows, whether their fellows are in political functions or in ordinary occupation. They have a right to the fruits of their industry, and to the means of making their industry fruitful. They have a right to the acquisitions of their parents ; to the nourishment and improvement of their offspring ; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself ; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favour. In this partnership all men have equal rights ; but not to equal things. He that has but five shillings in the partnership, has as good a right to it as he that has five hundred pounds has to his larger proportion. But he has not a right to an equal dividend

in the product of the joint stock ; and as to the share of power, authority, and direction which each individual ought to have in the management of the state, that I must deny to be amongst the direct original rights of man in civil society ; for I have in my contemplation the civil social man, and no other. It is a thing to be settled by convention.

“ If civil society be the offspring of convention, that convention must be its law. That convention must limit and modify all the descriptions of constitution which are found under it. Every sort of legislative, judicial, or executory power, are its creatures. They can have no being in any other state of things ; and how can any man claim, under the conventions of civil society, rights which do not so much as suppose its existence ? rights which are absolutely repugnant to it ? One of the first motives to civil society, and which becomes one of its fundamental rules, is, *that no man should be judge in his own cause.* By this, each person has at once divested himself of the first fundamental right of uncovenanted man ; that is, to judge for himself, and to assert his own cause. He abdicates all right to be his own governor. He inclusively, in a great measure, abandons the right of self-defence, the first law of

nature. Men cannot enjoy the rights of an uncivil and of a civil state together. That he may obtain justice, he gives up his right of determining what it is in points most essential to him. That he may secure some liberty, he makes a surrender in trust of the whole of it."

\* \* \* \* \*

"These metaphysic rights entering into common life, like rays which pierce into a dense medium, are, by the laws of nature, refracted from their straight line. Indeed, in the gross and complicated mass of human passions and concerns, the primitive rights of men undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction."

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"The pretended rights of these theorists are all extremes; and in proportion as they are metaphysically true, they are morally and politically false. The rights of men are in a sort of *middle*, incapable of definition, but not impossible to be discerned. The rights of men in governments are their advantages, and these are often in balances between differences of good; in compromises between good and evil; and sometimes between evil and evil."

There never was a finer struggle than that which is presented in this passage, between a strong mind and an impracticable or unmanageable term. Burke evidently saw the substantial merits of the controversy in which he was engaged, but his view was continually crossed, and his thoughts embarrassed, by an undefined notion of natural right. Through the whole of his earlier writings, there is a great abhorrence of what he calls "abstract politics;" and in his declamations and arguments against the French Revolution, his horror of "metaphysical" politics is still more strongly marked. Against the doctrine of the rights of man, as bandied about in France, his arguments are in the main sound; but after an attentive study of his works, any one conversant with later writers, will, I think, perceive, that he never attained to a full and perfect view of the truth, that utility is the sole proper foundation and criterion of political arrangements. He had continual perceptions, clear and strong, that utility or "convenience," as he terms it, is at once the proper basis and the test of measures and institutions; yet his mind still recurred to natural right as another principle on which they might be placed, or by which they might be tried, although he would in general have nothing to do with it.

Thus, in one passage he says, "the moment you abate any thing from the full rights of men, each to govern himself, and suffer any artificial positive limitation upon those rights, from that moment *the whole organization of government becomes a consideration of convenience.*"

He repeatedly refuses to discuss questions on the ground of abstract right. In his speech on American taxation, he says, "Again and again revert to your old principles—seek peace and ensure it—leave America, if she has taxable matter in her, to tax herself. *I am not here going into the distinctions of rights, not attempting to mark their boundaries. I do not enter into these metaphysical distinctions ; I hate the very sound of them.*

Again, in his speech on Conciliation with America, he says, "I think you must perceive that I am resolved this day to have nothing at all to do with the question of the right of taxation. Some gentlemen startle—but it is true : I put it totally out of the question : it is less than nothing in my consideration. I do not indeed wonder, nor will you, Sir, that gentlemen of profound learning are fond of displaying it on this profound subject. But my consideration is narrow, confined, and wholly limited to *the policy of the question.* I do

not examine whether the giving away a man's money be a power excepted and reserved out of the general trust of government, and how far all mankind, in all forms of polity, are entitled to an exercise of that right by the charter of nature. Or whether, on the contrary, a right of taxation is necessarily involved in the general principle of legislation, and inseparable from the ordinary supreme power. These are deep questions, where great names militate against each other; where reason is perplexed, and an appeal to authorities only thickens the confusion. For high and reverend authorities lift up their heads on both sides, and there is no sure footing in the middle. This point is the *great Serbonian bog, betwixt Damiatra and Mount Casius old, where armies whole have sunk*. I do not intend to be overwhelmed in that bog, though in such respectable company. The question with me is, not whether you have a right to render your people miserable; but whether it is not your interest to make them happy. It is not what a lawyer tells me I *may* do; but what humanity, reason, and justice, tell me I ought to do."

Notwithstanding this shyness of discussing a subject on the ground of abstract natural right, he acknowledges, in another speech, the practicability

of doing it, as well as the conclusiveness of an objection taken on that principle.

In his speech on Mr. Fox's East India Bill, he says, "The rights of men, that is to say, the natural rights of mankind, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it."

Thus he acknowledges two distinct tests or criteria of political arrangements, "the natural rights of mankind," and "convenience," or conduciveness to public good; but it is evident, from his instinctive avoidance of the former, and his resorting in every question to the latter, that while one presented to his mind a plain, intelligible rule, the other baffled his sagacity, or, to make use of his own language, "perplexed his reason."

This recognition, on his part, of two principles, without being able to discern the real meaning and character of one of them, or in what relation they stood to each other, affords a key, I think, to many passages of his writings, and accounts for his reluctance to discuss any question on the ground of abstract right. Had he seen that conduciveness to the public good is the sole proper ground of institutions and measures, and that the phrase



“natural rights of mankind,” expresses a vague and confused notion, which has no value as a standard of political acts, but inasmuch as it coincides with utility, he would never have perplexed himself and his readers with such passages as the one before quoted, nor probably exhibited that hatred of arguments about rights, that hostility to metaphysics, which he expressed in terms so keen and unmeasured. Men do not usually hate a ground of reasoning, or a species of argument, or an argument itself, which they can clearly show to be false. It was apparently the consciousness of being baffled in his attempts to master the confusion and obscurity hanging over the field of so-called natural right, which exasperated him against it. And this exasperation increased when he saw the lamentable consequences which arose in France, from the confident use of a notion, which even his mind could not reduce to satisfactory precision. Of all the instances which have ever presented themselves, of the practical evils flowing from loose notions and undefined phraseology, the French Revolution is certainly the most striking. It is perhaps not going too far to assert, that if at the commencement of that crisis, there had been amongst our neighbours the same clear apprehension of the

subjects of the rights of man and political equality, which exists in the minds of men of thought in the present day, and as a consequence, had the politicians of that day uniformly employed those phrases in one definite sense, or rather had they substituted more appropriate language, a great part of the political intoxication which prevailed, and the crimes which it engendered, would have been spared.

The world is yet very far from being aware of the immense importance of precise phraseology.

It would have been worthier, however, of Burke's great genius, had he endeavoured to discover and expose the sources of the error into which the French politicians fell on the subject of rights, instead of railing against the use which they made of the term. When he was vituperating metaphysics, it is strange he should never have stumbled on the truth, that *bad metaphysics* cannot be corrected by denouncing the study of the science, but must owe that service to *good metaphysics*. When will men learn, that to rail against what they conceive to be error, can never overthrow it; and that to render a false doctrine harmless, the readiest way is to expose its character?

Mr. Bentham's severe analysis of the French

Declaration of Rights (which was in many respects a copy of the American Declaration), is more valuable to the student of political science, and far more useful to mankind, than a whole volume of brilliant declamation against metaphysical sophistry. That such a work is not more known is to be regretted. It is a proof of the slow progress which close and accurate thinking makes in the world, that, except amongst a very small circle of writers, the term natural rights, although less employed than formerly, continues to be used with as much laxity as ever. Well might Burke exclaim, "The march of the human mind is slow\*."

\* Speech on Conciliation with America.

The first of these is the fact that the  
 number of cases of smallpox has  
 increased since the beginning of the  
 year. This is due to the fact that  
 the disease is more prevalent in the  
 winter months. The second fact is  
 that the mortality rate has increased  
 since the beginning of the year. This  
 is due to the fact that the disease  
 is more fatal in the winter months.  
 The third fact is that the disease  
 is more prevalent in the winter  
 months. This is due to the fact that  
 the disease is more fatal in the  
 winter months. The fourth fact is  
 that the disease is more prevalent  
 in the winter months. This is due  
 to the fact that the disease is more  
 fatal in the winter months. The  
 fifth fact is that the disease is  
 more prevalent in the winter months.  
 This is due to the fact that the  
 disease is more fatal in the winter  
 months. The sixth fact is that the  
 disease is more prevalent in the  
 winter months. This is due to the  
 fact that the disease is more fatal  
 in the winter months. The seventh  
 fact is that the disease is more  
 prevalent in the winter months. This  
 is due to the fact that the disease  
 is more fatal in the winter months.  
 The eighth fact is that the disease  
 is more prevalent in the winter  
 months. This is due to the fact that  
 the disease is more fatal in the  
 winter months. The ninth fact is  
 that the disease is more prevalent  
 in the winter months. This is due  
 to the fact that the disease is more  
 fatal in the winter months. The  
 tenth fact is that the disease is  
 more prevalent in the winter months.  
 This is due to the fact that the  
 disease is more fatal in the winter  
 months.

NOTES AND ILLUSTRATIONS.

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## NOTES AND ILLUSTRATIONS.

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### NOTE A.

(P. 61.)

We are happy to be able to corroborate the views in the text respecting the over-rated importance of government, by the authority of a writer with whom it is always a pleasure to agree.

“ We mean not to deny, we steadily affirm, that government is a great good, and essential to human happiness ; but it does its good chiefly by a negative influence, by repressing injustice and crime, by securing property from invasion, and thus removing obstructions to the free exercise of human powers. It confers little positive benefit. Its office is, not to confer happiness, but to give men opportunity to work out happiness for themselves. Government resembles a wall which surrounds our lands ; a needful protection, but rearing no harvests, ripening no fruits. It is the individual who must choose whether the enclosure shall be a paradise or a waste. How little positive good can government confer ! It does not till our fields, build our houses, weave the ties which bind us to our families, give disinterestedness to the heart, or energy to the intellect and will. All our great interests are left to ourselves : and governments, where they

have interfered with them, have obstructed much more than advanced them. For example, they have taken religion into their keeping only to disfigure it. So education, in their hands, has generally become a propagator of servile maxims, and an upholder of antiquated errors. In like manner they have paralysed trade by their nursing care, and multiplied poverty by expedients for its relief. Government has almost always been a barrier against which intellect has had to struggle; and society has made its chief progress by the minds of private individuals, who have outstripped their rulers, and gradually shamed them into truth and wisdom.”—*Character of Napoleon by Dr. Channing.*

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NOTE B.

(P. 103.)

It has not been the aim of this section to define the functions of the legislature from those of the executive power, but to show what part of the legislative business belongs to the supreme assembly, and what part ought to be devolved on subordinate bodies.

The representative system may be connected with various forms and degrees of executive authority: in England it is united with the throne of an hereditary king, possessing an ample revenue and a large prerogative: in the United States of America it is seen in conjunction with the humbler and transitory, and less costly office of a President, elected for a term of years. As it may thus be connected with different kinds of executive power, so it may be treated of separately from any of them: and it is this separate view of it, which the present treatise has attempted to take, leaving untouched the



important questions which may be agitated respecting the division of authority and the distribution of functions between the two branches of government, as well as the question respecting the form into which the executive should be put, in order to produce the greatest degree of good to the community. The utility and the composition or constitution of a second deliberative assembly, whether senate or house of peers, are also questions not touched upon ; because, although closely related to the subject of political representation, they may be detached from it, and it was wished to keep that subject as free from all collateral topics as it was possible to do.

To the passages cited in the text, respecting the necessity of dividing public business, the following excellent one may be added from the pen of Jefferson :—

“ It is not by the consolidation or concentration of powers, but by their distribution, that good government is effected. Were not this great country already divided into states, that division must be made, that each might do for itself what concerns itself directly, and what it can so much better do than a distant authority. Every state again is divided into counties, each to take care of what lies within its local bounds ; each county again into townships or wards, to manage minuter details ; and every ward into farms, to be governed each by its individual proprietor. Were we directed from Washington when to sow and when to reap, we should soon want bread. It is by this partition of cares, descending in gradation from general to particular, that the mass of human affairs may be best managed for the good and prosperity of all.—*Memoirs of Thomas Jefferson*, vol. i, page 70.

## NOTE C.

(P. 141.)

IN addition to the authorities cited in the text, the following passage from Madame de Staël may not be unacceptable to the reader.

“To all the delays inherent in the plan of deliberating in three orders, we are to add the *imperative mandates*; that is, instructions from the electors, imposing on the deputies the necessity of conforming their opinions to the will of their constituents, on the principal subjects discussed in the assembly. This antiquated usage was suited only to the infancy of a representative government. Public opinion had hardly any weight, in an age when the communication between one province and another was a matter of difficulty, and particularly when there were no newspapers, either to suggest ideas or communicate intelligence. But to oblige deputies in our days to adhere strictly to provincial instructions, would have been to make the States General an assembly, with little other power than that of laying petitions on the table. The information acquired in debate would have been fruitless, since they would have had no power to deviate from their previous instructions. Yet it was on these imperative orders that the nobility rested their chief arguments for refusing to vote individually.”—*Considerations on the French Revolution, by Madame de Staël, Part I, chapter 17.*

## NOTE D.

(P. 194.)

IT must be constantly borne in mind, that in a good system the parts are mutually adapted to each other; and that if one

of these parts, however excellent in its place, were introduced singly into a bad system, the effect might be evil instead of benefit. While the present objectionable mode of conducting elections is persevered in, to give a salary to the representative would serve no other purpose than to bring into the field a set of needy adventurers, who would unscrupulously ply all the dishonest and disgraceful artifices for which a contested election, as now managed, presents so fine an opportunity.

There is one general consideration which deserves to be urged on electors in their choice of a representative: they must take the trouble to choose a fit man, and not expect a man to become fit for the situation by being placed in it. Few will dispute the justness of the remark in a recent work, that "when we have to employ our fellow-creatures in any office, we should in general act more wisely, were we to choose those who possess qualities adapted to it, than were we to attempt to bend unsuitable qualities to our purposes, by the force of motives applied for the occasion. Such motives are gradually exhausted of their strength in their conflict with the complexional properties of the individual; they require frequent renewal, a perpetual renovation, while their antagonists have an even, steady vigour, self-perpetuated, and never relaxing. It is the variable efforts of Sisyphus against the constant, all-pervading, immutable power of gravitation\*." These remarks are particularly applicable to moral qualities. Let no constituency elect a man without sterling integrity of character, in the hope of keeping him in the line of duty by the power of dismissal. That power will do much; but besides the ostensible conduct of a public functionary, there is a secret current of action, which may run in a contrary direction and do great mischief: and even the ostensible conduct will be at the mercy of a thousand temptations.

\* Roscommon's Letters for the Press, page 82.

## NOTE E.

(P. 372.)

BESIDES the imperfections animadverted upon in the course of the present treatise, there are some other glaring defects in the British system of representation, as amended by the Reform Act, which it did not fall in our way to notice; defects chiefly in the composition of the electoral body. Such are the provisions of that Act which preserve the franchise to the freemen of certain cities and towns, which confer it on tenants at will, and which require the elector to have paid up his taxes and poor-rates. The first-mentioned provision contravenes the principle, that the franchise should be placed in the hands of men, who, by their station, possess the requisite degree of intelligence to make a proper use of it; and it is notoriously found in practice to lead to the grossest corruption. The second provision here noticed, has created a set of electors, who, by their position, are too often in abject dependence on others, and are degraded and insulted by the privilege conferred upon them. The third provision mixes up two separate objects, which ought to be attained by distinct methods. The proper object of a law, conferring the elective franchise, is to designate and set apart, by some clear and indisputable criterion, a class of men competent to the business to be done. The criterion, in this case, is the occupation of a house or premises, of the clear annual value of ten pounds: and the desirable thing is evidently to apply it with strictness and equity; that is, to ascertain the parties who occupy such premises, which is readily done from the parish books. But the authors of the Reform Bill, not content with this simple object, apparently wished to use the clause as an instrument to compel the payment of the poor-rates and assessed taxes, and resolved accordingly to deprive such persons of the

franchise as had not paid up their rates and taxes to a certain period of each year. The ordinary processes of the law are, it may be presumed, quite sufficient to recover any arrears of this nature; and if they are not, ought to be made so, by a law directed specifically to that object. At the best, it was out of place to attempt to enforce payment of any imposts in a bill intended for a totally different purpose. There might, however, have been little objection to the attempt, if it had not interfered with the higher aims of the Bill. It was a point of great importance, that any criterion adopted for the purpose of singling out a competent class of electors should be as simple, as free from liability to cavil and dispute, as easily applicable, and as little productive of irritation and discontent as possible. The criterion actually selected would have combined in itself these qualities in a high degree, had the parties who selected it only suffered it to be put freely in operation; but the effect of the mischievous modification here adverted to, has been to lower it in every one of these desirable qualities; it has made the criterion less simple, less easily applicable, more liable to cavil and dispute, and more productive of irritation and discontent. It has also mischievously contracted the constituent bodies, without raising their average intelligence,—the only object which can justify a limitation of suffrage at all, and therefore the only object which could justify in this case a diminution in the number of the electors.

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NOTE F.

(P. 385.)

THE idea that governments must grow, and cannot be created, seems to have been a favourite with Sir James Mack-

intosh, for he had already made use of it in his speech on the transfer of Genoa to the King of Sardinia, by the Congress of Vienna. The following is an extract :—

“ One of the grand and parent errors of the French Revolution, was the fatal opinion that it was possible for human skill to make a government. It was an error too generally prevalent not to be excusable. The American Revolution had given it a fallacious semblance of support, though no event in history more clearly showed its falsehood. The system of laws, and the frame of society in North America, remained after the Revolution, and remain to this day, fundamentally the same as they ever were. The change in America, like the change in 1688, was made in defence of legal right, not in pursuit of political improvement; and it was limited by the necessity of defence which produced it. The whole internal order remained, which had always been essentially republican. The somewhat slender tie which loosely joined these republics to a monarchy was easily, and without violence, divided. But the error of the French Revolutionists was in 1789 the error of Europe. From that error we have long been reclaimed by fatal experience. *We know, or rather we have seen and felt, that a government is not like a machine or building, the work of man; that it is the work of nature, like the nobler productions of the vegetable and animal world, which man may improve, and corrupt, and even destroy, but which he cannot create* \*. We have long learned to despise the

\* Can Sir James have taken this simile from Harrington? The author of *Oceana*, in his Dialogue between Valerius and Publicola, has a passage which may have suggested it. One of the speakers, Valerius, having expressed a doubt how a commonwealth is to be introduced into England, “ seeing not only the people are so wholly unacquainted with the means, but their leaders so averse to it,” the other replies: “ Think you that a plant grows the worse for not understanding the manner of its vegetation?” “ A plant,” re-

ignorance or the hypocrisy of those who speak of giving a free constitution to a people, and to exclaim with a great living poet,—

‘ A gift of that, which never can be given  
By all the blended powers of earth and heaven !’

We have perhaps, as usual, gone too near to the opposite error; and we do not make sufficient allowances for those dreadful cases, which we must not call desperate, where, in long-enslaved countries, we must either humbly and cautiously labour to lay some foundations from which liberty may slowly rise, or acquiesce in the doom of perpetual bondage on ourselves and our children.

“ But though we no longer dream of making governments, the confederacy of kings seem to feel no doubt of their own power to make nations. Yet the only reason why it is impossible to make a government is, because it is impossible to make a nation. A government cannot be made, because its whole spirit and principles arise from the character of the nation. There could be no difficulty in framing a government, if the habits of a people could be changed by a law-giver; if he could obliterate their recollections, transfer their attachment and reverence, extinguish their animosities, and correct those sentiments, which, being at variance with his opinions of public interest, he calls prejudices \*.”

At the risk of being numbered with those who are here

joins Valerius, “ is not a free agent; but among men, who are free agents, the introduction of government seems to be arbitrary.” After some further discussion, Publicola remarks, “ Why then there is not such a difference between the growing of a plant and a commonwealth as you thought, seeing a commonwealth, knowing as little, does no less.”

\* See Notice of the Life and Writings of Sir James Mackintosh, prefixed to his History of the Revolution of 1688, p. 100.

charged (not in the best spirit) with ignorance or hypocrisy, we must say, that there appears to be, in the whole of this doctrine, a confusion of ideas, a looseness of phraseology, and a misstatement of facts, which are almost unaccountable.

When the speaker says, that it is impossible for human skill to make a government, we are obliged to suppose that he means a government of some complexity. If we are to include all governments, the rudest and simplest, as well as the most refined and complicated, the assertion is unsupported by facts. On the contrary, it must be obvious, that wherever any political society has been instituted, and any authority has begun to exist, the first form or mode in which that authority was exercised must have been the device of some of the parties concerned: in other words, the government, however rude and simple, must have been the work of human contrivance; a plan of some kind, either developed in words, or existing in the mind of its author, must have preceded it.

The origin of the state-governments, in the United States of America, may be cited as an exemplification of what has just been said, to show that rude and simple governments are and must be created by contrivance. If the whole internal order of the American States, as Sir James Mackintosh affirms, was *always* republican, it must have been made so; but the subsequent history of these States proves triumphantly, notwithstanding all assertion to the contrary, that governments of even considerable complexity can be formed by the skill of man. The change which their institutions underwent is perhaps the most striking instance on record (indeed it is almost as perfect an instance as can be conceived) of a community forming for itself a set of political arrangements. If any person doubts this, let him look into the history of any one state—Pennsylvania for example—where he will see, that the inhabitants of that state, unfettered by the necessity



of retaining any of their institutions, proceeded in the formation of their government with the utmost regularity, consideration, and circumspection; and that every part of their constitution was adopted from deliberate choice. It would be no answer to these instances of the creation of governments, even if it were true, that the system of laws and the frame of society were not fundamentally altered. This is manifestly changing the question. All that we understand in such a question by government — the mode in which political power devolves or is conferred, the degree of it, the checks to it — all these were thoroughly changed. But admitting the answer to be of a valid nature, it would not here be applicable; for the system of laws even, and the frame of society, underwent fundamental alterations. In Virginia, for instance, the laws of entail and primogeniture were abolished, the connection of church and state was dissolved, and the equality of religious sects established\*. If these were not fundamental changes, what are? Should these things be accomplished in our own country, or even attempted, would not a thousand tongues assert that the whole framework of society would be destroyed?

Were the question in controversy, whether human beings could form a government without availing themselves of experience, and without adopting customs and regulations already in existence,—were it, whether they could contrive a system purely *à priori*, and altogether unlike any thing before seen in the world,—then the example of the American States would not be in point: but if the question is, whether men can lay aside all existing regulations, and deliberately form or select others, either like or unlike their former ones, according to their own views of what is likely to be expe-

\* See Jefferson's Notes on Virginia. Also his Memoirs and Correspondence.

dient or useful,—if this is the question, then the example of those States gives a clear and unambiguous answer to it.

But Sir James Mackintosh's proposition is not even plausible, without another qualification. When he said that governments could not be made by human skill, he must have meant to limit the assertion to good governments as well as to complicated governments; for if he is understood to mean bad as well as good, we surely may find abundant instances of tyrannical usurpations, which totally overthrew existing institutions, and established a fundamentally new system on the ruins of the old one.

As he alludes to the French revolution, it is singular that it did not occur to him that Bonaparte had created a government. Its quality we shall not dispute—bad enough it may have been;—but still, with its legislative bodies, its councils, its codes, it was a government which was made, and certainly did not grow.

The proposition, then, that a government cannot be created, is utterly at variance with facts. It may possibly be true, that a good government, or a stable government, or a government altogether different from what has been before seen, cannot be created; or it may be true, that a government cannot be created without embodying in it existing laws, or adapting itself to existing habits; these are propositions, which might perhaps be maintained with some plausibility, or at least which it would not surprise us to see asserted; but that no kind of government can be created, is a doctrine so manifestly contradicted by experience, that it is astonishing how it could impose itself on a mind of very considerable powers.

One reason specifically assigned for this doctrine is curious enough. A government cannot be made, because its whole spirit and principles arise from the character of the nation. This might be a good reason why a government, to be useful,

should be made of a certain kind; but it is none why it could not be made at all. There is a government now existing in Poland, which has been made by somebody; but which assuredly, in its whole spirit and principles, has not arisen from the character of the nation: while the American governments, on the other hand, were made in spirit and principle in accordance with the character of the people, because they were made by the people.

The favourite comparison of a government to a vegetable, which appears to have been a pet figure with Sir James, is here more fully drawn out; and it is accompanied with the explicit assertion, that a government is the *work of nature*, and not the work of man.

If a government is not the work of man, what are the agents concerned in its production? Are there any agents concerned but men? Do not we mean, by a government, men governing according to certain rules and forms; and are not these rules and forms the offspring of the human mind? Is not the whole history of a government, from its first formation to the latest period, a narration of human actions? In what possible sense, then, can such an institution be called a work of nature? Surely, by a work of nature, we must mean something produced independently of the agency of man; and yet, by this doctrine, the designation is bestowed on that which is made up of human actions; on that of which, if you take away human actions, nothing is left. You might as well call the Iliad the work of nature, and not the work of man.

Notwithstanding this ingenious "simile unlike," most people, we believe, will rest in the plain conclusion of Burke, that "government is a contrivance of human wisdom, to provide for human wants\*."

\* Reflections on the French Revolution.

It would not, perhaps, have been worth while to examine this matter at such length, were it not that it is always of use to make accurate distinctions on important subjects; and had not such loose propositions as those here commented on, a tendency to induce a supineness, which prevents men from resolutely looking political evils in the face, searching into their causes and remedies, and adopting such measures and institutions as are within the reach of all communities which understand their own good, and are determined to be well governed.





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