



# The Online Library of Liberty

A Project Of Liberty Fund, Inc.

---

## James Mill, *The Political Writings of James Mill* [2013]

---



### The Online Library Of Liberty

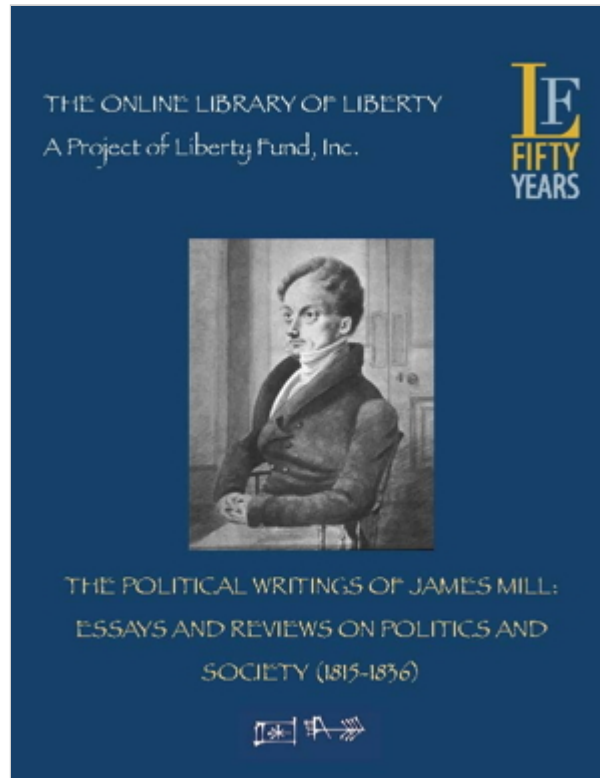
This E-Book (PDF format) is published by Liberty Fund, Inc., a private, non-profit, educational foundation established in 1960 to encourage study of the ideal of a society of free and responsible individuals. 2010 was the 50th anniversary year of the founding of Liberty Fund.

It is part of the Online Library of Liberty web site <http://oll.libertyfund.org>, which was established in 2004 in order to further the educational goals of Liberty Fund, Inc. To find out more about the author or title, to use the site's powerful search engine, to see other titles in other formats (HTML, facsimile PDF), or to make use of the hundreds of essays, educational aids, and study guides, please visit the OLL web site. This title is also part of the Portable Library of Liberty DVD which contains over 1,000 books and quotes about liberty and power, and is available free of charge upon request.

The cuneiform inscription that appears in the logo and serves as a design element in all Liberty Fund books and web sites is the earliest-known written appearance of the word "freedom" (amagi), or "liberty." It is taken from a clay document written about 2300 B.C. in the Sumerian city-state of Lagash, in present day Iraq.

To find out more about Liberty Fund, Inc., or the Online Library of Liberty Project, please contact the Director at [oll@libertyfund.org](mailto:oll@libertyfund.org) and visit Liberty Fund's main web site at [www.libertyfund.org](http://www.libertyfund.org) or the *Online Library of Liberty* at [oll.libertyfund.org](http://oll.libertyfund.org).

LIBERTY FUND, INC.  
8335 Allison Pointe Trail, Suite 300  
Indianapolis, Indiana 46250-1684



## **Edition Used:**

*The Political Writings of James Mill: Essays and Reviews on Politics and Society, 1815-1836*, ed. David M. Hart (Liberty Fund, 2013).

Author: [James Mill](#)  
Editor: [David M. Hart](#)

## **About This Title:**

This is an anthology of James Mill's writings compiled from *The British Review*, and *London Critical Journal* [1815], the *Supplement to the 4th, 5th and 6th editions of the Encyclopaedia Britannica* [1815-1824], *Parliamentary History and Review* [1826], *The Westminster Review* [1824-1836], *The London Review* [1835-36], and *The London and Westminster Review* [1836].

## About Liberty Fund:

Liberty Fund, Inc. is a private, educational foundation established to encourage the study of the ideal of a society of free and responsible individuals.

## Copyright Information:

The copyright to this edition, in both print and electronic forms, is held by Liberty Fund, Inc.

## Fair Use Statement:

This material is put online to further the educational goals of Liberty Fund, Inc. Unless otherwise stated in the Copyright Information section above, this material may be used freely for educational and academic purposes. It may not be used in any way for profit.

**1. The British Review [1815]**  
*The British Review, and London Critical Journal*. Vol. VI. (London: Baldwin, Cradock, and Joy, 1815).

- "Dugald Stewart's "Elements of the Philosophy of Mind", " Aug. 1815, vol. VI. pp. 170-200.

**2. Supplement to the 4th, 5th and 6th editions of the Encyclopaedia Britannica, Edinburgh, 1824, 6 volumes. [1815-1824]**  
*Supplement to the Fourth, Fifth, and Sixth Editions of the Encyclopaedia Britannica. With Preliminary Dissertations on the History of the Science. Illustrated by Engravings.* (Edinburgh, Archibald Constable and Company, 1824). The following articles were written by Mill:

- Banks for Saving, vol. 2, pp. 91-101
- Beggar, vol. 2, pp. 231-48
- Benefit Societies, vol. 2, pp. 263-69
- Caste, vol. 2, pp. 674-54.
- Colony, vol. 3, pp. 257-73
- Economists, vol. 3, pp. 708-24
- Education, vol. 4, pp. 11-33
- Government, vol. 4, pp. 491-505
- Jurisprudence, vol. 5, pp. 143-161
- Liberty of the Press, vol. 5, pp. 258-72
- Nations, Law of, vol. 6, pp. 6-23
- Prisons and Prison Discipline, vol. 6, pp. 385-95

**3. Parliamentary History and Review [London, 1826]**  
*Parliamentary History and Review; containing Reports of the Proceedings of the Two Houses of Parliament during the Session of 1826: - 7 Geo. IV. With Critical Remarks on the Principal Measures of the Session.* (London: Longman, Rees, Orme, Brown, and Green, 1826).

- James Mill, "Summary Review of the Conduct and Measures of the Seventh Imperial Parliament" pp. 772-802.

**4. The Westminster Review [1824-1836]**

## Table Of Contents

- [Introduction](#)
- [Bibliography](#)
- [The Political Writings of James Mill: Essays and Reviews On  
Politics and Society, 1815-1836](#)
- [1.: The British Review \[1815\]](#)
- [Art. IX.—: Elements of the Philosophy of the Human Mind.](#)
- [2.: Supplement to the 4th, 5th and 6th Editions of the  
Encyclopaedia Britannica, Edinburgh, 1824, 6 Volumes.  
\[1815-1824\]](#)
- [Banks For Savings.](#)
- [Beggars.](#)
- [Benefit Societies.](#)
- [Caste.](#)
- [Colony.](#)
- [Economists.](#)
- [Education.](#)
- [Government.](#)
- [Jurisprudence.](#)
- [Liberty of the Press.](#)
- [Nations, Law Of.](#)
- [Prisons and Prison Discipline.](#)
- [3.: Parliamentary History and Review \[London, 1826\]](#)
- [Summary Review of the Conduct and Measures of the Seventh  
Imperial Parliament.](#)
- [4.: The Westminster Review \[1824-1836\]](#)
- [Art. XI.: Periodical Literature.](#)
- [1.: Edinburgh Review. Vol.1, 2, &c.](#)
- [2.: The Quarterly Review, No. Lviii. — Faux's Memorable Days  
In America.](#)
- [Periodical Literature.](#)
- [Art. IX.: The Quarterly Review.](#)
- [Art. X.: Edinburgh Review, Number Lxxx. Art. IV.](#)
- [Art. VIII.— Southey's Book of the Church](#)
- [Art. VIII.— Ecclesiastical Establishments](#)
- [Art. I.—: Essays On the Formation and Publication of Opinions,  
and Other Subjects. the Second Edition, Revised and  
Enlarged. 8vo. Hunter. London.](#)
- [Art. 1.— State of the Nation](#)
- [Art. I.—: Thoughts On Moderate Reform In the House of  
Commons. London. J. Ridgway. 1830.](#)
- [5.: The London Review \[1835-36\]](#)
- [Art. I.: The State of the Nation.](#)
- [Art. X.: The Ballot.—a Dialogue.](#)
- [Art. I.: The Church, and Its Reform.](#)

[Art. I.: Law Reform.](#)

[Art. I.: Aristocracy.](#)

[Art. XIV.: Whether Political Economy Is Useful?](#)

[Art. IX.: Theory and Practice.](#)

[\[Back to Table of Contents\]](#)

## Introduction

James Mill's periodical writings can usefully be divided into two periods. The first covers the period between 1802 and 1815/1817 when he wrote for the following publications:

- *Anti-Jacobin Review and Magazine* [1802]
- *The Literary Journal or Universal Review of Literature Domestic and Foreign* [1803-1806]
- *The Eclectic Review* [1807-14]
- *Annual Review and History of Literature for 1808* [1809]
- *The Edinburgh Review* [1807-1814]
- *The Monthly Review* [1810-1815]
- *The Philanthropist* [1811-1817]

The second period, the topic of this anthology, covers his more mature writings in the period between the end of the war against Napoleon and Mill's death at the age of 63 on 23 June, 1836 which he wrote for the following publications:

- *The British Review, and London Critical Journal* [1815]
- *Supplement to the 4th, 5th and 6th editions of the Encyclopaedia Britannica* [1815-1824]
- *Parliamentary History and Review* [1826]
- *The Westminster Review* [1824-1836]
- *The London Review* [1835-36]
- *The London and Westminster Review* [1836]

[\[Back to Table of Contents\]](#)

## **Bibliography**

We have used the following works to identify what articles were written by James Mill:

- Alexander Bain, *James Mill. A Biography* (London: Longmans, Green, and Co., 1882).
- James Mill, *Selected Economic Writings*, ed. Donald Winch (Edinburgh: Oliver Boyd for the Scottish Economic Society, 1966).



[\[Back to Table of Contents\]](#)

## **The Political Writings Of James Mill: Essays And Reviews On Politics And Society, 1815-1836**

**1.**

### **The British Review [1815]**

*The British Review, and London Critical Journal.* Vol. VI. (London: Baldwin, Cradock, and Joy, 1815).

- “Dugald Stewart’s “Elements of the Philosophy of Mind”,”  
Aug. 1815, vol. VI. pp. 170-200.

[\[Back to Table of Contents\]](#)

## **Art. IX.—**

### ***Elements Of The Philosophy Of The Human Mind.***

By Dugald Stewart, Esq. F. R. S. Edinburgh; Honorary Member of the Imperial Academy of Sciences at St. Petersburg; Member of the Royal Academy of Berlin, and of the American Philosophical Society, held at Philadelphia; formerly Professor of Moral Philosophy in the University of Edinburgh. Volume second, 4to. pp. 568. Edinburgh 1814. Constable and Co.; Cadell and Davies, London.

In giving an account of this volume, a task is imposed upon the critic of no ordinary magnitude, and to which the limits of a Review are very imperfectly adapted. It forms the second part of a great work, intended to exhibit a complete view of the intellectual operations of the human mind. Mr. Stewart is well known to be a faithful and distinguished disciple of that philosophy to which in this country, where philosophical pursuits have never excited much enthusiasm, the distinction has been almost exclusively confined, of rising to the reputation of a system, and being regarded as the foundation of a particular school. It is not alone to the volume before us that our attention must, therefore, be directed. This volume is but a continuation of the speculations commenced in the work which preceded it; and both are but emanations of that system of doctrines, and that plan of inquiry, which were recommended by Doctor Reid, and which have enjoyed a fortune almost new in this island.

The earliest of the works of Dr. Reid, his "Inquiry into the Human Mind, on the Principles of Common Sense," appeared, at rather a remarkable era in the history of British philosophy. Two illustrious followers, Bishop Berkeley and Mr. Hume, had succeeded Mr. Locke. Reflecting upon the sensations or feelings, communicated by the organs of sense, Bishop Berkeley was led to put to himself the question, What is their cause? The usual answer to this question is obvious; that matter and its qualities are their cause. Colour is the cause of the feeling in the mind called sight, hardness is the cause of a particular modification of the feeling in the mind called touch. To the penetrating and inquisitive mind of Berkeley, this answer did not prove quite satisfactory. The feeling in the mind was totally unlike any quality in matter. What reason was there for the belief that the one depended upon the other? Upon inquiry, it appeared that the only reason was, the existence of the mental

feelings. The feelings are produced in the mind, therefore they are produced by something: they are produced in a certain order, therefore they are produced by the qualities of matter.

Led to penetrate further and further into this mystery, the question was at last suggested to the Bishop, what evidence he had for the existence of those qualities of matter, to which he was taught to look as the cause of his sensations. It immediately appeared, that for the existence of the qualities of matter he had no evidence whatsoever, but the existence of these sensations themselves. With this discovery, and the conclusions which flowed from it, he was deeply impressed. With regard to these sensations, all that man really knows, is, that they come into his mind, according to a certain order, which he learns by experience. That order has two forms. The sensations come into his mind, either one after another; or several of them come into it all at once. Those which come into the mind successively have given rise to no particular mystery. The case is different with those of which the entrance into the mind is synchronous. Suppose that the mind has the feeling, which has the name sight of a yellow colour; the colour of a golden ball, for example. If a man had no other sense but that of sight, he would have no other feeling associated with this sight of yellow. He moves and applies his hand in a particular manner; that is to say, certain feelings, one after another, take place in his mind, the last of which is, that he has the ball in his hand. At the same time that the sensation called sight of a yellow colour is in the mind, the sensations called a feeling of hardness, of roundness, and of weight, are now in the mind, along with a sensation of sameness in place with respect to them all. Now this cluster of sensations is all that is in the mind of a man, when he is said to perceive a ball of gold; and the conception of these sensations is all that is in his mind when he is said to think of the ball of gold. But what, then? is nothing ever in the mind but its own feelings? \* No, certainly; nothing whatsoever. But what evidence do the feelings of the mind afford of matter or its properties? Bishop Berkeley answered the question without hesitation. They afford no evidence at all. Nothing can be like a feeling in the mind, but a correspondent feeling of the same or another mind. When we suppose external objects, we do nothing but suppose certain unknown causes of our sensations; of which we can conceive nothing but that they are an unknown something, to which our sensations are owing. This supposition Bishop Berkeley declared to be an arbitrary hypothesis, unsupported by even the shadow of a reason. He also affirmed it to be absolutely insignificant, answering no one good purpose, either of utility, or of curiosity. Nay he proceeded still further, and produced a variety of curious reasons, to prove that the supposition really involves absurdity and contradiction, and cannot be held by any man who will obey the dictates of his reason.

If feelings afford no inference to the existence of any material cause of them, another question arises, what inference do they afford to that of a mind in which they may inhere? Berkeley scruples not to start the difficulty; and appears to allow, that, if in this case there was nothing more than in that of the cause of our sensations, we should never be entitled to draw a conclusion from the existence of our feelings to the existence of any thing beyond themselves; nor could regard the mind as any thing else than a system of floating ideas, connected together in a certain order, but without any ascertainable subject in which they inhere. He asserted, however, that the existence of the mind was proved by a different process; and by a palpable inaccuracy remarkable in so acute a metaphysician, declared that he was conscious of his mind, and of its personal identity.

Of this position it was easy for Mr. Hume to show the absurdity. We are conscious of the feelings of perceiving, of remembering, of willing, of approving and disapproving, loving, hating, and such like; but we are not conscious of any thing else; we are not conscious of any substance in which these feelings inhere. If not, and if we have no knowledge of mind beyond these modifications of consciousness, by what inference do we affirm, that mind is any thing beside themselves? As the external world is an arbitrary hypothesis, assumed to aid in accounting for the existence of our sensations, the mind, in the same manner, is an arbitrary hypothesis, an unknown something, assumed to aid in accounting for all the modifications of consciousness. But it is an hypothesis which really explains nothing; for we as little understand how feelings should exist in an unknown something, as how they should exist by themselves.

Such was the state of philosophical inquiry in this country, when Reid appeared. He declares that he was satisfied at first with the reasonings of Berkeley; and might fairly be ranked among the believers in the non-existence of matter. But when Mr. Hume arrived, and demonstrated to him that upon the same principles mind was not more entitled to belief than matter, he confesses that he was startled. It appears, that he was alarmed for the evidence of religion, which seemed to him to vanish, if these conclusions were just. If no evidence remained for the existence either of mind, or of matter, no evidence appeared to remain for the existence of a God; and if that article of belief was lost, along with it, of course, disappeared all that system of anticipations respecting a future life, which rested upon it as their foundation. With this loss of the prospect of a future life, Dr. Reid, who was a pious man, appears to have been much more deeply affected, than with any revolution in his ideas respecting the present life, to which the progress of his reasonings had conducted him; and he tells us that he immediately

began to exert himself to discover, if possible, a flaw in the chain of reasoning which produced so unhappy a result.

He soon convinced himself that he had made the discovery of which he was in quest. It was a doctrine of the ancient philosophers that the mind perceived not external objects immediately, but by means of certain representations, or images of them, called ideas, which they sent off, and which entered the mind by the inlets of the senses. The language of this theory had become the language in which all discourse relating to the mind was carried on. Upon it the language of Mr. Locke's Essay was in a great measure founded: and that of Dr. Berkeley and Mr. Hume followed the universal example.

According to the theory, said Dr. Reid, that the mind perceives the qualities of matter, not immediately, but by means of certain floating images, it has no evidence of matter, which it never perceives. But what if this theory be without foundation? Then it will follow that the mind perceives matter immediately, and the evidence for its existence returns. The theory was so perfectly gratuitous, that the moment it occurred to any one to inquire for its evidence, it was overthrown. Dr. Reid refuted it with scorn; and declared, that as the arguments for the non-existence of matter rested upon this foundation, they fell with it, of course, to the ground.

When Dr. Reid, however, made the declaration, that the arguments for the non-existence of matter were altogether founded upon the theory of ideas, he advanced a great deal too far. Of this he himself was aware. He perceived that immediately we really are acquainted with nothing but our own feelings. It is from these feelings that every thing else, both matter and mind, is to be inferred. But from them how is any thing to be inferred? Not by experience, because we have experience of nothing but the feelings themselves; not by reasoning, because there is no medium of proof which unites the premises with the conclusion. He says expressly, "our sensations have no resemblance to external objects, nor can we discover by our reason any necessary connexion between the existence of the former, and that of the latter." In another passage he declares, "No man can show by any good argument, that all our sensations might not have been as they are, though no body, or quality of body, had ever existed."

To lay a foundation then for a belief in the existence of matter and mind, Dr. Reid was under the necessity of looking out for another resource. It was the doctrine of all philosophy, that some things were not to be proved. In all reasoning we at last arrive at first principles, which are assumed. To this quarter Dr. Reid betook himself for the means of establishing a belief in the existence of

mind and matter. These points, he said, were not to be proved, they were to be taken for granted.

In the next place, therefore, it was incumbent upon him to show, that such a mode of determining this most important controversy was by no means unreasonable. He attempted to show, that there was a variety of cases in which belief, the most absolute, took place in the human mind, without a possibility of assigning any reason for such belief; or of giving any other account of it, than that such is the constitution of our nature.

With respect to the marks by which a belief of this sort may be known and distinguished, the most remarkable of them is the common assent of mankind. A belief which, in this manner, is common to mankind, but which can be traced to no acknowledged principle of thought, he regarded as instinctive; and he gave to it the name of common sense.

The desire to augment and strengthen his proofs naturally drew Dr. Reid into a multiplication of the instances of instinctive belief; as well as into an exaggeration of the importance of the mark by which they were made known and recommended. He seemed to be eager to collect as many propositions as possible; of which he could at one and at the same time affirm, both that they were fit to be believed, and that no reason could be given why they should be believed. He lavished also his praises upon common sense, which he endeavoured to represent as a guide far superior to philosophy, and of which the decisions, when any diversity occurred, were always to be implicitly followed. He even availed himself of an ambiguity, which he himself had created in the meaning of the term, to cast ridicule very plentifully upon every man who did not agree with him. According to the usual meaning of the word common sense, it denotes a belief founded upon some very obvious and incontrovertible reasons which it requires folly either to overlook, or to question. Dr. Reid applied it to a new case, which he himself was the first to point out, the case of belief not founded upon reasons at all. Did any man call in question any proposition which he was pleased to represent as not an object of reasoning, but of instinctive belief, Dr. Reid was very apt to laugh at him, as ranking with those contemptible men who are not under the guidance of common sense; that is, men whose belief is not governed by those obvious and incontrovertible reasons, which it is folly either to overlook or controvert. This, however, was not the case. The dissent was not from any proposition supported by obvious and incontrovertible reasons, but from a proposition which according to Dr. Reid ought to be believed without any reason at all.

This doctrine had not been long before the world, when it met with a very unreserved and forward controversialist, in Dr. Priestley. Any blemish which might lie upon its surface was not very likely to escape the keen though busy eye of this critic; but he was neither sufficiently acquainted with the science, nor sufficiently capable of patient, close, and subtle thinking, to go to the bottom of the principles which he attacked; nor could he avoid such displays of ignorance and self-delusion, as afforded a colour to Dr. Reid and his followers for treating the book with contempt, and holding themselves exempt from the obligation of answering its objections.

This was a misfortune to the science. Had the philosophy of Reid been controverted at an early period, with such a degree of knowledge and skill as would have commanded the respect and attention of the public, he would have been compelled to reconsider the foundation of his belief; and, either by obviating ill founded opinions, or by abandoning untenable ground, would have left the science in a better state, and more likely to invite a succession of cultivators.

It is a remarkable proof of the little taste there still is for profound and accurate thinking in England; in other words, a remarkable proof of the coarse and vulgar footing on which the business of education in this country remains—that, from the date of Dr. Priestley's volume in 1774, to the present day, not a single work, the object of which is to controvert the philosophy of Reid, has been presented to the public. That such has been the case is not owing to the general acceptance with which, in the southern part of the island, his doctrines have been favoured; for they are spoken of with disapprobation by all but a few. Nor yet is it owing to their want of celebrity; for scarcely any doctrines, fabricated in this country, and related to the class to which they belong, can equal them in brilliancy of reputation. No! the effect is solely to be ascribed to the indifference of the people to what may be either thought or said upon a subject of so much importance.

Dr. Reid's list of what he calls "simple, original, and therefore inexplicable" cases of belief; in other words, belief altogether independent both of reason and of experience, first engages the castigating hand of Dr. Priestley. He exhibits them in a table, which certainly swells to a formidable size; but from which a considerable deduction might be made, by throwing out cases which he has inserted as distinct, though included under other titles. Among the things which we believe by an instinctive impulse, independently both of reason and experience, one is, that every sensation of which we are conscious is caused by a material object; another is, that every thing of which we are conscious, call it feeling, call it act, or call it idea, inheres in a mind; another is, that each of us is the

same person that he was yesterday, or any other day since his birth; a fourth is, that similar effects will always flow from similar causes; a fifth is, that every body will speak truth; to which another instinctive propensity is added by Dr. Reid, and that is, a propensity to speak the truth.

Upon this mode of philosophising, the following strictures were easily made. If every speculator may lay down propositions at his pleasure, which have no dependence either upon reason or experience, but which he says our nature instinctively compells us to believe, there is an end to all reasoning and of all philosophy. I lay down, says Dr. Reid, such and such a proposition. I ask your reason for it, says Dr. Priestley. Reason, says Dr. Reid, is not applicable to this proposition; it is believed by instinct. Who says so, cries Dr. Priestley? I say so, replies Dr. Reid. This much being said, it is evident the dispute is at an end. Dr. Reid assumes that the proposition is to be believed merely because he calls it an original principle, that is because he says it is to be believed. The *ipse dixit* of Dr. Reid is the standard of reason and philosophy. He solves every thing by the infallible method of declaring that it is just as he pleases, and because he so pleases; and in the true stile of Lord Peter, he finishes, by calling every body fool and rogue that dissents from him.

No, says Dr. Reid, it is not upon the ground of my *ipse dixit* alone that I say you ought to believe; but upon the ground of my *ipse dixit*, along with the general opinion of mankind. But Dr. Priestly found no difficulty in replying, that if the *ipse dixit* of Dr. Reid be a very insufficient ground for the establishment of any fundamental article of belief, the ordinary opinion of mankind is, if possible, still less a criterion of truth. Surely if we have no reason for believing in the existence either of matter or of mind, but the vulgar impression of the mass of mankind, joined to the *ipse dixit* of Dr. Reid, it is a belief which no rational mind will entertain with great confidence. The mass of mankind believe with perfect assurance, that what is in the mind when they see a ball of gold is a perfect image of the ball itself. Dr. Reid will tell them it is only a feeling; which has no more resemblance to a ball of gold, than the pain of the colic to the sound of a trumpet. The mass of mankind believe that extension is essentially coloured; and no man will pretend that he can think of extension without colour, yet Dr. Reid will allow that no necessary connexion exists between them. Of such illusions, to which mankind are subject, and which universally prevail till philosophy slowly disentangles one groundless association after another, it were superfluous to multiply instances. In the same manner the supposition of some external cause resembling the feelings communicated by our senses, and the supposition of some feeling substance to which all our feelings belong, is so naturally



suggested by those feelings, that if we could be ever so completely assured that those feelings offered no ground of inference either to matter as a cause, or to mind as a subject, we can conceive how it might have been even traced *a priori* that man would form the very conclusions respecting those points which hitherto have exhibited a prevalence so nearly universal.

Had Dr. Priestley confined himself to the task of enforcing these strictures, and of fixing the attention of mankind upon the conclusion to which they lead; that the philosophy of Dr. Reid completely fails in providing that antidote which it pretends to provide, to the scepticism of Bishop Berkeley and Mr. Hume; he would have performed an essential service to the progress of this species of philosophy, because he would have stimulated Dr. Reid himself, as well as others, to a more vigorous prosecution of the inquiry; and so important a branch of science would not have been left in the disgraceful condition in which it has so long been treated, presenting conclusions of the utmost moment which nobody is willing to believe, supported by a chain of reasoning which we feel to be wrong, but which nobody has answered.

But Dr. Priestley was ambitious of providing the antidote himself, and by the impotence of his attempt discredited the criticism by which he had disclosed the failure of his predecessor. As, for instance, so ignorant was he of the reasonings of Berkeley and Hume; reasonings which Dr. Reid declares to be demonstrative, and in which, after repeated examinations he had not discovered a flaw, as to give it as his opinion, that even according to the theory of ideas, the existence of matter may be inferred. "Mr. Locke, and other advocates for ideas, supposed that they were the *immediate* objects of our thoughts, the things of which we are properly speaking *conscious*, or that we know in the *first instance*. From them, however, we think we can *infer* the real existence of other things, from which those ideas are derived."\*

If the soul be immaterial, Dr. Priestley affirms, we have in that case the strongest reason to conclude that a material world has no existence. Dr. Reid had said, "I take it for granted upon the testimony of common sense, that my mind is a substance, that is, a permanent subject of thought, and my reason convinces me, that it is an unextended and invisible substance: and hence I infer that there cannot be in it any thing that resembles extension." Upon this Dr. Priestley affirms, "he might with equal appearance of truth infer, that the mind cannot be *affected* by any thing that has extension; for how can any thing act upon another but by means of some common property? Though, therefore, the Divine Being has thought proper to create an external world, it can be of no proper use to give us sensations or ideas. It must be he himself that

impresses our minds with the notices of external things, without any *real instrumentality* of their own; so that the external world is quite a superfluity in the creation. If, therefore, the author of all things be a *wise* being, and have made nothing in vain, we may conclude that this external world, which has been the subject of so much controversy, can have no existence.”<sup>‡</sup>

The following is as remarkable an instance of the *ignoratio elenchi*, as the history of weak reasoning probably affords. Dr. Reid had said, that when we have a certain sensation, as for example, when we hear a certain sound, we conclude immediately without reasoning, that there is some particular object by which it is produced, as for example, that a coach passes by. “There are no premises,” he adds, “by which this conclusion is inferred by any rules of logic. It is the effect of a principle of our nature common to us with the brutes.” Dr. Priestley says, “In this very mental operation or process, I think I see every part of a complete argument; and even that facility and readiness in passing from the premises to the conclusion, which argues the very perfection of intellect in the case. The process when properly unfolded, is as follows. The sound I now hear is, in all respects, such as I have formerly heard, which appeared to be occasioned by a coach passing by; *ergo*, this is also occasioned by a coach. Into this syllogism it appears to me that the mental process that Dr. Reid mentions may fairly be resolved.”<sup>‡</sup> Dr. Priestley is inadvertent enough to forget that the question is not whether a man can know the second time, after he has known the first, that it is an outward object which produces the sensation within him: but how he can know this from the beginning? Dr. Priestley’s syllogism resolves itself into an argument from the past to the present, which in no respect whatever touches the point in dispute.

But though Dr. Priestley is thus unsuccessful in his attempt to erect a barrier to the scepticism of Berkeley and Hume, his attacks bear dangerously upon that which was provided for us by the zeal and ingenuity of Dr. Reid. We have already contemplated the reasoning by which he shews, that the first argument of that philosopher, against Bishop Berkeley, namely, that we believe in the existence of matter, by “a principle of our nature common to us with the brutes,” resolves itself into the *ipse dixit* of its author. He also shows, that all his other arguments resolve themselves into misrepresentation. They all resolve themselves into attempts to turn the doctrine of Berkeley into ridicule, by ascribing to it the absurdities which would flow from a resolution not to believe in the testimony of our senses. That these absurdities do not, in the least degree result from the doctrine of Berkeley, is most certain. That they are ostentatiously ascribed to it by Dr. Reid is no less certain. And we are sorry to add, that after what he admits in a variety of

places, it is impossible not to conclude, that he ascribed them, under a perfect knowledge that the imputation was undeserved. This is one of those disingenuous artifices in which zeal will sometimes not scruple to indulge itself; but from which it is painful to find that a man of the intellectual and moral eminence of Dr. Reid was not entirely exempt "I resolve," says he, in a strain of mockery very usual with him, "not to believe in my senses. I break my nose against a post that comes in my way; I step into a dirty kennel; and after twenty such wise and rational actions, I am taken up and clapt into a mad-house." No misrepresentation, it is very certain, can be more gross than language of the description applied to the conclusions of Berkeley. The order in which the feelings or ideas of the mind, some agreeable, some disagreeable, succeed one another, said Berkeley, is known to us. It is in our power to a certain degree, to pursue the one, and avoid the other. If the feeling or idea of putting my finger to the flame of the candle takes place, I know that the painful feeling of burning will follow. I therefore avoid whatever may produce the feeling of putting my finger in the flame of the candle, knowing that it will be followed by a feeling acutely painful. In like manner, the train of ideas ludicrously expressed by the terms running my nose against a post, I know will be followed by a feeling of pain. I therefore do what I can to avoid that train of ideas. Upon the supposition that matter, that is, an unknown cause of our sensations, exists; it is still clear, that it is only the knowledge which an individual possesses of the order among his feelings, a knowledge that such of them are followed by such, that guides him in all his actions. When a man is said to do something, call it running his nose against a post, or any thing else, what is the real state of the facts with regard to his mind? Is it any thing else than that there passes in it a certain train of feelings? With regard to the mind, is it not this train of feelings which really constitutes the act? But if this train of feelings, which you may call an act, if you please, is followed by pain, the man will endeavour to avoid this act, or this train of feelings. The state of the mind, therefore, and its determinations, will be exactly the same, and for exactly the same reasons, whether the material world be, or be not, supposed to exist.

We have now accomplished an object of no inconsiderable importance to the end which we have in view, a clear and succinct account of the speculations of Mr. Stewart; for we have exhibited, we trust, a pretty complete view of the state of the science, at the moment when he began to exert himself for its cultivation. As a pupil of Dr. Reid, he appears to have imbibed with fondness the doctrines of his illustrious teacher; and in his different capacities of professor and author, has employed uncommon talents of persuasion, both as a speaker and as a writer, to clothe the ideas of his master in a seducing garb; to obviate objections; to clear away

imperfections; and to add to the weight of evidence by new proofs and discoveries.

The first volume of the work, to which our attention has now been called by the appearance of the second, was published so long ago as the year 1792, and has passed through several editions. In that publication, after a long introductory discourse on the nature, object, and utility of the philosophy of the human mind, the author treats of his subject under the following heads:—the powers of external perception, or the operations of sense; attention; conception, which is only distinguished from memory by not having a reference to anterior time; abstraction; the association of ideas; memory; and imagination.

On the greater part of this elegant volume, we shall have no occasion to offer any remarks; because the greater part of it is employed not in the disclosure of new ideas, nor in elucidating and enforcing the peculiar principles of the philosophy of Reid: but in training the youthful mind to reflect upon the different classes of mental phenomena, by exhibiting to view the principal facts, by warning his pupil of the more seducing errors, and putting him in possession of the most useful practical rules. On the subject of the memory and the imagination, this is in a peculiar manner the case. On the subject of abstraction, the author departs from the track of his master, Dr. Reid; and illustrates in a very happy and most instructive manner in the first place, the doctrine that abstraction consists in nothing but the assignment of general names,—that nothing in reality is abstract or general but the term, conceptions as well as objects being all particular; and in the next place, the purposes to which the powers of abstraction and generalization are subservient, the difference in the intellectual character of individuals arising from their different habits of abstraction and generalization, and the errors to which we are liable in speculation and the conduct of affairs, in consequence of a rash application of general principles. In the chapters on conception and attention, some curious mental phenomena are more accurately described than by any preceding author; and in speaking of those phenomena, a more accurate use of language is at once recommended and illustrated. Nothing, however, under these heads, is so connected with any of the leading doctrines of the system which he espouses, as in this place to require any particular remark. It is when he examines what he calls the powers of external perception, or the phenomena of sense, that he comes, in a more especial manner, upon the ground occupied by the characteristic principles of Reid. Even on this topic, however, though he adopts the principles, he waves all controversy in their defence; and declares that his only purpose is “to offer a few general remarks on such of the common mistakes concerning this

part of our constitution, as may be most likely to mislead him and his readers in their inquiries." For more ample satisfaction, he refers to the writings of Dr. Reid. It is not a little remarkable to find him ever declaring, "I have studiously avoided the consideration of those questions which have been agitated in the present age, between the patrons of the sceptical philosophy, and their opponents. These controversies have, in truth, no peculiar connexion with the inquiries on which I am to enter. It is indeed only by an examination of the principles of our nature, that they can be brought to a satisfactory conclusion; but supposing them to remain undecided, our sceptical doubts concerning the certainty of human knowledge would no more affect the philosophy of the mind, than they would affect any of the branches of physics; nor would our doubts concerning even the existence of mind affect this branch of science, any more than the doubts of the Berkeleian, concerning the existence of matter, affect his opinions in natural philosophy."

Two things here are worthy of attention. The last is, that all our speculations relating to the phenomena both of sense and of consciousness, are precisely the same, whether we believe in the existence or non-existence both of matter and of mind; and if our speculations, so also our actions, which have all a reference to one and the same end. The next thing in this passage worthy of observation is, that he professes to abstain from the discussion of the questions, whether we have, or have not, evidence that matter or mind exists. In this declaration seems to be implied an admission, that the questions are by no means determined; because, if determined, it belonged to him to declare, and to make it appear that they were so. But if they are not determined, the principles of Reid are unfit to be depended upon; for, surely, if the principles of Reid are worthy of our confidence, a doubt cannot be entertained about the answer which these questions ought to receive. If we really have an instinctive propensity to believe in the existence of matter and mind; and if such an instinctive propensity is a proper ground of belief, which two propositions constitute the fundamental principles of his system of philosophy, the question as to the existence of body and mind is for ever closed. If, however, an author who says he will abstain from a controversy, proceeds to take for granted all the propositions by means of which, if true, the controversy is determined on a particular side, he does by no means abstain from the controversy, he only abstains from all the difficulties of it. Now, this error is very observable in the conduct of Mr. Stewart, by whom the truth of the above-mentioned principles of Dr. Reid is uniformly assumed. Indeed, it is an art of Mr. Stewart, not rarely exemplified, to get rid of difficulties by slipping away from them.

It is, however, to the volume which has but recently appeared, and to which our attention is more particularly summoned, that he appears to have reserved the greater part of the observations which he had to make, upon the fundamental principles of that system of philosophy which he has espoused.

The subject of this volume is, "Reason, or the Understanding, properly so called; and the various faculties and operations more immediately connected with it."

In a preliminary dissertation, he explains the meaning to which, in the course of his speculations, he proposes to restrict the term, reason. On some occasions, he remarks, it is used in a very extensive signification, to denote the exercise of all those faculties, intellectual and moral, which distinguish us from the brutes. At other times, it is confined to a very limited acceptance, to express no more than the power of ratiocination, or reasoning. Mr. Stewart proposes to use it in a sense less extensive than the former, and less restricted than the latter; to denote "the power by which we distinguish truth from falsehood, and combine means for the attainment of our ends." Under the same title of Reason, he informs us, it is also his intention to consider "whatever faculties and operations appear to be more immediately and essentially connected with the discovery of truth, or, the attainment of the objects of our pursuit." All the powers, then, by which we recognize and discover truth, and by which we combine means for the attainment of our ends, are the appropriated subject of the present volume.

For a man who on many occasions displays no ordinary proofs of metaphysical acumen, there is here a wonderful defect of logical distinctness. When Mr. Stewart speaks of the power of distinguishing truth from falsehood, does he mean the power of distinguishing it immediately, or the power of distinguishing it by the invention and application of *media* of proof? We may conjecture that he means the former, by his stating immediately afterwards, that in addition to the power of distinguishing truth from falsehood, he means to consider the faculties and operations which are connected with the *discovery* of truth, "more particularly the power of reasoning or deduction." But if this really be his meaning, which may well be doubted, why did he not speak the common intelligible language, by saying that he would illustrate first, the power of distinguishing truth intuitively, next the power of discovering it by the intervention of proof. Again, when he tells us, that he is to consider the power by which we distinguish truth from falsehood, and combine means for the attainment of our ends; are we to understand that the power by which we distinguish truth from falsehood, and the power by which we combine means for the

attainment of our ends, is one and the same power; or, in other words, that these are operations perfectly homogeneous? It is hardly possible to conceive that this should be his meaning: yet if it be not, how gross is the impropriety of uniting them under one title, and giving no where any indication of the diversities by which they are to be distinguished? The power of combining means for our ends, is, we must say, after so formal an introduction, very disrespectfully treated; for not another word is said to her while she remains in company:—in plainer language, till the volume is closed. In point, then, of real fact, two particulars exhaust the subject of the book; and the author, if he had spoken the best and simplest language, would have said, that his object was to consider, what happens in the mind when it distinguishes truth from falsehood without any medium; and what happens in the mind when it discovers truth by means of a medium.

There is another remark, however, which we deem it of great importance to make. It might have been expected, after what Mr. Stewart has so instructively written about the nature of abstract, general terms, in the chapter on abstraction in his former volume, that he should have understood something more about the nature of the general term *truth*, than to imagine that there could be any useful meaning in a proposition, indicative of an intention to inquire into the nature of the faculty which distinguishes truth. We ask him what sorts of truth? Truths of smell? The faculty by which they are distinguished is the sense of smelling. Truths of light or colour? They are distinguished by the faculty of sight. Truth of what happened yesterday? That is distinguished by memory: and so we might proceed.

In thus plainly expressing our criticisms on the work of an author, of whom the reputation is deservedly so high as that of Mr. Stewart, and toward whom we are conscious of unfeigned respect, it might perhaps, be a sufficient apology to state, that in a work produced under the spur of the occasion, it would be unreasonable to expect that guarded phraseology which time and frequent revisal alone can ensure. It may, however, be proper still farther to declare, that, in our opinion, it is calculated to be of great benefit to the science, to which we are well assured that Mr. Stewart would gladly sacrifice any personal feelings of his own, and of great benefit even to Mr. Stewart himself, that unfavourable criticisms, if just, should be unsparingly expressed; because the praises which Mr. Stewart has so much been accustomed to hear have led him to employ his great talents rather in adorning the conclusions to which he had already conducted himself, than examining them with that jealous and persevering severity, which alone, in such difficult inquiries, can ensure the detection of mistakes.

On the subject of truths, if we must speak of them in the mass, it is surely obvious to remark, that they may be distinguished into two great classes. Of these, the one is the class of particular truths; truths relating to all the individual existences, corporeal or mental, in the universe. The second is the class of general truths. Now all truths relating to particular corporeal existences, are made known to us by the senses. All truths relating to particular mental existences, are made known to us by consciousness, or the interpretation of sensible signs. But particular existences are the only real existences in the universe. General existences there are none. Generalities are nothing but fictions, arbitrarily created by the human mind. Particular truths, then, are the only real truths. All general truths are merely fictions, of no use whatever, but to enable us to classify particular truths, to remember them, and to speak about them.

To recognize general truths is neither more nor less, if the doctrine of Mr. Stewart himself, concerning abstraction, be true, than to recognize the coincidence between one fiction of the human mind and another; or in other words, to recognize an agreement in meaning between one form of expression and another. Into the illustration of this most important proposition, it must be seen to be impossible for us here to proceed. We cannot direct our readers to a better source of instruction than Mr. Stewart himself, in the chapter on abstraction, to which we have so repeatedly referred. "If the subjects of our reasoning," says Mr. Stewart, "be general (under which description I include all our reasonings, whether more or less comprehensive, which do not relate merely to individuals,) words are the sole objects about which our thoughts are employed." It is impossible more explicitly to admit, that all general propositions, and all general reasonings are merely verbal; in other words, assert or deduce the sameness in point of meaning, in some one or more respects, between two general expressions. Even in the volume more immediately before us, he expressly says, "In the sciences of arithmetic and algebra, all our investigations amount to nothing more than to a comparison of different expressions of the same thing. Our common language, indeed, frequently supposes the case to be otherwise; as when an equation is defined to be, 'A proposition asserting the equality of two quantities.' It would, however, be much more correct to define it, 'A proposition asserting the equivalence of two expressions of the same quantity.'" It would imply an incapacity for consistent reasoning, of which we are far from suspecting Mr. Stewart, to suppose that he places any essential distinction between arithmetical or algebraical deductions, and other species of general reasoning at large; only because these sciences are possessed of more commodious signs than ordinary language affords. Indeed, upon turning to the chapter on abstraction, we find that Mr.



Stewart himself expressly says; “The analogy of the algebraical act may be of use in illustrating these observations. The difference, in fact, between the investigations we carry on by its assistance, and other processes of reasoning, is more inconsiderable than is commonly imagined; and, if I am not mistaken, amounts only to this, that the former are expressed in an appropriate language, with which we are not accustomed to associate particular notions. Hence they exhibit the efficacy of signs as an instrument of thought, in a more distinct and palpable manner, than the speculations we carry on by words, which are continually awakening the power of conception.” It is, indeed, not a little remarkable, that an author who denies the existence of abstract ideas, and so completely recognizes the nature of general terms, should lose sight of this doctrine so frequently as Mr. Stewart, in all his remaining inquiries. In truth we are led to suspect, that Mr. Stewart arrived at his present opinions concerning abstraction, at a period pretty late in life, when his conclusions on the other parts of his subject were already formed, and were committed to writing; and that the strength of his original associations permitted him not to discover the changes which an alteration in so fundamental a point required in the rest of his speculations.

We may now, then, draw together the conclusions at which which we seem to have arrived. If all truths are either particular or general, the powers by which we recognize and discover truth—about which Mr. Stewart writes with such an air of mystery, and which, after many pages of high sounding disquisition, he leaves unexplained—are tolerably obvious and familiar. With regard to all individual, that is, all real existences, the faculties by which we discover what in this case we mean by truth, are the senses and consciousness. With regard to all general propositions, the faculty of discovering what in this case is meant by truth is merely the faculty by which we trace the meaning of words.

Having thus seen by what course Mr. Stewart might very easily have arrived at the goal at which he professedly aimed, let us next contemplate as briefly as our limits constrain us, the course which he has actually pursued.

In this first chapter, he treats of what he calls, “The fundamental laws of human belief; or the primary elements of human reason.” This seems to be intended for the account of what he also calls, “The power by which we distinguish truth from falsehood,” adding, “and combine means for the attainment of our ends.” In the second chapter, he treats of “Reasoning and Deductive evidence,” that is, ratiocination, in the common acceptation of the term. The third chapter treats of the Aristotelian logic, that is, a more instrument of ratiocination; in propriety of arrangement, therefore, this

chapter ought to have formed only a section of the former. The fourth and last chapter treats of the inductive logic, or the method of inquiry, pursued in the experimental philosophy. Attending to the nature of the subject, we shall perceive, that he thus treats in the first chapter, of what has been called the intuitive, or immediate recognition of truth; and in the three last, of its discovery by the intervention of proof, in which there are distinguishable two modes, the ratiocinative and inductive. It is to be observed that it is general, in other words, verbal propositions and reasonings, what the author has in view throughout almost the whole of this voluminous inquiry; and that he endeavours to explain what takes place in the mind, without adverting (except casually, and in such a manner as by no means to give a turn to the current of his thoughts) to his own doctrine, that all affirmation and all reasoning in general terms, are only recognizing, or tracing the connection between, different expressions of the same thing.

In the first chapter, he treats of two things; first, of mathematical axioms; secondly, of what he calls, "Certain laws of belief, inseparably connected with the exercise of consciousness, memory, perception, and reasoning." Mathematical axioms are here introduced, only for the purpose of stating certain opinions which help to lay the foundation of that account of the nature of mathematical evidence, which Mr. Stewart endeavours to establish in the second chapter. To this account, we fear, it will not be in our power to advert, however desirous we may be to develop some fundamental error which it appears to us to involve. We shall therefore postpone any remarks which we may have to offer on what Mr. Stewart advances on the subject of axioms, till we see whether we can find room for any of our criticisms on the subsequent disquisition, to which his observations on axioms more immediately refer.

In the two sections in which he treats of "certain laws of belief," &c. we are peculiarly interested; because, by these laws of belief, he means the instinctive principles of Dr. Reid. We are anxious, therefore, to discover, whether he has brought any new lights to aid in showing that they are entitled to govern our belief; or whether he has left that important point as destitute of proof as he received it from Reid; and hence the scepticism of Berkeley and Hume as little provided, even at this day, with an antidote, as it was at the time of its first publication.

He begins with mind—belief in the existence of mind. He allows that mind is not an object of consciousness. "We are conscious," he says, "of sensation, thought, desire, volition; but we are not conscious of the existence of mind itself." He proceeds next, to the belief of personal ideality. "That we cannot, without a very

blameable latitude in the use of words, be said to be *conscious* of our personal identity, is a proposition," he affirms, "still more indisputable."

Whence then is this belief—belief in the existence of mind, and belief in our personal identity, derived? "This belief," says Mr. Stewart, "is involved in every thought and every action of the mind, and may be justly regarded as one of the simplest and most essential elements of the understanding. Indeed it is impossible to conceive either an intellectual or active being to exist without it."

From belief in the existence of mind, and belief of personal identity, where Mr. Stewart passes to the material world, he only says, "The belief which all men entertain of the existence of the material world, and their expectation of the continued uniformity of the laws of nature, belong to the same class of ultimate or elemental laws of thought, with those which have just been mentioned." "These different truths," he says, "all agree in this, that they are essentially involved in the exercise of our rational powers."

If Mr. Stewart has adduced any evidence to establish the belief of these truths, we may venture to affirm without dreading contradiction, that it is all included, to the last item, in the quotations which the last two paragraphs present. "This belief," says he, "is involved in every thought and every action of the mind." But what does he mean by this metaphorical, mysterious, and hence, we venture to add, unphilosophical use of the word "involved?" Every act of consciousness appears to us to be simple, one, and individual. To talk of one act of consciousness as involved, that is, wrapt up in another, having another rolled round it, we cannot help regarding as that sort of jargon which an ingenious man uses only when he is placed in that unhappy situation in which he still clings to a favourite notion, without having any thing plausible to adduce in its defence. If he had affirmed that the belief of the existence of mind and of personal identity is *conjoined* with every act of consciousness, that is, immediately precedes, or immediately follows it, we should at least have conceived what he meant. And all which then would have remained for us to do, would have been to ask him for the proof of his assertion.

We may suppose that this is the meaning of the ill-timed metaphor; because, as far as we are able to discover, it is the only intelligible meaning which can be assigned to it, and we do ask, what evidence of the assertion Mr. Stewart has adduced? The answer is, that he has adduced none whatsoever. He has added his *ipse dixit* to that of Dr. Reid; and upon that foundation, as far as they are concerned, the matter rests. In truth, the language of Mr. Stewart is far more unguarded and exceptionable, than that of Dr. Reid. That

philosopher only affirmed that we had the belief, without affirming that it accompanied every mental operation, which we apprehend is by no means the fact. If we interpret justly what we are conscious of in ourselves, the operations of the mind, in their ordinary and habitual train, have no such accompaniment; and we never think of the existence of our mind and our personal identity, but when some particular occasion suggests it as an object of reflection.

He calls it “an essential element of the understanding;” in another place, he gives what he calls “this class of truths,” the distinctive name of “primary elements of human reason;” in a succeeding passage he says, “they enter as essential elements into the composition of reason itself.”

Mr. Stewart defines reason, in the sense in which he professes exclusively to use it, to be “the *power* by which we distinguish truth from falsehood.” Now, not to speak of the difficulty we find in conceiving a compound power of the mind, a power made up of parts or ingredients, we may venture to assert, that if there be such a thing as a compound power of the mind, it must be a power made up of a union of several simple powers: into the composition of a power, nothing can enter that is essentially not a power. What then shall we say of the belief in the existence of body and mind? Is that a power? Or is it any thing more than one particular act of power, the power of believing? But what kind of a proposition is that which affirms, that a particular act of one power enters into the composition of another power?

Mr. Stewart says, “It is impossible to conceive either an intellectual or an active being to exist without the belief of the existence of its own mind, and the belief of its personal identity.” When a man uses the expression, “it is impossible to conceive,” it never means, and never can mean, any thing else than that he disbelieves strongly that which is the object of the affirmation. It is, therefore, only one of the garbs in which *ipse dixit* enrobes itself. But when we are in the search of reasons, *ipse dixit* is far from an advantage; and the more ingenious the colours in which it clothes itself, the evil is still the greater. Mr. Stewart seems, also, not to be aware, that in the very terms, “an intellectual or active being,” there is an implied *petitio principii*. According to the terms of the question, the existence of such a being is the very point to be proved. Whether a being, the subject of sensation and consciousness, can be, or cannot be, without a belief of its own existence, is more than we can venture to affirm; but surely a train of sensations and reflections, which is Hume’s; hypothesis, may be conceived to exist, into which train the belief of matter and of mind does not enter as a part. The curious circumstance is, that on the preceding page, Mr. Stewart himself says, “We are conscious of sensation, thought,

desire, volition; but we are not conscious of the existence of mind itself; nor would it be possible for us to arrive at the knowledge of it, (supposing us to be created in the full possession of all the intellectual *capacities* which belong to human nature,) if no impression were ever to be made on our external senses.”

Another of his favourite phrases is, that “the truths” in question “are fundamental laws of human belief.” We need hardly renew the remark, that this is only another bold assertion, in which that is assumed which ought to be proved; a species of conduct in which a man exerts an act, not of reason, but of despotism, commanding all men, on pain of his condemnation, to believe as he does. The phrase however is, on other grounds, highly objectionable. There is even a species of absurdity in calling a *truth* a *law* of belief. A truth is an *object* of belief. An object of belief cannot be a law. It may be agreeable to a law of the human mind that such or such a truth should be an object of belief. If Mr. Stewart means that it is agreeable to any law of the human mind that the supposed truths in question should be objects of belief, let him point it out; and then he will have accomplished what we earnestly call upon him to accomplish; for what Mr. Hume pretends to have demonstrated is, that the belief of these truths can be referred to none of the acknowledged laws of the human mind; and Mr. Stewart and Dr. Reid by evading his challenge so palpably, while they have so ostentatiously pretended to a victory, instead of weakening, have rather contributed to strengthen the foundations of his scepticism. It does not follow that, because men have very generally, or even universally, believed any particular proposition, that therefore it is agreeable to any law of the human mind to believe it; for it is surely very incident to men to agree in believing errors. Yet this is the only medium of proof, to which these philosophers have so much as pretended to appeal. Because men have always believed in these propositions, it is agreeable, they affirm, to a law of the human mind to believe them; though all the acknowledged laws of the human mind relating to belief, have, one or the other, been examined before them; and though it has been proved to their avowed satisfaction, that the belief in question can be referred to none of them.

For one thing we may justly blame Mr. Stewart. Why has he not given us a list of the laws of the human mind? This, as the author of a work on the philosophy of the human mind, was his appropriate duty; the proper scope and aim of his undertaking. If the science be not yet far enough advanced to enable the speculator to produce a list which he can present as complete, it would still be of great importance to exhibit all those which may be regarded as ascertained; with respect to the rest leaving the field open for future inquiry. Had this been done, and had the belief of the

propositions to which we allude, been referred to any particular item, in the list, the question would at any rate have been put in a clear and tangible shape; and there would have been no delusion practised in the case.

Upon the principles of Mr. Stewart, if he would only reason from them correctly, we think it would not be a very tedious or difficult process to arrive at a decision. There are only two classes of truths; one of particular truths; the other of general truths. With regard to particular truths, there is no dispute whatsoever. They are all referable to the senses and consciousness. But matter, as both Dr. Reid and Mr. Stewart allow, is not an object of sense, nor is mind an object of consciousness. Excepting sense and consciousness, however, which are occupied about particular truths, we have no intellectual faculties but those which are occupied about *general* truths. But we have already seen, that the only *real* truths with which we are acquainted are particular truths. General truths are merely fictions of the human mind, contrived to assist us in remembering and speaking about particular truths. According to Mr. Stewart's chapter on abstraction, it therefore appears, that matter and mind belong to the class of fictions.

It shows how little Mr. Stewart is in the habit of examining the foundations of any of his pre-conceived opinions, to find him still repeating the assertion of Dr. Reid, that the conclusions of Berkeley with regard to the evidence of the existence of matter rest entirely upon the ideal theory, and fall with that theory to the ground. This is completely erroneous. They do not rest upon the ideal theory in the smallest degree, nor upon any theory. They rest upon nothing but the acknowledged fact, that the mind is conscious of nothing but its own feelings, and that there is no legitimate inference, as he pretends, from any thing within the mind, to the existence of matter. Dr. Reid most explicitly allows that there is no inference, on the ground either of reason or experience. And we believe it, he says, only because we have an instinctive propensity to believe it.

Notwithstanding the importance to which the power of instinct has thus been raised, as an importance which places it not merely on a level with reason, which may err, but far above reason, because it cannot err; an importance in short, which constitutes it the master and despot over reason, whose suggestions must all bend to its magisterial decisions, while they themselves remain unquestionable, it is to be remarked as a curious circumstance, that this class of philosophers have avoided to give us any systematic and detailed account of this instinct, which, as they allow, in so many words, we have in common with the brutes. It would have been of admirable use toward the solution of the serious difficulties, which, notwithstanding their hold assumptions,

still crowd about the subject, had they given us a description, logically exact, of the field of action of this extraordinary power, to which they ascribe such new and wonderful effects; or, to describe more exactly what we mean, had they presented a complete enumeration, skilfully arranged, of its acts, and endeavoured to point out their most important relations. As their doctrine stands at present, we desire to know wherein the ascription of a mental phenomenon to *instinct* really differs from the old and exploded ascription of physical phenomena to *occult qualities*. This *instinct*, or, as they like better to call it, *this law of the mind*, or this *element of the reason*, is distinguished by all the characteristic properties of an occult quality, and answers all the same purposes in their writings, which the occult qualities of the schoolmen answered in theirs.

We have willingly pursued our remarks to some extent upon this particular topic, both because the doctrines relating to it form the characteristic feature of what is called the Scottish school, and because it is, in fact, by far the most important point of view in which their speculations can be regarded. An alarming system of scepticism was raised. The sect of philosophers in question erect a fortification against it, of which they loudly boast, as if it were impregnable. Their lofty pretensions deceive mankind, and prevent the anxiety which would otherwise be felt not to have a danger without a remedy. In the mean time this fortification of theirs is so little calculated to answer its purpose, that it has not strength to resist the slightest attack. It is highly important that the learned world should begin to be aware of this; and that new attempts should be speedily made to provide a real, instead of an apparent antidote to the subtle and perplexing principles of modern scepticism. We may rest assured that, if not answered, the fashion of them will one day revive. The wonder would be, had not the world been in such a state, that they should have remained without notice, and without influence, so long.

On the other topics which furnish the subjects of Mr. Stewart's discussions in the present work, we can hardly find room to offer any remarks.

From considering mathematical axioms, and instinctive principles, he proceeds to reasoning, by which, in fact, he means, the passing from one proposition to another, by means of intermediate steps; that species of discourse, which may be resolved into a series of syllogisms. On the peculiar distinctions, however, of this class of operations he does not long remain. He departs to the consideration of mathematical demonstration, on which he conceives that he had new light of great importance to throw. His deductions do not appear to us of the same value as they did to

himself: and we are sorry at being obliged to throw out an unfavourable idea, where we are precluded in a great measure from giving the reasons by which it is supported. Mathematical reasoning, Mr. Stewart informs us, is altogether founded upon hypothesis, namely the definitions of the figures, the properties of which are deduced. This he represents as a highly important discovery which he has made. And it is a property, he thinks, by which mathematical is remarkably distinguished from all other reasoning. To this conclusion, it appears to us, that Mr. Stewart has been led, by a forgetfulness, to which he is very liable, of his own doctrine respecting abstraction and general terms. According to that doctrine all general reasoning is hypothetical, that is, proceeds upon hypotheses or fictions of the mind, just as much as mathematical reasoning; and even the differences which he so ostentatiously displays between mathematical and other general reasoning all resolve themselves into the greater imperfections of ordinary language. We are sorry to be obliged, in this place, to content ourselves with assertion; but we do not conceive it would be difficult to prove what we have asserted, had we left ourselves room.

From the chapter on the Aristotelian logic we are reluctantly compelled entirely to abstain; not that the observations appear to us to be exempt from error; but as, even where just they are not very important, nor where they are mistaken can far mislead, the demand for criticism on them is the less urgent.

The fourth, or concluding chapter is in no ordinary degree instructive. It is on the method of inquiry pursued in the experimental or inductive philosophy. On this subject, none of the peculiar doctrines of Mr. Stewart's philosophical system come into play. He has formed very just and enlightened views on the real business of philosophy, and expresses them with that beauty and eloquence for which he is so remarkable. Mr. Stewart has not performed what still remains to be performed, and what it would be so eminently useful to have performed; he has not exhibited an accurate map of the inductive process, and still less has he given, what is yet so great a desideratum in logic, a complete system of rules, as complete, for example, as those which Aristotle provided for the business of syllogistic reasoning, to direct the inquirer in the great business of interpreting nature, and adding to the stock of human instruments and powers. He has contented himself with some general observations, with some remarks on the distinction between experience and analogy, on the use and abuse of hypotheses, which may be very serviceably employed as anticipations for planning a train of experiments; he has also inserted some observations on the words induction and analogy as used in mathematics, and on certain misapplications of the words



experience and induction in the phraseology of modern science, more especially those applications in politics, where the word experience, so often expressive of a single fact ill understood, is employed to discredit, under the term *theory*, conclusions founded upon the most enlarged induction; and finally he proceeds to a train of reflections on the speculation concerning final causes. On this concluding topic he has come out with opinions which lead to consequences so important that, great as is the length to which we have already extended this article, we cannot forbear giving hints at least of a few objections to which they appear to us to lie exposed. Before proceeding to these criticisms, we may, however remark, that Mr. Stewart appears to us to have accomplished, in this part of his undertaking, the purpose at which he aimed; which was not the highest service remaining to be performed, but only, as he himself expresses it, “to concentrate, and to reflect back on the philosophy of the mind, whatever scattered lights he had been able to collect from the experimental researches to which that philosophy has given birth—aiming, at the same time (and he hopes not altogether without success), to give somewhat more of precision to the technical phraseology of the Baconian school, and of correctness to their metaphysical ideas.”

The study of final causes bears a reference to that part of his subject in which the mention of it is here introduced, only in so far as it may occasionally serve as a guide in the investigation of physical laws; and he shows, by several well chosen instances, that the consideration of the uses to which things may be subservient, has not unfrequently led to important discoveries. He observes, accordingly, that philosophers have run into two opposite errors. In the first place, they have been led astray from the consideration of physical or efficient causes, by the search after final causes, in which, after discovery of them, they have rested, as a satisfactory account of the phenomenon the cause of which it was their intention to explore. In the second place, other philosophers, among whom particularly Des Cartes, and the majority of French philosophers, may be enumerated, observing the error of the first mentioned class of inquirers, have entirely discarded final causes from the field of philosophical inquiry. The truth, however, is that all the caution which on this head it was necessary for any body to receive was so very slight, and the words necessary to convey it were so very few, that it requires the supposition of another motive to account for a whole section, consisting of two parts assigned to the doctrine of final causes, in a chapter appropriated to the explanation of the experimental or inductive mode of philosophizing.

Accordingly we find, that the author has taken this opportunity of producing to us a part of his opinions, on the two great subjects of morality, and the fundamental principle of natural religion.

Those inquirers into the subject of ethics, who have referred the origin of moral distinctions to the perception of utility, have confounded, he says, the final with the efficient cause. Because all the virtues may be useful, it by no means follows that they were originally recommended by their utility. If we proceed to inquire, What, then, is it, by which they are thus recommended? Mr. Stewart does not speak very explicitly; but if his language means any thing at all, it means only this, that we must betake ourselves, once more, to the never-failing resource of *instinct*. Here indeed Mr. Stewart does not *call* it instinct. But he calls it the *internal monitor*, which completely answers to the description of instinct, and which, if it is not regard to utility, can be nothing else than instinct.

We are persuaded that Mr. Stewart never wilfully misrepresents an opinion from which he dissents; but he so completely misconceives, in this case, the ground of a most important system of opinions, on a subject which he professes to have profoundly studied, that we cannot help suspecting him of an extraordinary degree of partiality to his own preconceived notions; and that he hardly regards a set of opinions, differing from those which he has espoused, as worthy of a portion of his attention sufficient to enable him to understand them. The great authors who have represented utility as the principle of moral distinctions, have not founded this conclusion upon the mere discovery that virtues are useful; which is necessary to justify the criticism of Mr. Stewart. They have proceeded on a plan exactly conformable to that which is pointed out by Sir Issac Newton, as the only true mode of philosophizing. That man pursues happiness, they say, and flies from misery, in other words seeks pleasure, and avoids pain, is a known and acknowledged fact. This fact, they continue, we assert to be completely sufficient to account for all the moral phenomena of human life. We classify these phenomena, and we show that into this fact they all resolve themselves, in the most satisfactory manner. The conclusion is, therefore, established; unless our antagonists shall either show that our principle does not account for the phenomena, or that there is some other known and acknowledged fact which accounts for them in a more satisfactory manner.

Mr. Stewart completely fails in his attempt to show that the fact to which the appeal is made does not account for the phenomena. And instead of pointing out any known and acknowledged fact in human nature which accounts for them better, he supposes an occult quality, or what is equivalent to an occult quality, an instinct; a

blind, unaccountable propensity to approve or disapprove, which has no dependence either upon reason or experience.

Mr. Stewart attempts to prove that the principle of utility will not account for the moral phenomena of human life, by asserting that individuals would err in the application of it. Can Mr. Stewart point out any other principle, in the application of which they are less likely to err? Is that instinct of his, to which we are so fondly referred, a principle of this description? It is the nature of an instinct to be, in each individual, that which it is, without any dependence whatsoever on that which it may be in any other individual. If instinct be the ground of moral action, it must be so, as much in any one man, as in any other. If any man, therefore, has an instinct to steal, or to murder (and Dr. Spurzheim affirms that there are many instances of both, some very remarkable ones of which he produces), it is in these men as decidedly moral, upon the principles of Mr. Stewart, to steal and to murder, as it is, in other men, to abstain from these acts. Mr. Stewart will no doubt affirm that no man can have these instincts; but this will only be to produce what the philosophers of the school to which he belongs appear to have a powerful *instinct* to produce, that is, his own assertion instead of proof.

It is very remarkable that of the two philosophers who have to a far greater extent, than any other inquirers, traced the moral phenomena of human life to the principle of utility, Helvetius and our countryman, Mr. Bentham, Mr. Stewart, in his enumeration of the patrons of the system, has made no mention whatsoever. This can hardly have been ignorance, or inadvertence which is a kind of ignorance; and yet there is no other motive to assign, but one too unworthy to be admitted for a moment.

These philosophers have very satisfactorily shown, to whatever extent, their philosophy, in other respects, may be wrong (for we beg it may be well remembered, that throughout the whole of this article we are only *exhibiting* opinions, *advocating* none), that the very principle of human nature to which they refer, the pursuit, by each individual, of his own happiness - most completely obviates all the dangers which Mr. Stewart holds up, as involving the refutation of the system.

As soon as each individual perceives, that the pursuit of *his* own happiness is so liable to be thwarted by other individuals in the pursuit of theirs, one of the first results to which that very pursuit conducts them, is a general compromise. Allow me so much uninterrupted scope in the pursuit of my happiness, and I will allow you so much uninterrupted scope in the pursuit yours. In this very compromise, according to the philosophers above mentioned, will

be found the origin of all the more important virtues; and also of government itself, which is only instituted for the purpose of ensuring by force the more exact performance of some of its most essential conditions.

We hope it is unnecessary, here (for we are totally deprived of space to introduce the development), to show in what manner, upon this foundation, they maintain that a moral voice arises among the people, every man approving of those acts which it is his interest that every other man should perform towards himself as one of the community, and disapproving of those which it is his interest they should not perform; praising the one set of acts, blaming the other; loving in some degree the men who perform the one; hating in some degree the men who perform the other. From this origin it is abundantly plain in what manner one set of acts, and one set of men, come to be established in the mind as objects of approbation and love; another set of acts and another set of men, as objects of disapprobation and hatred.

They contend, that it is only necessary to appeal to the fact that the approbation and love, the disapprobation and hatred of his fellow creatures, operate powerfully upon the mind of man, and constitute one of the most prolific of all his motives of action. We are sure it will not be useless to remind Mr. Stewart, that a great philosopher to whose opinions he is in the habit of paying a singular deference, Dr. Adam Smith, accounts only for the origin of moral distinctions, by this approbation and love, this disapprobation and hatred, without appearing to have any clear conceptions of the source from which they are derived.

Mr. Stewart supposes, or seems to suppose, that according to the system of utility, "the conduct of man would be left to be regulated by no other principle than the private opinion of each individual concerning the *expediency* of his own actions." To how shallow a consideration of the subject this reflection is owing, appears from what has just been said, that the doctrine of utility, in this respect, coincides with that of Dr. Smith, to which Mr. Stewart never ascribed any such consequence. Every man's private interpretation of the rule of right is restrained by two powerful considerations; the approbation and love, the disapprobation and hatred, of mankind, which may be called the popular or moral sanction; and the punishments and rewards distributed by government, which may be called the political, including the legal sanction. We challenge Mr. Stewart to show that there is any other sanction, if you allow the right of private judgment in religion, which regulates the private interpretation of the rule of right, upon any supposition with respect to the origin of the notions of right and wrong which it is in his power to form.

We take notice of what Mr. Stewart, though he professes to waive the question, as not belonging to his subject, nevertheless advances, in the use of the doctrine of final causes, in laying a foundation for the truths of religion; because it appears to us that his doctrine places the evidence for the being of a God upon a foundation which cannot fail to alarm in the highest degree the friends of religion. On this subject Mr. Stewart, according to his usual method, escapes from difficulties by feigning not to perceive them. Dr. Johnson performed a great service to religion when, in his review of the work of Soame Jenyns, on the origin of evil, he stripped off the veil which that author had attempted to throw over the difficulties of the question, and clearly showed, and boldly avowed, that no author had yet invented a theory which accounted for them. A reviewer at the present day would perform a service no less important to religion, who should strip off the veil which Paley, and others, among whom our present author may be classed, have endeavoured to throw over the difficulties which still adhere to the argument from final causes, and should exhibit clearly and distinctly, the important objections which none of them have answered, and to which the serious attention of theologians is required. On the ground of that theory which Mr. Stewart has adopted, new difficulties, and those of the most formidable nature, arise. For the being of a God, according to this doctrine, we have no ground of assurance whatsoever beyond a blind, and unaccountable *instinct*; beyond the mechanical impulse of a principle which they expressly avow we have in common with the brutes. We frankly own, that this is a conclusion which we should feel the utmost repugnance to admit. Mr. Stewart appears to us to be, in some degree at least, aware of the terrible consequences of his doctrine, that our belief in the existence of a God is by no means founded upon reason or experience, when in p. 552, he says, "In the inferences drawn concerning the invisible things of God, from the things which are made, there is a perception of the understanding implied, for which neither reasoning nor experience is sufficient to account;" and where he expressly says that, without admitting the power of his *instinct*, this conclusion is inevitable, "That it would be perfectly impossible for the Deity, if he *did* exist, to exhibit to man any satisfactory evidence of *design* by the order and perfection of his works."

It thus appears to what extraordinary purposes *instinct* is applied in the writings of those philosophers. In fact, there is nothing which does not depend upon it. In the first place, our belief in the existence of matter must rest upon instinct; so must our belief in the existence of mind. Our expectation, that the future will resemble the past, rests exclusively upon instinct. It is upon instinct that our belief in testimony depends. It is by instinct solely, that we make all moral distinctions. And, finally, it is to instinct that

we must look, for the foundation of our belief in a God. In attempting to erect a barrier against scepticism, they have produced what appears to us to be the most extensive and hopeless system of scepticism that ever was offered to the human mind.

There is a curious circle in which they reason. It still requires to be mentioned. They tacitly infer that instinct is entitled to our confidence, because it is the work of God; and Mr. Stewart quotes a passage from Adam Smith, in which he says, that in following instinct, "we are very apt to imagine that to be the wisdom of Man, which in reality is the wisdom of God." Observe their train of inference. Why do we believe in *instinct*? Because instinct is derived from God. Why do we believe in God? Because the belief is derived from instinct.

There is yet another point of view, in which it is requisite to consider the volumes of Mr. Stewart. We must not fail to applaud the style in which they are written. It is elegant without being flowery, and animated without an approach to rant. It is surprising what interest this author contrives to throw over the driest discussions; and how usefully and how admirably calculated his writings are to captivate the youthful mind with a love of his science, and to draw it insensibly into the paths of philosophy and intellectual pursuit. In this point of view, we are acquainted with no writings which we should recommend more strongly to any young persons, in whose intellectual progress we took an interest, than the volumes of Mr. Stewart. The views in which the motives to intellectual exertion are presented are such as cannot fail to operate powerfully upon every liberal mind. In another important respect, the tone of this philosopher is entitled to peculiar applause. He does not exert himself according to a late deplorable fashion, to narrow the prospects of the human mind, and to damp its ardour in the pursuit of knowledge, by endeavouring to prove the impossibility of ever advancing beyond its present attainments. It is a maxim of Mr. Stewart, with which the temper of his writings perfectly corresponds, that "To awaken a dormant spirit of discussion, by pointing out the imperfections of accredited systems, is at least one step gained towards the farther advancement of knowledge." And he quotes an important passage, in which he says it is justly and philosophically remarked by Burke, "that nothing tends more to the corruption of science than to suffer it to stagnate. These waters must be troubled before they can exert their virtues. A man who works beyond the surface of things, though he may be wrong himself, yet he clears the way for others, and may chance to make even his errors subservient to the cause of truth."\*

Even the old schoolmen were willing to say,—

Quod vetus est, juvenes, in religione sequamur:  
Quod placet in logica nil vetat esse *novum*.

For “nourishing the ardour of the man of science, and awakening the enthusiasm of youth,” he peculiarly recommends, and with admirable propriety, the inspiring pages of Lord Bacon, which are singularly adapted to enlarge and to elevate the conceptions; exhibiting those magnificent views of knowledge which, by identifying its progress with the enlargement of human powers and of human happiness, ennoble the humblest exertions of literary industry, and annihilate, before the triumphs of genius, the most dazzling objects of vulgar ambition. A judicious selection of such passages, and of some general and striking aphorisms from the *Novum Organon*, would form a useful manual for animating the academical tasks of the student; and for gradually conducting him, from the level of the subordinate sciences, to the *vantage-ground* of a higher philosophy. “Unwilling,” he adds, “as I am to touch on a topic so hopeless as that of Academical Reform, I cannot dismiss this subject, without remarking, as a *fact* which at some future period will figure in literary history, that two hundred years after the date of Bacon’s philosophical works, the antiquated routine of study, originally prescribed in times of scholastic barbarism and of popish superstition, should, in so many Universities, be still suffered to stand in the way of improvements, recommended at once by the present state of the sciences, and by the order which nature follows in developing the intellectual faculties.”

[\[Back to Table of Contents\]](#)

2.

## **Supplement To The 4th, 5th And 6th Editions Of The Encyclopaedia Britannica, Edinburgh, 1824, 6 Volumes. [1815-1824]**

*Supplement to the Fourth, Fifth, and Sixth Editions of the Encyclopaedia Britannica. With Preliminary Dissertations on the History of the Science. Illustrated by Engravings.* (Edinburgh, Archibald Constable and Company, 1824). The following articles were written by Mill:

- Banks for Saving, vol. 2, pp. 91-101
- Beggar, vol. 2, pp. 231-48
- Benefit Societies, vol. 2, pp. 263-69
- Caste, vol. 2, pp. 674-54.
- Colony, vol. 3, pp. 257-73
- Economists, vol. 3, pp. 708-24
- Education, vol. 4, pp. 11-33
- Government, vol. 4, pp. 491-505
- Jurisprudence, vol. 5, pp. 143-161
- Liberty of the Press, vol. 5, pp. 258-72
- Nations, Law of, vol. 6, pp. 6-23
- Prisons and Prison Discipline, vol. 6, pp. 385-95

SUPPLEMENT

TO THE

FOURTH, FIFTH, AND SIXTH EDITIONS

OF THE

ENCYCLOPÆDIA BRITANNICA.

WITH PRELIMINARY DISSERTATIONS

on the

HISTORY OF THE SCIENCES.

Illustrated by Engravings.

VOLUME SECOND.



EDINBURGH:

PRINTED FOR ARCHIBALD CONSTABLE AND COMPANY,  
EDINBURGH;

AND HURST, ROBINSON, AND COMPANY,

LONDON.

1824.

[\[Back to Table of Contents\]](#)

## **BANKS FOR SAVINGS.**

The institutions pointed out by this designation constitute a variety of money-banks, in general, and, to a certain extent, partake of the nature of the class.

Of money-banks, in general, the end is to afford to the owner of money two advantages; the first, safe custody for his money; the second, a profit by it, under the name of interest. Other advantages which banks afford, or are capable of being made to afford, it is not, for the present purpose, necessary to bring to view.

The circumstances of the poor man lay him under many disadvantages, as compared with the rich. In this case, we find a particular example. The money of the rich man, being in considerable quantity, easily finds individuals who will perform for it the functions of banking, because it yields an adequate profit.

Objects of this class of Banks.

The money of the poor man, being small in quantity, can find nobody to perform for it the functions of banking, because it is incapable of yielding an adequate profit.

Let us consider the natural tendency of this situation of the labouring man. He can make no profit by money retained. He also lies under many chances of being unable to preserve it. The coarse and imperfect means for shutting his house, or any receptacle which it may contain, exposes his little treasure to the hand even of a clumsy depredator. Accordingly, we find, that persons in the lower situation of life, who acquire a reputation for the possession of hoards, are almost always robbed. If they are disposed to lend the fruit of their industry and frugality, their limited experience of mankind makes them yield to the man who takes most pains to persuade them; and that is often the man who never means to pay them again, and who has, therefore, the strongest motives to take the measures necessary for gaining their confidence.

Money is for two purposes. It is either for present use, or future use; and wisdom directs that it should be employed for the one or the other, according as, in either case, it is calculated to contribute most to happiness upon the whole. But

Banks for Savings.



the poor man is thus deprived, in whole, or in part, of the means of applying his money to *future* use. To this extent, therefore, even wisdom itself would direct him to employ it for *present* use, in

whatever way it is capable of adding most to his enjoyments. Parsimony in such a case is hardly a virtue.

The rich are commonly, we cannot say always, very severe observers of the conduct of the poor, and nearly as often unjust. How nearly universal among them are the exclamations against the improvidence of the poor! by which is meant the practice of devoting to present use the whole of their earnings, without reserving as great a portion of them as possible to future use. Amid these exclamations, the degree is totally forgot, in which the poor are deprived of the means of reserving money for future use, and the consequent propriety and prudence of devoting it wholly to present use.

If human happiness is prodigiously improved by reserving for future use a proportion of the command which, over and above the necessaries of life, a man may possess over the means of enjoyment, it is surely desirable that this great instrument of happiness should, in the greatest degree possible, be provided for the most numerous, and in the same degree in which the most numerous, the most important portion of the race. To place it in the power of this portion of the race to secure a share of the good things of life for future use, a system of banking, adapted to their circumstances, is evidently, in the present state of society, in the highest degree desirable. It is one of the means, without which, or something equivalent, the end cannot be obtained.

The question, respecting the utility of banks, adapted to the circumstances of the labouring branch of the population, being thus decided, it only remains, as should seem, to inquire, what is the sort of institution by which the advantages of a bank,—safe custody, and profit for money, can be most completely secured to this great class of the population. When this second question is resolved, the subject, it may be supposed, would be exhausted. The supposition, however, would be erroneous, and the exposition would still remain very imperfect, and even superficial.

When it is ascertained, that banks for the cash of the poor would be useful to the poor, we should act very carelessly, if we remained contented with a mere vague conception of utility in general. To complete the inquiry, we should trace the subject in its ramifications, and pursue them to the very point of termination. We should not be satisfied with a belief that banks will, to some degree, and in some way, we know not what, be useful to the poor. We should ascertain, with accuracy, in what way or ways, and in what degree, they will tend to increase the happiness of this principal branch of the population.

This is rendered more necessary, by the conduct of those who have chiefly undertaken the patronage of banks for this class of the population. They have been too lavish in their promise of beneficial effects from this desirable institution. They have stretched the vague idea of utility to any extent which suited their imaginations. There is nothing desirable for human beings which they have not described as the natural product of banks for the poor. Happiness and virtue are two things which they will be sure to produce in any quantity we please.

But when gentlemen treat us with these extraordinary promises of good from Savings Banks, they take not sufficient pains to show the connection. They neglect to inform us how the events are to come about. They do not show in what manner, if the one set of things precede, the other things which they so largely predict, must all of them follow. Now, this is not satisfactory. This is to assume and affirm, not to disclose. This is to beg the question, not to resolve it. This way of proceeding not only removes no uncertainty, it has a tendency to draw men upon false ground, and to recommend to them measures for practice founded upon mistaken notions of things, and therefore pregnant with the chances of evil.

The first part of a sound and rational inquiry into the subject of Savings Banks would thus undoubtedly be, to *define* the utility which the institution is calculated to produce; to ascertain exactly the ingredients of which the composition is formed, and the quantity in which it may be expected to exist.

Different Views of the Utility likely to result from Savings Banks.

For this purpose, it may be remarked, that the effects calculated to arise from the institution of Savings Banks are of two sorts; 1st, the immediate; 2dly, the derived. The first result at once from the operations of the Bank. The second arise only from the first, and are, in reality, the effects of the effects.

1. The effects of the first stage,—the effects which immediately result from the operations of the Bank, are two,—safe custody for the money deposited, and interest upon it.

Of these effects no general exposition is required. They are known and familiar to every body.

2. The effects of these effects come next under review. They are more complicated, and far less easy to understand.

It is expected that safe custody for money, and a profit by it, in the shape of interest, will produce a disposition to accumulate. This is

the second stage. From this, other effects, which may be called effects of the third stage, are expected.

The disposition to accumulate will produce industry and frugality, which implies temperance. This is the third stage, and these are effects of the third derivation.

Industry and frugality will produce a reserve of wealth. This is the effect of the fourth stage, or fourth derivation.

This reserve of wealth will produce an effect of the fifth stage, namely, security against the miseries of want.

The utility consists in these latter effects, the industry and frugality, the provision against the miseries of want. These, then, are the ingredients of which the compound is formed. The question is, in what degree it may be expected to be produced: in other words, what power can the banks in question possess to produce among that class of the population industry, frugality, and a provision against the miseries of want? It is the resolution of this question which is required at the hands of every one by whom is undertaken an account of a system of banking adapted to the circumstances of the poor.

It is impossible to speak with any accuracy of the circumstances of the most numerous class of the people, without bearing in view the principle of population, or the law according to which the multiplication of the species takes place.

This law is by no means of recent discovery. It had long in political philosophy been regarded as an established fact, that a nation is always peopled up to its means of subsistence; that the only check to population is the want of food; that mankind, as Burke somewhat ingeniously expressed it, "propagate by the mouth;" and that the number of men, if food were not wanting, would double, as the example of America proved, every twenty or five and twenty years. But after establishing this doctrine, the world seemed a long time afraid to look it in the face, and glad to leave it in the situation into which it had been brought. At last, a period arose when men of a certain description began to talk intemperately about the opinion, that the human condition was progressive, and susceptible of indefinite improvement, and men of another description began to be alarmed at this doctrine.

In opposition to the persons who spoke with enthusiasm of this susceptibility of improvement, under the name of the perfectibility of the human mind, Mr Malthus brought forward the principle of population. It was not enough for his purpose to say, that

population ascended to the level of food; because there was nothing in that relation inconsistent with improvement, or opposite to the principles of perfectibility. He went, therefore, a step farther, and said, that population rose beyond the level of food; a situation in which vice and misery must of necessity prevail, and unlimited progression was impossible.

Though no part of the doctrine of Mr Malthus has been left uncontested, it is now, among thinking men, pretty generally allowed, that, excepting certain favourable situations, as in new countries, where there is unoccupied land of sufficient productiveness, which may be placed under cultivation as fast as men are multiplied, a greater number of human beings is produced than there is food to support. This, it is understood, is the habitual condition of human nature. The disposition of mankind to marry, and the prolific power with which nature has endowed them, cause a greater number of human beings to be born than it is possible to feed; because the earth cannot be made to increase her produce so fast as the procreative power of the human constitution increases consumers.

This is the proposition which Mr Malthus added to the doctrine of population; and it is undoubtedly a proposition of extensive import, pregnant with consequences of the greatest moment, and materially changing our views of the measures necessary to be pursued for improving the condition of mankind.

It is perfectly evident, that, so long as men are produced in greater numbers than can be fed, there must be excessive misery. What is wanted then is, the means of preventing mankind from increasing so fast; from increasing faster than food can be increased to support them. To the discovery of these means, the resources of the human mind should be intensely applied. This is the foundation of all improvement. In the attainment of this important end, it is abundantly plain that there is nothing impracticable. There is nothing which offers any considerable difficulty, except the prejudices of mankind.

Of this doctrine, one of the facts which it is on the present occasion peculiarly necessary to carry in view, is the mode in which the misery in question, the misery arising from the existence of a greater number of human beings than there is food to maintain, diffuses itself.

For a share of the food which is brought into existence, the greater part of mankind have nothing to give but their labour. Of those who are endeavouring to purchase food by their labour, there is not enough for all; some must want. What is the consequence? Those

who are in danger of being left out in the distribution, offer more labour for the same quantity of food; that is to say, they agree to work for less wages; by this competition, the wages of labour are reduced, and made so low that they are not sufficient to procure food for the families of all the labourers. The whole are placed in the lowest and most afflicting state of poverty; and of those whose wants are more than usually great, or supply more than usually small, a portion must die, from the want of a sufficiency of the necessaries of life. The state of wages is sufficient to afford the means of existence to as many as the food produced can barely preserve alive; the superabundance, who, by their competition, have rendered thus miserable the situation of the rest, must inevitably perish. Whatever the state of production in regard to food, the wages of the labourer are sufficient to enable the labourers, as a body, to raise a number of children sufficient to keep up the population to the level of the food. The labourer who has the number of children correspondent to that increase, has just enough to keep his family alive, and no more. Those who have a greater than this number, and not a greater than the usual means of procuring food, must partially starve.

This is the natural unavoidable condition of the greater part of mankind, so long as they continue to produce numbers greater than can be fed. The question then is, what are the effects which, in this situation of mankind, the institution of banks for the savings of the poor are calculated to produce?

Every thing, as we have already seen, is to be derived through the medium of the disposition to accumulate.

But the disposition to accumulate, as far as men are wholly deprived of the means of accumulation, is out of the question; for either it is wholly incapable of existing, or exists to no manner of purpose.

Of the labouring people, however, who have families, all but those of whom the families are uncommonly small, or who possess uncommon advantages, are, according to the principle of population, either in a state of starvation, or upon the very brink of it, and have nothing to accumulate.

The unmarried part of the population, therefore, those who have no families, or those who have very small ones, are those alone to whom the institution of savings banks can present any motives whatsoever. The question is, what are the effects which will be produced upon society by the motives which it presents to this reduced part of the population?

That it will increase to a certain extent the disposition to accumulate, may naturally be expected. To how great an extent, general principles afford us no means of very accurately foreseeing. We must wait for experience to determine. In the meantime, we know that single persons are for the most part young; and that youth is not the season when the pleasures of the present moment are most easily vanquished by those of the future. The training of the human mind must be more skilful, and more moral to a vast degree, before this salutary power will belong to any considerable portion of the youth in any class of the population, especially in the least instructed of all.

Let us next inquire the tendency which it will possess, whatever the degree in which it may be expected to exist.

In the first place, it will produce an abstinence from such hurtful pleasures as are attended with expence. Under this description is included the pleasure of intoxicating liquors, and no other possibly whatsoever. There is hardly any other indulgence on which any portion, worth regarding, of the earnings of the poor is bestowed, which can at all deserve the name of hurtful, or from which there would be any virtue in abstaining, if the means of obtaining it were enjoyed in sufficient abundance. To this, then, the moral effect of savings banks may be supposed to be very nearly confined. But assuredly this, if it can be produced in any considerable degree, must be regarded as an effect of no ordinary importance.

Passing from the moral effects, we come to the accumulation which it may be in the power of the unmarried part of the population to make. To this, and what may spring out of it, all the remaining effects of savings banks are evidently confined.

A part of the unmarried population will make accumulations, and undoubtedly they ought, if possible, to be provided with the means of doing so. Let us suppose that the greatest part of them profit by those means. What consequences are we able to foresee?

Of unmarried persons there are few who are not looking forward to the married state, and few by whom, sooner or later, it is not entered. As soon as persons of the lower class are married, or, at any rate, as soon as they have a certain number of children, their powers of accumulation cease. But there is a previous hoard: What becomes of it?

It is either wholly expended, at the time of marriage, upon the furnishing of a house; or it is not.



If it is wholly expended upon the furnishing of a house, it contributes to present enjoyment, like any other expence whatsoever; like that, for example, of a fine coat; and forms no longer a provision against a day of adversity and the evils of want.

Let us suppose that it is not wholly expended upon the furnishing of a house, but that a portion, at least, of it remains. This, it will be said, is reserved as a provision against want; and of this the beneficial effects may be reckoned sure. But abstracting from extraordinary cases of bad health, least common in the earliest stage of the married life, and other extraordinary accidents, the first pressure will arise from the increase of the family. After that number of children is born, which exhausts the earnings of the father, the birth of another child produces the miseries of want. If there is no fund remaining from former accumulations, hardship introduces death, and the amount of the population is thus, upon the whole, kept down to the level of the food. If there is a fund remaining from former accumulations, it will now of necessity be consumed; and by its consumption will enable the family to go on a little longer; to rear a child or two more. But the number of children reared was before as great as there was food to maintain. If a greater number is raised, there is an excess of population, who bid against one another for employment, and lower the wages of labour. Already, the great mass of the population were in a state of unavoidable misery from the lowness of wages. An increase of poverty is now brought upon them; and their situation is rendered more deplorable than it was before. It is impossible not to consider this as one of the effects, which a fund accumulated before marriage, by the laborious part of the community, has a tendency to produce. And this is a tendency altogether noxious.

The greater part of those who have talked and written about savings banks have left the principle of population altogether out of their view. They have, therefore, left out of their view that circumstance on which the condition of the most numerous class of mankind radically, and irremediably, and almost wholly depends. Of course, their observations and conclusions are of little importance.

Others, whose minds are philosophical enough to perceive the influence of the principle of population upon the condition of the great bulk of mankind, are of opinion, that savings banks will have a salutary effect upon the principle of population, and ameliorate the condition of mankind, by lessening the rapidity with which they multiply. This is a speculation of the deepest interest. If this be an effect of savings banks, they will, indeed, deserve the attention and patronage of the philanthropist and the sage.

The following is the mode in which the authors of this opinion believe that the happy effects which they anticipate will take place. The means of profiting by the reserve of a portion of their earnings, which savings banks will provide for the unmarried part of the labouring people, will give them, it is supposed, a taste for accumulation: Aware of the impossibility of accumulating after marriage, their desire of accumulation will make them defer the period of marriage: Of deferred marriages, the result will be a less numerous offspring: A smaller number of people in proportion to the food will be reared: The competition for food will be reduced; the competition for hands will be increased; wages will rise; and the cruel poverty of the mass of the population will be abated.

In this deduction, nothing is doubtful, unless the commencing step. If the desire created in young persons for accumulation is sufficiently strong to produce any considerable postponement of the period of marriage, all the other effects will necessarily follow; a reduced number of children; an increased reward of labour; and a correspondent amelioration in the condition of the greatest portion of the race. Savings banks will prove one of the most important inventions, to which the ingenuity of man has yet given existence.

It would be rash, however, to claim as an ascertained fact, that savings banks will have the effect of retarding the period of marriage. There are persons who hold the very opposite belief. They say, that what chiefly retards marriage at present among the better part of the labouring population, among those who have a regard to appearance, and a value for respectability, is the want of means to provide the furniture of a house; that savings banks will enable them to provide that furniture at an earlier period than at present; and that the institution will therefore accelerate the period of marriage, increase the number of those who cannot be fed, and thus add to the calamities of mankind. They ridicule the idea, that the love of saving will become, in the breast of young persons, a match for the passions which prompt them to marriage.

If we consider accurately what takes place among mankind, we shall probably conclude that both effects will be produced; that the love of saving will, no doubt, induce some persons to defer the period of marriage; but that the means of furnishing a house, placed at an earlier period within their reach, will produce the very opposite effect in regard to others.

The question is, which class is likely to be the most numerous? and this is plainly one of those questions to which no very certain answer can be given. But if we consider the strength of the passions which urge to marriage, we shall probably suspect that it will not be easy for the love of saving to acquire an equal force in

the breast of any considerable portion of persons who are young, whose education has been very bad, and who hence have little power either of foresight or of self-command.

Such are the different views which may be taken of the effects which banks for the savings of the poor will produce. The exposition is useful to check the intemperate conclusions of enthusiastic patrons, and to show that much more than the mere institution of savings banks is necessary to produce any considerable amelioration, either in the physical or moral state of the poor. In conjunction with other causes, savings banks are not only desirable, but necessary. The noxious consequence will be, if those who have it in their power to do more, shall suppose that savings banks are sufficient to do all, and there should limit their exertions. Taken by themselves, it is at least a doubt whether savings banks may not produce as great a quantity of evil as good.

It now remains that we should give an account of the measures which have been taken for the establishment of savings banks, and endeavour, if we can, to ascertain the most useful form which they are capable of receiving.

History of Savings Banks.

We are not aware that the idea of an institution, answering in any degree the description of a savings bank, was in this country expressed in public before the year 1797, when a peculiar scheme for the management of paupers, or persons deprived of the means of maintaining themselves, was published by Mr Bentham in Young's *Annals of Agriculture*. It would require too long a digression to give an account of this plan of Mr Bentham, which embraces a great number of points, and would require an exposition of considerable complexity. Of that plan, one part consisted in the institution of what he distinguished by the name of a *frugality bank*.

The series of wants to which it was by him destined to operate as a remedy, were as follows:

1. Want of physical means of safe custody, such as *lock-up* places; thence, danger of depredation, and accidental loss.
2. Difficulty of opposing and never-yielding resistance to the temptations afforded by the instruments of sensual enjoyment, where the means of purchasing them are constantly at hand.
3. Want of the means of obtaining a profit by the savings of the poor, or the use of them in portions adapted to their peculiar exigencies.

4. Want of a set of instructions and mementos constantly at hand, presenting to view the several exigencies, or sources of demand for money in store, and the use of providing it.

He next proceeded to sketch the properties which appeared to him to be desirable in a system of frugality banks, commensurate to the whole population of the self-maintaining poor. These were,

1. Fund, solid and secure.
2. Plan of provision all-comprehensive.
3. Scale of dealing commensurate to the pecuniary faculties of each customer.
4. Terms of dealing sufficiently advantageous to the customer.
5. Places of transacting business suitable; viz. in point of vicinity, and other conveniences.
6. Mode of transacting business accommodating.
7. Mode of operation prompt.
8. Mode of book-keeping clear and satisfactory.

In the plan, however, of the bank which Mr Bentham contemplated for answering the purposes which he thus described, he did not direct his view to that simplest of all the forms of banking, the mere receipt of money, to be paid again with interest when demanded; the form to which the patrons of savings banks at present appear judiciously to confine their attention. Mr Bentham's proposal was to receive into the frugality banks the deposits of the poor, not for the mere purpose of yielding an interest, and being withdrawn when wanted, but to form or purchase an annuity for old age, when the power of earning would be either destroyed or impaired.

That the accumulation of the poor might not, however, be confined to one exigency, though that the greatest, he proposed that this superannuation annuity should be convertible, in the whole or in any part, into any other species of benefit, adapted to the exigencies of the owner. It might, for example, be converted into an annuity for an existing wife, in the event of widowhood. It might be converted into an annuity during the nonage of a certain number of children. It might serve as a pledge on which to borrow money. Part of it might be sold to raise a marriage fund, or it might be simply withdrawn.

Mr Bentham then proceeded to compare the effects of a system of frugality banks with those of friendly or benefit societies. To this comparison, however, we cannot with any advantage proceed, till that other species of institution is first described. We are,

therefore, inclined to reserve it wholly to the article Benefit Societies, to which the reader is referred.

It is somewhat remarkable, that no allusion which we can perceive in any of the numerous pamphlets to which the subject of savings banks has lately given birth, is made to this early scheme of Mr Bentham; though the work in which it is contained not only appeared in a periodical and popular publication so long ago, but was laid upon the table of the committee of the House of Commons, appointed to inquire into the subject of Penitentiary Houses in 1811, and referred to in the appendix to their report; and was published separately in one 8vo volume, in 1812, under the title of *Pauper Management improved*.

As no attempt was made to carry Mr Bentham's plan of pauper management into practice, his scheme of a frugality bank, as a part of it, remained without effect.

The first attempt, as far as our researches have been able to discover, to give actual existence to the idea of a bank adapted to the exigencies of the poor, was owing wholly to a lady, to whom the public are indebted for several excellent productions of the pen, and who never took up her abode in any place, while health and strength remained, without endeavouring to perform something of importance for ameliorating the condition of those by whom she was surrounded. Mrs Priscilla Wakefield, the lady to whom we allude, residing, in the year 1803, at Tottenham, in Middlesex, a populous village, within a few miles of London, not only projected, but was the means of instituting, and the principal instrument in carrying on, a bank at that place for the savings of the poor. An account of this institution, drawn up by Mrs Wakefield, and dated the 24th of May 1804, was published in the fourth volume of the *Reports of the Society for Bettering the Condition of the Poor*. The account is so short, and so much to the purpose, that it may with advantage be inserted here.

*“Extract from an Account of a Charitable Bank at Tottenham for the Savings of the Poor; by Mrs Wakefield.*

For the purpose of providing a safe and convenient place of deposit for the savings of labourers, servants, and other poor persons, a charitable establishment has been lately formed at Tottenham, in the county of Middlesex. It is guaranteed by six trustees, who are gentlemen of fortune and responsibility, most of them possessing considerable landed property. This renders it as safe and certain as institutions of this kind can be, and insures it from that fluctuation of value to which the public funds are liable. The books are kept by a lady, and never opened but on the first Monday in every month,

either for receipts or payments. Any sum is received above one shilling; and five *per cent.* is given for every 20s. that lies 12 kalendar months; every person so depositing money being at liberty to recal it, any day the books are opened; but no business is transacted at any other time.

The money so collected is divided equally between the six trustees. For every additional L.100, a new trustee is to be chosen; so that a trustee can only risk his proportion of L.100. None but the labouring classes are admitted to this benefit; and there is no restriction as to place of residence.”

observations.

These few simple rules are all that have hitherto been found necessary for the establishment of this charity, the design of which is both original and useful. To those who have applied themselves to that branch of political economy which relates to increasing the comforts, and improving the morals of the inferior classes of society, it must be obvious that every endeavour to encourage and enable them to provide for their own wants, rather than to rely upon the gratuitous gifts of the rich, are of great advantage to the whole community.

It is not sufficient to stimulate the poor to industry, unless they can be persuaded to adopt habits of frugality. This is evinced amongst many different kinds of artisans and labourers, who earn large wages, but do not in general possess any better resources in the day of calamity than those who do not gain above half as much money. The season of plenty should then provide for the season of want, and the gains of summer be laid by for the rigours of winter. But it must be obvious how difficult it is for even the sober labourer to save up his money, when it is at hand to supply the wants that occur in his family. For those of intemperate habits, ready money is a very strong temptation to the indulgence of those pernicious propensities.

Many would try to make a little hoard for sickness or old age, but they know not where to place it without danger or inconvenience. They do not understand how to put money in, or to take it out of the bank; nor will it answer for small sums, either in point of trouble or of loss of time. The same causes frequently occasion thoughtless servants to spend all their wages in youth, and in consequence to pass their old age in a workhouse,—a sad reverse from the indulgence of a gentleman’s family, to which they have been habituated. Many instances indeed have occurred, that, for want of a place of security for their money, the poor have lost their hard

earned savings, by lending it to some artful or distressed person, who has persuaded them it will be safe in his hands.

The success of the little bank for children, connected with the Tottenham Female Benefit Club, mentioned in a former part of the reports, encouraged the present design; and it may be worth remarking, that the bank was opened by an orphan girl of fourteen, who placed L.2 in it, which she had earned in very small sums, and saved in the Benefit Club."

In 1805 and 1806, two pamphlets were published by Mr Bone, in the first of which he seems to have had it chiefly in view to point out the objects to which a scheme for preventing among the poor the miseries of want ought principally to be directed; in the second, to sketch the form of an institution by which those objects might be obtained. The scheme of Mr Bone is, however, nearly as comprehensive as that of Mr Bentham, and, therefore, extending far beyond the subject to which the present article is confined. The following are its principal objects:

1. To provide comfortable dwellings for all who require them.
2. Sums for their maintenance.
3. A provision for widows and children, education for the latter included.
4. Endowments to children at 21 years of age.
5. Temporary dwellings to destitute strangers.
6. To afford small loans.
7. Provision for persons who have belonged to the army or navy.
8. To grant annuities to persons to whom that mode of assistance is the best adapted.
9. To afford a provision for persons lame, or otherwise disabled.
10. To procure situations and employment for those deprived of them.
11. To nurse and educate children, as many as possible of the children of those who are themselves the least qualified for the task.
12. To provide baths and lavatories for the poor.

To the accomplishment of this scheme, banking, however, contributes a diminutive part. It is not proposed that all this should be accomplished by the funds of the poor themselves. The receipt, however, of the contributions of the poor, forms an essential article of the plan, and so far it involves in it the principle of a savings bank. It was proposed to receive the contributions of single persons, and return them with premiums at the period of marriage; to receive, farther, the contributions both of the single and the

married, with a view to the future and ultimate provision; for though all persons would, according to this scheme, receive a provision, it would be a provision with more or less of excellence, according to the contributions of the individual.

In 1807, the minister of the parish of West Calder, in Scotland, founded a bank for the savings of the principal class of his parishioners; and in 1810, without any knowledge of what had been accomplished in West Calder, Mr Duncan, the minister of Ruthwell, another of the Scottish parishes, established one in his own, in nearly a similar form. Mr Duncan, in a well written pamphlet, in which he describes the form of his own institution, and explains the object which the system has in view, and the principles upon which it is founded, informs us, that his idea of an economical bank for the savings of the industrious, was accidentally suggested to him by a perusal of the pamphlet, entitled, *Tranquillity*, of Mr Bone, at a time when his mind was peculiarly excited to the consideration of the subject, by the circumstances of the poor in the town and vicinity of Dumfries, and by the threatened approach of what he deemed a national misfortune, the introduction of poor-rates.

Savings Banks in Scotland.

The course pursued by Mr Duncan is in the highest degree instructive. It is founded upon an accurate knowledge of human nature, in which the men who step forth from elevated situations to ameliorate the condition of their fellow-creatures, are in general singularly deficient, and therefore most commonly reap nothing but the natural fruit of injudicious measures—disappointment. As a great effect was intended to be produced upon the minds of the people, Mr Duncan saw the necessity of carrying the minds of the people along with him, and of adopting the most powerful means for making them feel and take an interest in the concern. Unless the interest is felt, and powerfully felt, the operation of the machinery will be feeble, and its effects trifling. Novelty may give it some appearance of strength for a time, but this will gradually decay.

In the first place, it was necessary that every cause of obstruction should be removed. “The prejudices of the people should be carefully consulted; they should be treated even with delicacy; and the most unreasonable scruples of the ignorant and suspicious should, as far as possible, be obviated.” It is not duly considered by the upper ranks of the population, how inseparable from human nature are the suspicions of those who are weak, toward those who are strong; the suspicions of those who are liable to be hurt, toward those who are capable of hurting them. And it is only the blindness of self-love, and our inattention to evils in which we are not called to participate, that leave us ignorant of the actual grounds in



practice, whence, even in this country, the institutions of which are so much more favourable than those of most other countries to the poor, the weak have reason to dread the interference of the strong.

So much for removing the causes of dislike. More is necessary to create a positive, and still more to raise an ardent attachment. The springs of human nature must be skilfully touched. Mr Duncan knew where to find them, and he looked to the means which the circumstances of the case afforded for placing them in action. "It may be observed in general," he says, "that in all those situations, where it is practicable to assimilate the mode of management to the scheme of Friendly Societies, the advantage to be derived from such a circumstance ought not to be overlooked." If there were nothing in the case but the actual existence of these societies, and the favour with which the people regard them, the importance of this advice would still be more than considerable. But, says Mr Duncan, "On this subject, it may be proper to attend to the following remarks: Those who are at all acquainted with the history of friendly societies, must be aware, that they owe much of their popularity to the interest excited among the lower orders, by the share to which each of the members is admitted in the management of the institution. The love of power is inherent in the human mind, and the constitution of friendly societies is calculated to gratify this natural feeling. The members find, in the exercise of their functions, a certain increase of personal consequence, which interests their self-love in the prosperity of the establishment. Besides, by thus having constantly before their eyes the operation of the scheme, in all its details, they are more forcibly reminded of its advantages; and not only induced to make greater efforts themselves for obtaining these advantages, but also to persuade others to follow their example. Hence it happens, that a great number of active and zealous supporters of the institution are always to be found amongst the members of a friendly society, who do more for the success of the establishment than can possibly be effected by the benevolent exertions of individuals in a higher station."

For these reasons Mr Duncan held it expedient to give the contributors themselves a share in the management of the institution; and that share was well chosen. The contributors in a body were not fit to be the acting parties; but they were fit to choose those who should act for them. A general meeting is held once a-year, consisting of all the members who have made payments for six months, and whose deposits amount to L.1. By this meeting are chosen the court of directors, the committee, the treasurer, and the trustee, the functionaries to whom the executive operations are confined. And by this also are reviewed and controlled the transactions of the past year, with power to reverse

the decisions of the committee and court of directors; to make new laws and regulations, or alter those already made; and, in other respects, to provide for the welfare of the institution.

The power of choice is somewhat limited by the qualifications required. The society consists of two sorts of members, the ordinary, and the extraordinary, and honorary. The general meetings have alone the power of electing honorary members; but the Bank Trustee, the Lord-Lieutenant and Vice-Lieutenant of the county, the Sheriff-depute and his substitute, the members of Parliament for the county and burgh, the ministers of the parish, with certain magistrates of the town, are honorary members *ex officio*; and there are certain regulated subscriptions or donations, of no great amount, which constitute the person paying them, *ipso facto*, an extraordinary or honorary member. Now, it is from this list of honorary and extraordinary members that the choice of functionaries by the general meeting is annually to be made, provided a sufficient number of them should be disposed to accept of the offices designed; if not, from such of the ordinary members as make deposits to the amount of not less than L.2, 12s. in the year.

It is not fitting here to enter into the details of the organization, or those of the executive arrangement. It is sufficient to state, that deposits are received in sums of 1s., bear interest at the amount of L.1; and are always payable, with compound interest, on a week's notice.

It seems not to have been till 1814 that the project of savings banks made any farther progress in Scotland. In that year, "the Edinburgh Bank for Savings was instituted," says Mr Duncan, "by a society of gentlemen, of the first influence and respectability; who, from their enlightened labours in the suppression of mendicity, and in the establishment of a permanent provision for the poor, had already acquired no trifling claim to the confidence and affection of the public, and particularly of the lower orders." In the constitution of this bank, the interference was rejected of the depositors themselves; who were simply required to confide their money in the hands of the gentlemen who undertook the management of the institution. "This circumstance," says Mr Duncan, "has operated as a powerful obstruction to the success of the plan. The truth of this will appear in a very striking point of view, if we contrast the progress of the scheme in Edinburgh with that of the Ruthwell parish bank, or of those institutions which are formed on a similar plan." And he then presents a statement of facts, which fully support the position, and strongly illustrate the importance of the principle on which the Ruthwell institution was founded.

Mr Duncan, from deference to the gentlemen who made the decision for the Edinburgh bank, seems willing to allow that a general meeting of all the contributors, and a reservation to that meeting of certain appropriate powers, useful and important as it is, may, in great cities, such as Edinburgh, be attended with inconveniences which outweigh its advantages. May not this, however, be a concession too easily made? It would, at least, be desirable to have good reasons presented for the sacrifice of so great an advantage, before we consent to its being made. There is an obvious inconvenience in assemblages of people, of any description, when too large. And if one bank were to serve for the whole of a great city, and the contributors should amount to any considerable part of the population, the assemblage would undoubtedly be too large. But this, under the circumstances in contemplation, would not be the case. To accommodate the customers, there ought to be a bank in every parish, or similar district. There would be no greater inconvenience in calling together the moderate number of contributors to such a bank in a city, than in the country. The fact is proved by the ample experience of friendly societies; the members of which do actually meet much oftener than once a-year, and devoid of many advantages which the mixture of persons of the upper classes would afford to the association of a savings bank. If any central, or general institution, to give unity and combination to the operations of the different banks of a great city, were found to be useful, it might be formed of delegates chosen by the committees of the several district or parochial banks; and thus, without any inconvenience that can be rationally contemplated, all that fervent interest which is the natural effect of giving the contributors themselves a part to act in the formation and conduct of savings banks, would be provided for and secured. In London itself, there are various institutions, wholly dependent upon voluntary contributions, the subscribers to which, though extremely numerous, are annually called together for the election of committees and other managers. The society of *Schools for All* may be adduced as a conspicuous example. And where is the inconvenience that is ever found to result?

In the meantime, efforts were begun for the extension of the system in England. In the year 1813, a judicious and successful attempt was made by Dr Haygarth for the establishment of a bank for savings at Bath, where, sometime before, an institution, under the name of a servant's fund, had been formed on nearly similar principles, at the suggestion of Lady Isabella Douglas, sister of the Earl of Selkirk.

Savings Banks in England.

The circumstances of England were in several respects much less favourable to any plan founded upon the savings of the poor than those of Scotland. The disadvantages existing in England are justly

enumerated by Mr Duncan, under four heads; 1st, The character and habits of the people; 2dly, The nature of the ecclesiastical establishment; 3dly, The system of poor laws; 4thly, The state of the banking business.

The first three are general, and the nature of the obstruction which they afford in some degree obvious. The illustration of these here may therefore be waved. The last, however, so intimately concerns the operations of the banks for the poor, that it requires a difference even in their constitution. It is the practice of the banks of Scotland to allow interest for the monies deposited with them; and so perfect is the foundation on which some of them are placed, that the security attached to the deposits they receive, is equal to that of the Bank of England itself. The operations of the economical bank are here, therefore, simple in the highest degree. It has only to open an account with one of these banks, and pay to the contributors the interest received, making such a deduction as the expences of the institution may require.

In England it is not customary for banks to allow interest on the deposits which are made with them. And where possibly interest might be obtained, the security would not always be good. The savings banks have no source whence interest can be derived with the due measure of security, except the public funds. But, with respect to them, a great inconvenience arises from the fluctuation of price. What is desirable, above all things, is such a degree of simplicity and plainness in the transactions, that the reasons of every thing may be visible to the uninstructed minds of the people with whom the institution has to deal. But this fluctuation in the price of stock is an unavoidable source of complication and obscurity. The money of one man produces more, that of another less, according to the price of stock, at the time when his deposit is made. When it is withdrawn, a sum is received, greater or less than that which was put in, according as the price of stock has risen or declined.

The plan upon which Dr Haygarth proceeded, in the bank which his strenuous exertions were the means of setting on foot in Bath, was to make every depositer, to the value of one or more pounds of stock, a proprietor of stock to that amount, and entitle him to receive his dividends every six months, the same as those paid at the Bank of England, one sixth being deducted for the expences of the institution. In the constitution of this bank, no part of the management, and no control over it, were given to the depositors. Certain trustees and managers were constituted, with powers of supplying vacancies; and the money of the depositors was vested in the funds in the names of a certain portion of the trustees.

In the month of November 1815, a bank was projected for the town and vicinity of Southampton, to which the zeal and influence of the Right Honourable George Rose in a great degree contributed. In the formation of this institution, the model of the Edinburgh bank was principally followed. It was composed of a certain number of noblemen and gentlemen, who formed themselves into an association for banking the money of the poor; excluding entirely the intervention of the depositors. It differed from the bank established at Bath, which gave the depositors a proportion of the dividends, and left them to the chance of gain or loss by the fluctuation of the stock which their money had purchased; the Southampton bank, though it vested the money in government securities, undertook to pay a fixed invariable interest of 4 *per cent.* on each sum of 12s. 6d.; and to repay the deposit when demanded, without addition or diminution. The chance of any rise or fall in the price of the funds, the bank, in this way, took upon itself. The Southampton, like the Edinburgh bank, limited the amount of deposits which it would receive from any one individual; and fixed the sum at L. 25.

Some attempts were also made in London. A bank was instituted, under the influence of Barber Beaumont, Esq. in the parish of Covent-Garden. A committee of the inhabitants of the parish, rated at L. 50 and upwards, together with the members of the vestry, form one committee, and twenty-four of the depositors, chosen by themselves, form another committee, who jointly choose their agents, and conduct the business. The want of security in this plan is an obvious objection; the money remaining in the hands of certain individuals, in the character of treasurers, allowing interest at 5 *per cent.*

A bank was opened in Clerkenwell, another parish in the metropolis, on the 29th of January 1816, chiefly through the instrumentality of Charles Taylor, Esq., on a plan by which the depositors appoint their directors, their committees of accounts, their superintendents, &c. from their own number, and thus conduct the business of the institution wholly for themselves. The treasurer is allowed to retain to the amount of only L. 220, for which he gives security, and allows interest at 5 *per cent.* for the sum in his hands. The other funds are invested in government securities. The great defect in this otherwise admirably constituted institution, seems to be the limiting the choice of managers and functionaries to the depositors themselves. Why should the depositors deprive themselves of the advantage of choosing a person who would be eminently useful as a manager, though not of a rank of life to require the institution for his own use? If the depositors have the power of choosing, for the management, whom they please, depositors or not, they will have all that share of action

which is necessary to establish their confidence and animate their zeal; while, at the same time, men of superior education and influence may be joined with them, and prevent, by their wisdom and authority, any error to which the business might be otherwise exposed. As often as men of superior education and fortune showed a disposition to render themselves useful in the conduct of the institution, daily and universal experience prove how certainly and gladly they would be chosen. In the meantime, the prosperity of the Clerkenwell bank is a complete proof of the safety with which that co-operation of the contributors, the utility of which is so well demonstrated by Mr Duncan, may be employed in the greatest cities. Clerkenwell is a parish, a great part of which is inhabited by some of the poorest people in the metropolis; the establishment of the bank was attended with nothing which was calculated to excite any attention; with advertisement scantily sufficient to make it known in the district; yet on the 22d of April, less than three months after the time of its institution, it had 157 depositors, and had received L. 269, 11s. 6d.

These local and confined attempts in the metropolis were followed by others on a larger scale. *The Society for Bettering the Condition of the Poor* took measures for interesting a sufficient number of noblemen and gentlemen to establish a grand Savings Bank, or Provident Institution, which was deemed a preferable name, for the whole of the western half of the metropolis. Several meetings of persons of high rank and others were held during the month of March 1816. The plan of the bank of Southampton, to pay a certain fixed rate of interest, and return the neat deposit on demand, was first proposed. This, with regard to the facility of giving satisfaction to the contributors, and avoiding all misconception on their part, injurious to the prosperity of the institution, was highly desirable. But, after a due consideration of the danger to which the institution would, on this plan, be exposed, in the event of any great depression of the price of stock, it was resolved to follow the example of Bath; to render each depositor a stockholder, and consequently himself liable to either the profit or the loss which the fluctuation of stock might occasion. This institution was composed of the noblemen and gentlemen by whom it was promoted, who formed themselves into an association, consisting of a president, vice-president, trustees, and managers; wholly excluding the co-operation of the depositors, and all intervention or control on their part. This institution was opened in Panton Street, Hay Market, on the 15th of April following; and another, promoted by the principal gentlemen in the city, and founded on similar principles, was soon afterwards opened in Bishopsgate Street, for the eastern half of the metropolis.

Of the bank for the western division of the metropolis, a particular account has been published by Joseph Hume, Esq. one of the managers, which deserves attention, as containing a valuable set of practical rules for the detail of the business, according to the principles on which that institution is founded; and, above all, as containing the description of a system of Book-Keeping, admirably adapted to the purpose of savings banks in general, and of which that gentleman himself was the principal contriver.

By Mr Hume and Dr Haygarth, we see that the term *Provident Institution* is applied as the name of those associations which have it for their object to enable the poor to place their money in the stocks. The term Bank, whether called a Savings Bank or a Frugality Bank, they would confine to these institutions which pay a fixed interest, and return the neat deposit. The term Bank, however, is equally applicable to both, and the best denomination they can receive. Some adjunct is wanted to distinguish this from other species of banks, and no good one has yet been found. Neither *Frugality* nor *Savings* is distinctive; every bank is a frugality bank. *Poor's Bank* would be the best, but for one conclusive objection, that it is humiliating, and in common acceptation disparaging.

As government securities afford in England the only expedient, attended with safety, for employing the deposits of the poor; but as these securities are, at the same time, attended with the great inconvenience of fluctuation, and require the transmission of the money to and from the metropolis, of which the inconvenience would often be considerable; Mr Hume is of opinion, that the powers of government should be employed for the removal of these two inconveniences, which would merely afford to banks for the poor in England those advantages which they already enjoy in Scotland, from the admirable state of the banking business. The effects might be accomplished by the payment of the money to the receiver of each county, and by the receipt from him of the proper returns. This would no otherwise change the nature of the transaction, than that the money would thus be lent to government in a way extremely convenient to the poor, while, by purchase into the public stocks, it is still lent to government, but in a way far from convenient to that class of the people.

There may be, and there are, solid objections to the rendering any great portion of the people the creditors of government, as being unfavourable to that independence of the people on the government, on which all security for good government depends; but if the people are to be rendered the creditors of government, there can be no objection to them being rendered so in a way convenient to themselves, rather than in a way which is the

contrary. And if there is no other security but that of government to which the banks for the poor can have recourse, we are reduced to the alternative of either having no banks for the poor at all, or lending the money to government. It will occur to some persons, that it might be lent to the parishes on the security of the poor-rate. But to those who contemplate the abolition of the poor-rate, this will not appear desirable as a permanent expedient. If counties were managed according to their ancient constitution, the best plan might be, to lend it to the counties, on the security of the county rate. But even in this case, it could not be lent without admitting a prodigious evil, the principle of county debts.

No mention has been made of the plan of Mr Baron Mazerés, in the account which has been rendered of the successive steps by which the business of savings banks has been brought to its present state; because it was not conceived that this plan corresponded to the idea of a savings bank. It is, however, necessary to be described, because it is not impossible that some of the ideas realized in savings banks may have been derived from it. The plan of Baron Mazerés was a proposal for establishing life-annuities in parishes, for the benefit of the industrious poor. It was published in 1772, accompanied with the suggestion of certain alterations by the celebrated Dr Price. It was recommended to the nation to obtain a law, for enabling the parish officers in England to grant, upon purchase, to the labouring inhabitants life-annuities, to be paid out of the parish rates. The measure met with support from some of the most distinguished characters of the time, and a bill was brought into the House of Commons by Mr Dowdswell, under the auspices of Mr Burke, Sir G. Savile, Lord John Cavendish, Mr Dunning, Mr Thomas Townshend, and others, for carrying it into effect. The plan received the sanction of the Commons, the bill was passed, and carried to the House of Lords. Here it was not equally fortunate; it was not even permitted to come to a second reading. One cannot conceive any very good reason for throwing it out; because, if it produced any effects, they could not be evil. The defect of the project appears to consist in this, that it was not calculated to produce effects at all; it involved in itself an obstruction fatal to its operations. To purchase these annuities a sum of money, large to the purchaser, was demanded all at once. How was he to possess it? Whence was he to obtain it? The means were almost universally wanting, and likely to continue so.

It is worth while to mention, that a savings bank, entitled *Le Bureau d'Economie*, was established by law at Paris, in one of the first years of the French revolution, and it was in existence till a late period, perhaps is to the present. The account of it which we have seen, is in the *Archives of Useful Knowledge*, published in Philadelphia, where a bank of industry was lately established. Mr



Bentham's plan of a frugality bank, added to this scheme two important amendments, which at once brought it within the range of practicability, and enlarged the bounds of its usefulness. He proposed that the people should purchase life-annuities, by sums deposited gradually; and that these annuities should be convertible into other forms of benefit, suitable to the exigencies of each individual.

With regard to the best model of a savings bank, there is nothing of much importance which remains to be said. The great difficulty consisted in the original idea. When that was fully framed, every thing else suggested itself, without the smallest difficulty. Two things were immediately seen to be fundamental: In the first place, security for the funds: In the second place, the zeal of the people. The best general instruction which can be given to those who have institutions to form, is to set these two objects before them, as the ends which they have to pursue; and to adopt the means, which, in the peculiar circumstances of each case, promise to be most effectual in attaining them. 1. With regard to security, the course appears to be abundantly plain. There is perfect security with many other advantages in the great banks in Scotland, which of course should be universally employed. In England, there is no resource but government security, to which, as at present existing, several inconveniences are attached. 2. With regard to the excitation of that degree of fervent interest among the people, which is necessary for the production of any considerable effects, all persons will not have their minds equally open to conviction. Yet the means appear to be abundantly certain and clear; let the contributors, in annual meetings, choose their own office-bearers, not limiting the choice to their own body; and let the people of weight and character in the district, not only show their readiness, but their desire to be chosen. This is the general idea; it may be modified into a variety of forms, according to the circumstances of different places; circumstances to which matters of detail ought as much as possible to conform. It is an appendage to this principle, that the numbers, hence the district, should not be large, which a single bank is destined to serve. This appears to be expedient, or rather indispensable, on other accounts; to facilitate access to the customer; to prevent loss of time by attendance, if numbers should be liable to repair to the same office at the same time; and to render practicable, by division, the otherwise impracticable amount of labour, which, if the great majority of the people should bring deposits, the management of them will create.

General Rules for the formation of these Banks.

(ff.)

[\[Back to Table of Contents\]](#)

## BEGGAR.

The word literally means, *one who begs*. In a more restricted sense, it means one who begs the means of subsistence. Even this definition, however, is too extensive for the idea to which, in this article, we mean to confine it. The class, in fact, of the persons to whom the term *beggar*; in the most restricted sense, applies, cannot easily be separated by an exact line of distinction from the kindred tribes. You cannot define the beggar as one who asks the means of subsistence, or money to purchase it, from passengers in the streets and highways; because there are people who beg from house to house. If you include those who beg from house to house, even that will not suffice, because there are persons who beg by letter, and have various means, beside language, of bringing to the knowledge of others the tokens of real or fictitious distress. And, if you make a definition extensive enough to embrace all these classes, you will make it include persons whom no one regards as standing in the rank of beggars; every person, almost, who, from any cause, is brought to require the assistance of others. It is not useless to contemplate how these classes run into one another; because it teaches the necessity of delicate and cautious proceedings, when we take measures of cure; especially if *force* enters at all into their composition.

Definition.

Different Classes of Beggars.

1. Of the class of persons to whom, in the common use of language, the term Beggar is with propriety assigned, there is one distinction which is obviously and commonly made; that is, into those who beg from necessity, and those who beg from choice. In each of these divisions, there is great variety. For a description of the field of mendicity we derive helps from the *Report of a Committee of the House of Commons*, appointed in the year 1815, to inquire into the state of mendicity in the metropolis. The inquiry is very imperfect; the interrogation of the witnesses superficial and unskilful; the information which they give not followed up, by exploring other and better sources, which they indicate; but, as people had been left to casual observation, to fancy, and conjecture before, the facts and conjectures which that Report lays before us are still the best information we possess.

Nothing more strongly indicates the deficiency of our knowledge upon this subject, than the different opinions which the Committee received on the proportion between those who beg from necessity, and those who beg from choice. The persons examined were those of whom the Committee made choice, as having possessed peculiar

opportunities of knowledge; and this was a point to which their inquiries were peculiarly directed. Yet one part of the witnesses strongly asserted, that a proportion as large as one half were beggars from necessity; another part of them asserted that all beggars, with hardly any exception, prosecuted the occupation from choice.

Mr Martin, the conductor of an inquiry into the state of mendicity in the metropolis, under instructions from his Majesty's Principal Secretary of State for the Home Department, which inquiry extended to about 4500 cases, stated, as "the general result of his information, that beggary is, in very many cases, perhaps in about half the cases of those who beg, the effect rather of real distress, than of any voluntary desire to impose. So far from having found, amongst those who have attended at the office, any reason to think that the whole was a matter of imposition, I have (says he) found cases of the most acute suffering, which have long been concealed, of some of the beggars, who belonged to parishes in the metropolis, who have not made their cases properly known to the parish-officers, and who have ventured to slip out of their parishes, not so much because they wished to impose, as because they were driven by distress to beg." Mr Martin grounded this conclusion also upon the general fact, that the number of women was much greater than that of men, and that of married women greater than that of single. "Men," he remarks, "are stronger than women, have more resources, and are better able to provide for themselves; and single women are more eligible for service than married, and usually have only themselves to maintain."

Beggar.



The Rev. Henry Budd, who had been fourteen years Chaplain to Bridewell Hospital, to which the greater number of the persons taken up for begging in the streets of London are committed, was asked, "Have you ever known a worthy person begging in the streets?"—"Yes; I have known many that I should call worthy; and, I think I could mention some who have come up from the country distressed for want of work. They think London is paved with gold, or presents opportunities the country does not; and they find themselves here without friends. I have met with many whom I considered very worthy."

Of these two witnesses, the personal experience in the case was equal, or probably superior to that of all the rest taken together.

From other witnesses, however, of whom the experience was also great, the committee received affirmations of an opposite import. Mr John Cooper, a visitor of the *Spitalfields Benevolent Society*, was asked, "From the observations you have made upon the state of

poor families, do you think any worthy families have recourse to begging in the streets?"—*Ans.* "I have no idea at all, from what has come under my own observations, that, in any individual case, persons, that were worthy objects, however distressed they were, have had recourse to street-begging."

Mr John Doughtry, a gentleman much in the habit of visiting the habitations of the needy, was asked, "In your opinion, do many worthy, honest, industrious persons have recourse to begging, or does this class of society consist chiefly of the idle and profligate?"—*Ans.* "The instances in which worthy, honest, industrious persons have recourse to begging are extremely rare. They will, in general, rather starve than beg. A person of veracity, who sometime ago visited 1500 poor families in the neighbourhood of Spitalfields, affirms, that, out of full 300 cases of *abject poverty and destitution*, and at least 100 of literal want and starvation, not a dozen had been found to have recourse to begging. Many of the most wretched of the above cases had been, not long before, able to support themselves in some comfort, but want of employ had completely ruined them. They were, at that moment, pressed by landlord, baker, and tax-gatherer; had pawned and sold every thing that could be turned into money; were absolutely without a morsel of food for themselves or family; but still had not recourse to begging. As a general fact, the decent poor will struggle to the uttermost, and even *perish*, rather than turn beggars."

This is heroism, in comparison with which, that of the Herculeses and the Hectors, ancient and modern, sinks into nothing! What an admirable foundation of virtue must be laid, in these minds, which even thus endure the horrors of death, approaching with all the torments of hunger and cold, rather than seek to relieve themselves by courses reputed disgraceful! And how unworthily is this class of persons traduced, by those who represent them as capable of being restrained by nothing but a dungeon or a bayonet; and who, by their ignorance of human nature, so cruelly prolong the needless miseries under which it labours!

According to the experiment mentioned by Mr Doughtry, and it is upon a large scale, and a part of the population (the circumstances of the people in Spitalfields are not favourable to virtue) which may be reckoned below rather than above the common standard, out of 400 individuals, of the lowest order, 388 will consent to perish by hunger, rather than beg. In confirmation of this testimony, an extraordinary fact has come to our knowledge. We have been informed by a gentleman, whose knowledge of the circumstances and behaviour of the journeymen in the metropolis may be regarded as in a very unusual, or rather an unexampled degree, minute and correct, that, of this important portion of the labouring

population, no one ever begs; that such a thing as a journeyman tradesman, or any of his family, begging, is almost unknown; and may, with certainty, be pronounced as one of the rarest of contingent events. When it is considered to what an extraordinary degree most of the employments by which these men earn the means of subsistence are liable to fluctuation; that thousands of them are for months together deprived of work, as was the case with thousands, for example, of the carpenters and bricklayers during the severe winter of 1815; that of those the whole must be reduced to the most cruel privations, and a great proportion actually starve unpitied, unheard of, and unknown; the resolution by which they abstain from begging, should be regarded as one of the most remarkable phenomena in the history of the human mind.

It may still be possible to reconcile these undoubted facts with the testimonies of Mr Martin and Mr Budd. It appears that a great proportion of the beggars to whom they allude are women, and women with families; whose spirits, where they are left to themselves, are less able to support them, and to make the dread of disgrace an overmatch for the pains of hunger and the terrors of death. It appears, also, that a large proportion of them are the wives of soldiers, in the company of whom the sense of disgrace is apt to lose its pungency. People from the country, simple, and without resources, add a portion to the number of those whose mendicity cannot be regarded as the effect of vice. And it cannot, surely, be a source of wonder, that, out of so large a population, so great a portion of whom are liable to the extremity of want, there should be a few with whom the dread of disgrace should not be so powerful a motive as the love of food, and of life.

2. Of the number of beggars in the metropolis (and no attempt has been made to discover it in the rest of the country), the labours of the Committee have ascertained hardly any thing. At the time of the first inquiry, which was made by Mr Martin, 2000 cases presented themselves. This, by a vague estimate, he supposed might be about one-third of the whole; and allowing at the rate of a child and a half to each principal, he conjectured that the whole number might be about 15,000. If this be supposed a tolerable approximation, with regard to the metropolis, a comparison of the population of the metropolis with that of the whole country, will give an approximation to the number of beggars in the kingdom.

Number of  
Beggars.

3. With regard to the number of beggars, an important fact appears to be ascertained; that it is gradually diminishing. Mr Martin said, "I do think that the number of beggars has something decreased since the first inquiry, nine years ago; and I am very much confirmed in that opinion, by what persons have told me, that they

have not seen so many as they did. I really think there are not so many by one-fourth." Sir N. Conant, of the Police-office in Bow-street, said, "I think the number of beggars was greater thirty years ago than now. I have acted as a magistrate for more than thirty years.—Do you mean greater in proportion to the population?—Greater in fact. I am sure, on my own recollection and observation, that mendicity is a less nuisance now than it was thirty years ago."

Sir Daniel Williams, a magistrate attending the Police-office in Whitechapel, was asked, respecting the beggars in that district, "Do you think the number has increased within any given period?"—*Ans.* "I think, within the last two years, they have rather diminished." Mr John Stafford, chief clerk of the office in Bow-street, said, "It strikes me, from the knowledge I have had, having been chief clerk of the Police-office in Bow-street ever since the year 1803, that there are not the same number of beggars about the streets that there used to be; I think the number is considerably decreased." This corresponds so fully with what strongly meets the observation of every attentive man, and has been amply given in evidence before the Committees of the House of Commons, on the state of education, and the police of the metropolis, during the last session of Parliament, respecting the great improvement in the morals and in the manners of the lower orders, that it may be regarded as a fact of which no reasonable doubt can be entertained.

4. This is the little which appears to be known with regard to the proportion between the beggars from choice, and the beggars from necessity, and with regard to the number of the whole. We shall next speak of the arts by which it is understood that the trade of beggars is carried on. This appears to be the grand subject of curiosity. There is a mystery about this, and a fancied ingenuity, which those who wish for the marvellous are very much stimulated to explore and to magnify. The fact, however, is, that the contrivances, upon the whole, are few, and almost all of them obvious, and coarse. They are expedients for exhibiting as much as possible of the appearances of distress. Of these, rags and nastiness are one portion, which it surely requires but little ingenuity to display. The different kinds of bodily infirmity, chiefly those which incapacitate for labour, are the remaining portion. On this subject the most authentic details which have been collected, are those contained in the *Report of the Committee on Mendicity*. We shall select from the evidence, as far as it goes, the description of the principal arts; and the intelligent reader will perceive, that, with regard to invention, they are near the bottom of the scale.

Deceptions  
practised by  
Beggars.

The Reverend William Gurney said, "I am rector of St Clement Danes, and minister of the Free Chapel in West Street, St Giles's. In the course of my ministry there, I have had a great deal of occasion to visit persons in very great distress. I have ascertained, that there are four different ways of begging. Some are by letters, which are sent by post; and some are what we call knocker beggars, who go from house to house, knocking at every door. If they get a knowledge of any respectable person in the street, they pretend they have received money at his house, to make a sum to pay rent, or the postage of a letter from a son who has been six or seven years at sea, and from whom they expect a remittance; or for other purposes. On these occasions they have generally some written statement in their hands. Some beggars are stationary. They come to their stand at a certain hour, where they remain all day, or after so many hours repair to another. Of these beggars, those who are blind, or maimed, or have children, succeed the best. There are others, women and children, who are moveable beggars, following not the street but the people. For instance, at the time of the play, they are always very near the theatres; and if they see a young gentleman and a young lady walking together in deep conversation, they will pester them, and run before them till they give them something to get rid of them. Those people, at other times of the day, if it is a Sunday, for instance, will be found near chapels where there are large congregations; they know as well where the large congregations are as possible. There are others who are continually begging from house to house; they go through a great number of streets in the day, occasionally taking a ballad, or a bunch of matches, and pretend to be picking up bones in the street, and early in the morning kneeling down to areas, tormenting the cook when she is busy in the kitchen, until they get some broken victuals, as they call it, but they actually sell this victuals; that I have found out. In St Giles's there are some eating houses for the very poorest mendicants, where they go and sell this victuals they get from different houses."

This is a correct description of the most common cases of begging. There is one case, by no means uncommon, which we do not perceive described by any of the witnesses; that, when three or four men, being or appearing to be lame or maimed, and most commonly in the guise of sailors, go out in a body, singing with great loudness, and almost barricading with their bodies the streets through which they move, in such a manner, that nobody can pass without a vehement onset, while the timid or sensitive hardly dare to resist. Of course, this takes place only in these streets in which there is least danger of their being taken up.

The following is a description given by the Reverend W. Gurney, of some other classes of beggars. He had mentioned a set of

applications frequently made to him, by persons who pretended that prize-money, or benefits of some other sort were due to them, of which, however, being deprived by want of knowing the steps to be taken, they entreated a letter to somebody who would instruct them; “but their object was to get a letter with my name to it, with which probably in a short time they could get L. 20. If I have written to any body in the office of the Treasurer of the Navy, whom I knew, for instruction or counsel how they ought to act, recommending the bearer to this person for any information he could give upon such points; if I only said, I beg leave to recommend the bearer to your notice, they would paste this upon another sheet of paper, cutting off the bottom part (and one person was detected in doing this), and then they would take the name at the bottom, and so paste it together, making a kind of a recommendation of this person: knowing who I was acquainted with, some other clergyman, perhaps setting me down as giving them 10s.; that clergyman is induced to give them 10s. also, and to send them to some benevolent person in his congregation: and so they go on till they have got L. 20: and that has frequently been done, I do not mean always by imposition. But, in many cases, where persons have been in distress, through providential circumstances, I have written to another clergyman, saying, such a woman was distressed, and had so many children, and that her husband was out of work, and that this I knew to be the fact, for I had inquired. I have given half a guinea, and have given the names of others; and by this means sufficient relief has been procured without coming to the parish at all. But the impositions on the subject of recommendations are very great; I have had letters from all parts of the country, inquiring whether I gave a general recommendation to such a person; and they have said, we saw a letter purporting to be in your handwriting; we were pretty confident it was not written by you, but it was a very good imitation. One man in Staffordshire, where I had lately been, got a great deal of money upon such a letter. I conceive the beggars in the streets are more numerous at one time of the year than another; and it would be supposed the time of the year when they were most numerous, would be in the early part of the winter; but that is not the case, for now they are as thick as at any time of the year. I have been endeavouring for a long time to ascertain the reason of this; and the first obvious reason for the influx of beggars into the metropolis, at this season of the year, is, with respect to one class of beggars, those who do it by letters or recommendations, and not going from house to house, that they take advantage while Parliament is still sitting, or particular persons being in town; they perhaps are pretty stationary in London all the year; but they are more anxious at this time, and therefore more heard of, because people are going out of town, and therefore they are taking time by the forelock, and work double



tides; that is the reason I very frequently have letters sent by friends of mine in affluence, Mr Wilberforce and others, requesting me to inquire into particular cases, and if I found them to be as represented, to give them so and so. I have generally been troubled more at this season of the year than at any other. As to those who knock at the door to beg, the reason of their being so numerous at this time of the year, I apprehend, is, that many come out of the country with a view to take the early hay-time about the metropolis, but they bring always a large suit with them. If a man comes to mow in the neighbourhood of the metropolis, they mow their way back again, the harvest beginning sooner near the metropolis; they bring with them a wife and six or seven children. I have seen hundreds coming up through Stanmore, when I resided there. They generally come too soon, and the streets are filled with these poor people: One says, if I could but get money to buy a fork I could get work; and another, if I could get money to buy a rake, I could get employment. I have had half a dozen with me since Saturday, stating that they came up to get a job of work, but the market is overstocked: there are so many Irish here. The consequence of these people coming is, their children are immediately set to begging in the streets, and with the dust upon them, having travelled a great way, and frequently in real want, they move the compassion of people very much; they are frequently sitting with papers stuck in their hats. In the course of six or eight weeks great numbers of those will disappear; the husbands will get to mowing, their wives will get a hay-fork, and the children will get to weeding in the gardens: Then they get a dreadful habit, by coming to the metropolis, a habit of idleness and drinking; and those children are annually instructed in idleness and drinking, and of course lying; idleness is sure to bring on lying and theft. I dare say there are very few of these mendicant children who are not trained up to pilfer as well as to beg; they come principally, I believe, from the manufacturing counties. On a journey from Birmingham to London, two years ago, I passed not less than two hundred with their wives and children, who were begging as I passed."

The following statement is inserted in the Report of the Committee, under the title of "Information communicated by three members of a Society instituted for Benevolent Purposes:"

"In Nicholas-court, Rosemary-lane, there are about twenty beggars, male and female, of the very worst description, great impostors, drunkards, blasphemers, &c.: their rendezvous the City of Carlisle, Rosemary-lane.

In Mill-yard, Church-lane, about ten female beggars.

In White Horse-court and Blue Anchor-yard, about fourteen beggars.

In Detridge-street, New-street, and St Catherine's-lane, about thirty female beggars.

In Angel-Gardens and Blue Gate Fields, about twelve beggars, four of them blacks.

In Chapel-street, Commercial-road, six beggars.

In Goodman's-yard, Minories, six beggars affecting blindness.

In the neighbourhood of Shoreditch and Bethnal Green, about thirty-five families may be computed at one hundred and fifty members, who subsist by begging and plunder. There are about thirty Greenwich Pensioners, who hire instruments of music and go out in parties.

If each beggar does not procure at least 6s. *per* day, they are considered very bad at their business.

In visiting George-yard, leading from High-street, Whitechapel, into Wentworth-street, we found there were from thirty to forty houses apparently full of people; and being desirous of knowing the situation they were in, we gained access to several of them where we had formerly visited distressing cases; and from the information we collected, we conceive that in these houses there are no less than two thousand people; the whole place, indeed, presents such a scene of human misery and dissipation as can hardly be conceived. We learned from those we had access to, that one half of these inhabitants subsist almost entirely by prostitution and beggary; the other half are chiefly Irish labouring people.

In Wentworth-street (adjoining the above yard) there are a great many houses occupied by inhabitants similar to those in George-yard. One of these (a private house, No. 53) we visited, and were not a little surprised to find that it contained one hundred beds, which are let by the night or otherwise, to beggars, and loose characters of all descriptions. In some of the lanes leading from this street, there are other houses of the same kind."

Mr Sampson Stevenson, who had been Overseer of the parish of St Giles's the preceding year, and by that circumstance forced into an acquaintance with the practices of its begging inhabitants, said,—“There is a man whose real name I do not know, but he goes by the name of Granne Manoo. He is a man who, I believe, is scarcely out of jail three months in the year; for he is so abusive and vile a character, he is very frequently in jail for his abuse and

mendicity. He is young enough to have gone to sea, but I believe he has been ruptured, consequently they will not take him. I have seen him scratch his legs about the ancles, to make them bleed; and he never goes out with shoes. That is the man that collects the greatest quantity of shoes and other habiliments; for he goes literally so naked, that it is almost disgusting for any person to see him in that situation. Another man I have known upon the town these fifteen or twenty years; he is a young man as nimble as any man can be. I have seen him fencing with the other people, and jumping about as you would see a man that was practised in the pugilistic art. He goes generally without a hat, with a waistcoat with his arms thrust through, and his arms bare, with a canvass bag at his back; he begins generally by singing some sort of a song, for he has the voice of a decent ballad-singer. He takes primroses or something in his hand, and generally goes limping or crawling in such a way, that any person would suppose he could not step one foot before another. I have also seen him, if a Bow-street officer or beadle came in sight, walk off the ground as quickly as most people. There is a man who has had a very genteel education, and has been in the medical line, an Irishman; that man writes a most beautiful hand, and he principally gets his livelihood by writing petitions for those kind of people, of various descriptions; whether truth or falsehood I know not, but I have seen him writing them, for which he gets from sixpence to a shilling.

“Do you know whether they change their beats?—I have seen them come out from twenty to thirty out of the bottom of a street, formerly called Dyot Street, now called George Street. They branch off, five or six together, one one way, another another. Invariably, before they get to any great distance, they go into a liquor-shop, and if one amongst them has saved (and it is rare but one of them saves some of the wreck of his fortune over night), he sets them off with a pint of gin, or half a pint of gin amongst them, before they set out. Then they trust to the day for raising the contributions necessary for their subsistence in the evening. They have all their divisions. The town is quartered into sections and divisions, and they go one part one way, another part another. In regard to the mendicity of people begging with children, I can give a little information upon that. There is one person, of an acute nature, who is practised in the art of begging, will collect three, four, or five children from different parents of the lower class of people, and will give those parents 6d. or even more *per* day, for those children to go begging with. They go in those kind of gangs, and make a very great noise, setting the children sometimes crying in order to extort charity from the people. I had an opportunity of seeing a number of those cases, being a parish officer. They will sometimes have the audacity to come to the Board for relief, which we have four days a-week: there is a great deal of money given in St Giles’s.

They will, if necessary, swear they are all their own children, and being, in general, of Irish parents (wherever the tree falls it must lie), consequently they get some relief till we can make proper inquiry; but, in a very short time, they are found out, for we generally send to the place they come from; but the landlords and landladies are so cunning, they would swear that the whole of those children belonged to them. But we have people of their own class, to whom we are obliged to give something to detect the impositions we are liable to, for we are often imposed upon. A great many of those cases were before me last year as a parish officer; where a woman had been in the habit of receiving 5s. a-week, and at last a woman of her own country came forward, and taxed her that three of the children were not her own. We never saw them again, but they went into other parishes, such as Mary-le-bone, St Andrew's, and other parishes, and sought relief there; they know we cannot remove them. We have had other persons whose families are their own, and when they have a habit of begging, and get a good deal of money by that trade, they will not go to work. But we have complaints from a variety of persons round Bedford and Bloomsbury Square, of those persons being nuisances. And when the parties have come to the Board, we have offered them the house to come in with wife and children:—"No; I expect my husband home very soon, and I will not come into the house." In those cases we get rid of them, but we invariably offer them the house. When they will not take it, then we stop the relief, for I think the house is the best thing for a family of children, and a distressed family of that description."

Mr William Dorrel, inspector of the pavement of St Giles's and St George, Bloomsbury, said,—“One evening I was coming down Tottenham-court Road; a man and a woman, both beggars, were quarrelling. The man swore at the woman very much, and told her to go down to such a place, and he would follow her. I said to myself, I will see this out. She appeared to be pregnant, and very near her time. I went down to Sheen's, I think he sent her there. There was a quarrel, and he said, “I will do for you presently;” and he up with his foot and kicked her, and down came a pillow stuffed with straw, or something of that kind; she was very soon delivered. I have been informed of a circumstance respecting a man of the name of Butler, that went about; he had lost one of his eyes. I am told he had been to sea. He had a dog, and walked with a stick; the dog went before him; he hit the curb-stone. People supposed he was blind of both eyes; he turned his eye up in such a way that he appeared blind. When he returned to his hotel, he could see as well as I could, and he wrote letters for his brother-beggars. This man has been dead two or three months.”

The following is a curious fact, testified by Mr T. A. Finnigan, master of the Catholic Free School in St Giles's.—“About two years ago, there was an old woman who kept a night-school, not for the purpose of instructing children to spell and read, but for the sole purpose of teaching them the street language, that is, to scold; this was for females particularly. One female child, according to the woman's declaration to me, would act the part of Mother Barlow, and the other Mother Cummins; these were the fictitious names they gave. The old woman instructed the children in all the manœuvres of scolding and clapping their hands at each other, and making use of the sort of infamous expressions they use. This led them into the most disgraceful scenes. When these children met, if one entered into the department of the other the next day, they were prepared to defend their station, and to excite a mob.”

This is nearly the whole of the information which is contained in this celebrated Report, with regard to the *arts* which are employed by the beggars of the metropolis.

We shall next consider the estimate which ought to be formed of their *gettings*. On this subject also exists a great bias to exaggeration. Both the Committee, and these witnesses, with certain exceptions, appear to have been led by it.

Probable Amount  
of the Gains of  
Beggars.

Mr Gurney had heard of one individual who boasted that he could with ease earn 5s. a-day; that he would go through sixty streets, and that it was a poor street that would not bring him a penny. Sir Nathaniel Conant, however, being asked, “Did it ever come to your knowledge, what any of the mendicants got?” made answer,—“I have heard very large sums stated, but I disbelieve many of them; I have not known of money being found about them; there are a good many very impudent fellows certainly about the streets, who are very troublesome: those who have been taken up have been seldom found with more than a shilling or two, but I believe some of them had hoarded at home. There was a woman brought before me, when I acted at Marlborough-street, who had a caddy in which there were nine or ten guineas hoarded.”

Joseph Butterworth, Esq. a member of the Committee, stated as an inference from credible information which he had received respecting their mode of spending, that their daily acquisitions would not be less than from 3s. to 5s. each. One particular girl, however, whom he examined, stated that 1s. 6d. was the common amount of what she was able to collect, though on some days she made as much as 4s. or 5s.

Mr Sampson Stevenson was asked,—“Has it fallen within your knowledge what the largest sums are that have been gained by

beggars in the course of the day?—That I have been unable to ascertain, but I have heard them brag of 6s., 7s., or 8s. a-day, or more, according to their luck, as they call it; and if one gets more than the others, they divide it with the rest.”

It appears from the words themselves of the evidence on this point, that it is insufficient to prove anything. It is either the result of hearsay, which hearsay was probably the result of conjecture, not of knowledge; or it is founded on what the beggars themselves have said, when in a boasting humour; that is, when actuated with a desire to make their gettings appear as large as possible, and when, of course, their own declarations about the amount of them are, as evidence, of little or no value.

6. The ground on which the opinion of the great profits of begging seems chiefly to be founded, is the notion which is entertained of their expensive mode of living. It is therefore necessary, before we adduce the remarks which appear to be called for on the subject of profits, to state the evidence which has been furnished on the subject of expence.

The Reverend William Gurney was asked,—“Have you understood that the beggars’ walks are considered as a sort of property?—Yes; I have no doubt of it; they never interfere one with another.

“And that a blind man stationed at a particular place, drives away others who interfere?—Yes; and they have their rules and their carousings: There is a house in Kent Street, where I have seen a great fat man, who moves himself about on a wooden board. When I lived near the Kent road, I have seen eight or ten of these persons go into a miserable house in the lower part of Kent Street. I have seen tables set; one a very long table covered with a coarse cloth, but a clean one; and there was something roasting: I was afraid to go in, on account of this man, who was a very violent one; this man was among the rest; they were going to have their dinner at the fashionable hour of seven. There was a cripple among them, who used to be at St George’s Chapel in St George’s Fields; he used to lie there, and pretend to hold out a pamphlet; he was weak about the loins, and his legs folded under him. I really believe the stories which have been told are not exaggerated.

Have you any opportunity of knowing that the bread they eat is always of the best?—Yes; they would never eat any but the best wheaten bread.”

This evidence proves but little. It is solely by conjecture, Mr Gurney here infers that there was any considerable expence.

Sir Daniel Williams was asked,—“Do you know their mode of life?—There was, in a situation called Church Lane, Whitechapel, some years ago a house of resort of beggars, which was well known to all that class of people in every part of the metropolis, by the name of The Beggar’s Opera: the sign of the public-house was the Weaver’s Arms, but its slang name was The Beggar’s Opera: At the period I am mentioning, these beggars used to resort there of an evening, after having perambulated their different circuits, and lived well; they spent a considerable portion of money, would have hot suppers dressed, and regale themselves with beer, punch, and often other liquor still more expensive.”

How unfortunate, and at the same time how strange it is, that not a single question was put to this gentleman, to ascertain whether he knew this by hearsay, or by observation. We are constrained to conclude that it was only by hearsay; because, had he seen the facts, it would have been natural to say so; and because we are never entitled to make an inference stronger than the premises on which it depends.

Mr Butterworth describes scenes of a similar sort, but has attention enough to accuracy to say, that he is only credibly informed of the things which he states. Not a question is put to him about the sources whence his information is derived; much less are any of the persons who gave it brought before the Committee, who ought not to have been contented with the hearsay, when they might have had the original evidence. Mr Butterworth did, indeed, volunteer (for he was not provoked to it by any interrogation) the description of one person. “I know,” he said, “a sober hackney-coachman, upon whose veracity I can depend, who has frequently conveyed beggars to their lodgings; and formerly, when he plied in St Giles’s, has been called to the public houses which they haunt, to take them from thence, being so intoxicated they could not walk home.” If this information of the hackney-coachman was of any value, how wrong it was not to call the hackney-coachman, and get his own information from himself? According to what appears from Mr Butterworth’s words, he might have conveyed a beggar from those houses, either twice or two hundred times in his life.

This is a very imperfect mode of collecting evidence.

The only person who gives anything that resembles the evidence of his own observation upon the subject is Mr Sampson Stevenson. He was asked,—“Have you had an opportunity of making observations on the character of street beggars?—A great deal; not only before I was officer, but having been led by being officer to look into the matter, I have made great observations, because there was a house

which those kind of people used, not above eight yards from my own house; complaint being made, the nuisance was done away.”

“Have you had an opportunity of making particular inquiry into the character of individual beggars?—I have; in fact, I made inquiry, not only of the landlord, but of some of those who seemed to be of a superior class, or petition writers; that was before I was overseer. A year or two ago this house lost its licence; it not only encouraged those kind of people, but people guilty of felonies, and so on. This threw them into other quarters; and they made their residence at a public-house called The Fountain, in King-street, Seven Dials, where they assembled not only at night, but in a morning before they started upon their daily occupations, as they express it; I have seen them come in. As it is a house, the landlord of which is very respectable, and has a family, I have gone into the bar on purpose to see their manner of going on; that is very near the tap-room: They come at night, perhaps individuals, and likewise those sailors, or pretended sailors, in a body; but those who go one and two together come also: those who are sailors never take anything on their backs like knapsacks, for they only beg or extort money; but the others beg clothing, or anything they can get, and they always have a knapsack to put it in; they will come loaded with shoes and various habiliments, which, being near Monmouth-street, the place where they translate old shoes into new ones, they sell, and likewise the clothing. I have heard them say, that they have made 3s. or 4s. a-day in begging shoes, for sometimes they got shoes that really were very good ones; and their mode of exciting charity for shoes is, invariably, to go barefooted, and scarify their feet and heels with something or another to cause the blood as it were to flow. I have seen them in that situation many times; and thus they sally out to their different departments, but invariably changing their routes each day, for one is scarcely ever seen in the same direction two days together, but another takes his situation. I have seen them myself; I never saw them outside: but I have seen considerable sums of money pulled out and shared amongst them, both collectively and those who go two or three together. Victuals I do not think I ever saw brought into that place, for I rather think they throw it away when they get it. Mostly shoes and clothing, and such things as those, which they sell immediately. They stop as long as the house they use is open, and get violently drunk, and quarrel with one another, and very frequently fight; after that they are not allowed to remain, if they were, the licence would be stopped; and very likely there are houses in St Giles’s where they spend the other part, if they have any left.

What is their general character?—They are people that are initiated in this mode of begging; one teaches another their modes of extorting, for I can call it nothing else but extorting: And they are



of the worst of characters, characters whose blasphemy it is almost impossible to repeat; they will follow you in a street for a length of space, and if they do not receive money, they give a great torrent of abuse, even all the time you may hear them. Most of them have no lodgings. There are houses where there are forty or fifty of them, like a jail, the porter stands at the door and takes the money; for 3d. they have clean straw, or something like it; for those who pay 4d. there is something more decent; for 6d. they have a bed; they are all locked in for the night, lest they should take the property. In the morning there is a general muster below. I have asked country paupers who have come for relief, how they have been entertained, they say, Very badly: they have gone there. The servants go and examine all the places, to see that all is free from felony; and then they are let out into the street, just as you would open the door of a jail, and let out forty or fifty of them together, and at night they come again; they have no settled habitations, but those places to which they resort; but there are numbers of those houses in St Giles's."

Most of the statements in this declaration are very loose and vague. Yet not a question is put by the Committee to ascertain how far the witness had actually seen and heard, and how far he merely conjectured. No; he is allowed to make up a compound of what he saw, and what he conjectured, just as he pleased, and to leave the ingredients without any distinction. In several things he is palpably and grossly erroneous. For example, he supposes that beggars in general throw away the victuals which they collect. It is likely that they should take the trouble of collecting any thing merely to throw it away! It is likely they should throw away that for which they might get money! Besides, the assertion is contrary to what is actually delivered in evidence to the Committee; the fact, that there are places in St Giles's where the commodity is regularly bought, and where those who have collected it go to sell it.

Nothing is more common, in cases of this sort, than to receive a violent impression from the strong cases, however few; to overlook and forget the small cases, however numerous; and from the strong cases solely to draw every inference to the whole. There are strong marks of this imperfection in the evidence which is given in this Report. Mr Stevenson, for example, in the passage which has just been quoted, gives it, without any restriction whatsoever, as a general characteristic of the beggars of whom he speaks, to be very abusive when their applications are refused. Now, this may safely be pronounced as one of the rarest occurrences. The writer of this article may give his own evidence. He has lived above fifteen years in the metropolis: he has walked more than most people, both in the streets of London, and in the roads and fields immediately surrounding it: he never gives anything to a casual beggar: he has

been accosted by thousands of beggars: he cannot at this moment recollect that, in the whole course of that experience, he ever met with one abusive word: but he has a hundred times received a "Thank you, Sir," with a bow or a curtsy from the little boys and girls whom he has refused and repulsed, and to whom it is evident that such a lesson is taught by those on whom their conduct depends. The impostrous beggar, in fact, knows his art too well to lose his temper; and the spirit of the age, so much improved, renders a mild deportment necessary to the success even of the worst employment.

Of this evidence about the great gains of beggars, some parts are directly and strongly opposed to the rest.

Thus we are told that they eat and drink most voluptuously; we are also told that their sleeping places are wretched beyond description. But why should this be, if they were able to afford, in this respect, a higher degree of comfort? Notwithstanding what we are told about their delicate feeding, we are also told that there are eating-houses to which the beggars resort, and in which they buy the scraps of victuals, collected at doors, which the beggars who have collected beyond their own consumption there dispose of. This is no proof that they are generally able to cultivate delicacy.

So slight an exercise of reflection is sufficient to show that the gain of beggars must of necessity be wretched, that one is astonished at the proof which is exhibited of the inattention of mankind, by the number of persons who believe the contrary. According to the principle of population, which supposes a greater number of hands than can find employment, the ordinary occupations and trades may all be regarded as overstocked. The lowest is necessarily the most overstocked of all; because the hands which overflow from the rest are all driven downwards, and the lowest receives the overplus of the whole. The lowest species of occupation is, therefore, of necessity underpaid; that is to say, the wages of the labourer are not sufficient to maintain him with such a family as is necessary to keep the number of labourers, in that occupation, at its existing amount. But it must necessarily be, that the gains of beggars, upon the whole, that is, the gains of an average beggar, are below, and considerably below, the earnings of individuals in the lowest and worst paid species of labour. If it were not, it would follow, that the wretched starving people, employed in the lowest, naturally the hardest and most painful, species of labour, of consent, will choose to receive a small sum with hard and painful labour, when they might receive a larger sum without any labour at all; it would follow that, out of a multitude, amounting to the greater part of the population, all, or all but an insignificant portion, are endowed with this degree of heroic virtue. This would be to suppose a sensibility

to moral considerations which, in the circumstances of an oppressive and degrading poverty, is utterly incompatible with the laws of human nature.

We regard it, therefore, as a matter of demonstration, that the earnings of beggars, as a class, are considerably below the earnings of the worst paid class of labourers.

With this conclusion, however, it is very compatible to suppose, that individuals in the class of beggars, those who have more skill and industry than the rest, may attain to considerable gains; as it is evidently an occupation in which a greater or less degree of skill in working upon the attention and sympathy of mankind must make a considerable difference. The greater you suppose the gains of these skilled individuals to be, the smaller, of course, must you suppose the number of those who make them.

7. We have now exhibited what appears to be the result of all the evidence yet before the public, respecting the actual state of mendicity. The information is exceedingly imperfect, while it is certainly not very creditable to the legislation of our country to be thus ignorant upon such a subject.

It remains for us to present what the existing state of information enables us to discover with regard to the *causes* which operate in this, our own country, to the production of mendicity; in the next place, to explain the *effects* which it is of the nature of mendicity to produce; and, in the last place, to give a list of the operations which appear likely to be the most powerful in effecting a *remedy*—the object and end of the inquiry.

8. With respect to the causes of British mendicity, it will be useful, in the first place, to give what dropped in detail from the witnesses before the Committee.

Causes of Mendicity.

The cause of which they first begin to speak, is what we may call, in one word, *soldiering*, or the unfavourable change produced in the minds and in the circumstances, both of individuals and of families, when the individuals, or those on whom they depend, become soldiers. There is nothing to which the minds of the witnesses appear to be carried more frequently than to this.

Edward Quin, Esq. a member of the establishment for sending the poor Irish to their own country, speaking of the persons whom they send, declares: "Most of those parties have been, I should imagine nine out of twelve, either in the army or navy, and mostly with families, who have no means whatever of returning home, except,

perhaps, a temporary pass, twopence a mile, or a penny a mile; we have known a man, with a wife and six children, coming from the Peninsula, sometimes with 9d. or 1s. or 2s. a-day."

He makes a curious declaration with regard to the Irish, who are already begging in England. The establishment thinks it is better to have *them* in England, as "to send them to Ireland, where there is no provision for them, would be doing them no good."

Mr Colquhoun, the celebrated magistrate, and our grand instructor on the subject of police, being asked for his opinion of the causes of mendicity, said,—“It does appear that there are various classes of mendicants, which are all pretty numerous: First, those that are beggars by profession, who are the immediate objects of the attention of the police. Secondly, those that, from temporary pressure in the winter season, and other seasons when work is slack, or they have any special pressure upon them, fall into want, such as *the wives and families of soldiers*, when their husbands are abroad; or when, from sickness, the head of the family is out of work, many of them have no resource but to ask alms in the streets; that class is forced to do so from the inadequate allowance the parishes can make them, partly arising from their not being parishioners, and arising also from the circumstance of the small sum the parishes can afford to allow, which seldom exceeds the weekly sum required for a miserable lodging. The next class, I am sorry to say, are persons, and *they are pretty numerous, who have allowances from Greenwich Hospital, or who are Chelsea pensioners*; they carry on the trade of begging to a pretty considerable extent. Strangers wander up to town, of which there are a great number, in search of work, with their families, and are disappointed, in consequence of the scarcity of labour, from the supply being greater than the demand; which has been evident to me, and very much so, from attending the very unpleasant duty of appeals against parish rates, and that discloses very often a great number of people out of employ: a number of these who have been wandering up, as well as those stationary in town, do obtain some subsistence, I apprehend, from begging. Those are all the different classes which occur to me at present.”

Mr Davis, the agent by whom all persons taken up as beggars and vagrants in London and Middlesex, and passed to other counties, are conveyed, speaking of the difficulty of keeping them from running away, says,—“But the girls that come up with the soldiers are the worst we have; down at Woolwich or at Greenwich, sometimes I have a whole coach-load brought up at a time, some going one way, some another; if it is possible to get away, they will. Some of them say, We must go out of your district, but we will not promise to go all the way home.”

The *Edinburgh Society*, also, for the suppression of beggars, say, in their first Report,

“The widows, where not charity work-house cases, were generally found burdened with families, frequently the widows of soldiers killed in battle. The married women were either old, or with families, their husbands being labourers out of employment, or soldiers abroad, many of whom had once enjoyed the county allowance as militiamen’s wives, but who had been deprived of that resource in consequence of their husbands having volunteered into regiments of the line. There seems some reason to apprehend that the allowance to the wives and families of militiamen is gradually eradicating that pride which, with the lower ranks in this country, made parish support disgraceful, and the resource only of the utterly helpless and friendless.”

We shall not lengthen this article by pointing out, because they are obvious to all, the circumstances attached to soldiering, by which it necessarily becomes a great source of beggary. These instances are sufficient to prove the impression which has been made by the facts upon the minds of those who have been situated most favourably for observing them.

The next circumstance which is stated by the witnesses before the Committee as a cause of multiplying beggars, is the *state lottery*. It is adduced by more of the witnesses than one, but we must remain satisfied with a specimen. Mr Wakefield was asked, “You have mentioned the lottery, as the second cause; have you any facts to state, justifying that opinion?—I beg to state a very strong instance of an apparently industrious man, who applied to the committee of the *Spitalfields Soup Society* for relief; he was told, that his appearance did not indicate want; and his mode of living was asked. He said he was a “Translator;” which is a business of buying old shoes and boots, and translating them into wearable ones. Inquiry was then made, if he had such a business, why he should then apply for relief; and he answered, as a matter of course, that the lottery was drawing, or about to draw. “Why, how can that affect your business?”—“I have no sale for boots or shoes during the time that the lottery draws.” Inquiry was then made as to the truth of the statement, and it was found to be the case, and that he was an industrious and respectable man; and that it was only on account of the loss of his trade that he was brought into that distress.

“How long ago was that?—Two or three years ago; the money went, of course, either in the purchase of tickets, or the payment of insurances in the lottery.”

Almost all the witnesses who deliver any opinion upon the causes of mendicity, mention the use of intoxicating liquors as one of the greatest. It is needless, we conceive, to adduce the testimony of any individual in this case. The only mistake, of which there is any danger, in respect to this cause, is the ascribing to it more effects than it produces. Though mischievous, in proportion to the quantity, by every drop that is consumed, it will account for but a small portion of the mischief which we behold.

Local demands for temporary labour often affect the poor very unfavourably. A passage already quoted from the evidence of Mr Gurney, shows in what manner a great number of persons crowding to the vicinity of London in the hay season, are driven or seduced into habits of beggary.

One cause of beggary may here be mentioned, which has not attracted all the attention which it deserves. That is, the mode in which we allow certain classes of the people to pay themselves by a sort of begging. In these unhappy circumstances we allow post-boys, stage-coachmen, and various other classes to be placed. One sort of begging is nearly allied to another. Of the same tendency is the practice by which servants take, and by their well known expectations beg, gratuities from their master's guests. All these are degrading practices, which bring down the mind to the mendicant level. We have no doubt whatsoever, that, of this sort of people, a greater proportion than of others, recruit the ranks of mendicity.

Almost all the witnesses represent the want of education, as standing high in the list of the causes of mendicity. Some of them who had used the greatest range of observation, spoke of this cause with extraordinary emphasis; and of the powerful effects of schooling, as giving that sense of honour to the people, which makes them willing rather to die than to beg. We shall not enlarge upon this cause, which would afford materials for a volume. It is enough, in this place, to mark the importance which the mere outward observation of practical men has drawn them to attach to it.

The poor laws stand branded by the witnesses as perhaps the most prolific of all the causes of beggary. The object of the poor laws is the very reverse. They are, by this account, the greatest cause of that which they were contrived to prevent. By making a sure provision for every body reduced to want, all motive for begging was expected to be taken away. The legislator looked only to one thing; where he had a great many things to which he ought to have looked.

Mr John Stafford, the chief clerk of the Police-office in Bow-street, said,—“I think it might prevent a considerable number of persons becoming beggars, if there was greater facility given to the magistrates to compel parish-officers to relieve poor persons who are in want, and unable to work or provide for themselves; for, as the law stands now, if a poor person comes to the magistrate to complain that he is in a state of distress, and does not know what to do to obtain relief, that person must apply to two overseers of the poor, who may refuse relief. The magistrate must then summon the two overseers to appear before him; and it is not until after they appear, or have made default, that he is enabled to make any order upon the parish-officers to relieve those persons; so that, in cases where the parish-officers are from home, or when they live at any distance, it requires frequently a day or two before a return to the summons can be procured; then, unless anything can be done in the meantime, the paupers have no means of obtaining relief, but by soliciting charity.”

Sir Nathaniel Conant, the magistrate, describes the same evil in nearly the same words. Respecting the beggars produced by this cause he was asked,—“Do you think they constitute a large proportion of the beggars in London?—I cannot state that; there are a great many, almost all the persons not actually known in a parish, who have occasion to apply for parish relief, apply in their last extremity. They are shifted about from post to pillar for two or three days, before they can obtain relief. They beg at the corner of a street; they are taken up by the watchman; and when they are found to belong to a parish, they are let out, instead of being taken to the overseers. I conceive a good many of those who run after the passengers are in that situation. I conceive that, if they could go to the parish-officers at the moment of casualty, they would not be in the streets.

On this head, however, the information afforded by Mr Martin is the most important. It appeared by the Inquiry, of which he was the principal organ, into the State of Mendicity in the Metropolis, that about one half of the beggars in the metropolis in reality belonged to the parishes in the metropolis, and were there entitled to relief. This is most assuredly, in the account of English mendicity, a very extraordinary fact. It is worth while to give the proportions, as they exhibited themselves upon this Inquiry:

CLASS I. PAROCHIAL INDIVIDUALS.

Of Home Parishes; inclusive of about	1,384 children, about	2,231
Of Distant Parishes; inclusive of	489 children,	868
Total Parochial Children, about	— 1,873	—
Total Parochial Individuals, about		3,099

CLASS. II. NON-PAROCHIAL INDIVIDUALS

Irish; inclusive of about	1,091 children, about	1,770
Scotch; inclusive of	103 children,	168
Foreign; inclusive of	29 children,	59
Total Non-Parochial Children, about	— 1,223	—
Total Non-Parochial Individuals, about		1,997
	—	
Total Children on the 2,000 cases, about	3,096	—
Total Individuals on the 2,000 cases, about		5,096

Mr Martin observes, "It may appear extraordinary, that the parochial poor should be found to furnish above one half of the general mass of beggars in the metropolis. There are, however, two causes particularly affecting the parochial poor, which have doubtless contributed to reduce many of them to a state of beggary; viz.

"1. The practice, generally prevailing in the metropolis, of refusing relief to paupers out of the work-house; and,

"2. The want of a provision by law, to direct, in particular cases, adequate relief to parochial poor, not resident within the limits of their legal settlements."

It was observed to him, "If it be real distress and not imposture, it should appear that the proper place to apply for relief would be the place of their own settlement?—It is astonishing how ignorant the poor people are. A great many live in a contiguous parish to that to which they are chargeable, then they are afraid of the law which directs they should be either imprisoned or whipped, or removed home, in case they apply for relief; and some, who have been in better conditions in life, are very delicate in making their distresses known at all.

"Have you ascertained that?—Yes; even when I have written, I have frequently found the testimony in some degree corroborated I have received before; there may have been a variation in a few circumstances, but the general statement has been often true in those cases with which the committee would be most surprised. A woman mentioned a great deal of property abroad (I think in one of the West India Islands) some time ago; I found there was ground for a great part of what she said, but not the whole.

You think those persons did not know where to apply, till you informed them?—In many instances they did not know how to



apply, or they have been so intimidated by the letter of the law they were afraid.

Do you think a large proportion of those who applied, became beggars and applied for relief to you, because they did not choose to go to their parish?—I think there were some, but their motives for that were very various; in many cases it was entirely timidity.

You have mentioned in your printed letter of 1811, as one of the causes for beggary, the want of a provision by law to direct, in particular cases, adequate relief to parochial poor not resident within the limits of their legal settlement; what do you mean by that?—I mean, that supposing there is a man belonging to Liverpool who is a coachmaker's smith for instance, or in some employ in London, and that he falls into temporary distress by sickness; the distress of that family is enhanced, and often goes to the excess of making the wife pawn even the working tools of her husband: if they could immediately go to any magistrate, and claim the necessary relief, to be afterwards refunded by their parish, that distress would be prevented."

To Mr Colquhoun, the magistrate, it was observed,—“You have given it as your opinion, in your *Treatise on Indigence*, that among the causes of vagrancy is the hardship and dread of removals?—I look upon the removal as one of the greatest evils attaching to the pauper system; if that could be done away by legislative regulation, so as to let the burthen fall equally upon the country at large, that would do more to reduce the rates than any thing else: it is a lamentable thing. I know in the year 1800, that in Braintree and Bocking in Essex, although the average of the whole country was not above 5s. 6d. in the pound, they paid actually 40s. in the pound for poor rates, which amounted nearly to a disinherison of property, in the hands, perhaps, since William the Conqueror, of some of the proprietors; and I know of property which would let for L. 200 a year in any other part of the country, letting for L. 20: And I remember another instance, of a person who had established a nursery; he was rated for that nursery L. 70 a year; it had cost him L. 800; and the question with him was, whether it would not be better to abandon it than sustain the burthen. Wherever you see in England the finest surface of country, such as Hertfordshire, and all the southern counties, there you have the greatest portion of poverty: In Sussex, by the last returns, it was 25 in the hundred, that was, a fourth part of the population; in Cumberland, five; in Lancashire, where we should expect more poor than any other, from the fluctuation of labour, 17.

“Do you conceive, that the system of removals at once adds considerably to the expence of the rates, and is a great grievance

to the morals of the poor?—That it degrades the poor to a very great degree is certain; and that it adds to the rates, but mostly in the metropolis. The managers of the poor are very willing, thinking to get rid of them in a short time, to maintain them, rather than send them to a remote quarter; if it is within 20 or 30 miles, they will remove them, but if it is 200 miles off they do not go to the expence.

Then they must have the paupers perpetually upon them?—They are in hopes of soon getting rid of them; they often go into the house from the sickness of the head of the family, or from various casualties; they are in hopes things may come round.”

Of the existing system of extraordinary laws concerning the poor in England, that part which relates to the whipping and imprisoning of persons found soliciting alms, is represented by the witnesses as one of the grand sources of evil; because it is a law which the present state of humanity will not allow, in ordinary cases, to be executed. The whipping is regularly and totally disused. The putting a wretched being into an English prison is not a way to elevate his mind, and place him above the base thoughts of beggary. It is likely to make him more regardless of all mora, very often of all legal restraints; and where he went in a beggar, to come out a thief. Upon the atrocious cruelty of driving a wretched creature to beggary, in the way explained above, by refusing prompt assistance, and then whipping or imprisoning for an act of such necessity, no comment is required.

Into the mischievous tendency of the principle upon which the system of the English poor laws is built, holding out a premium for worthlessness, and for that excessive multiplication of the people, to which a state of general wretchedness is attached, we shall not at present enter. It will come to be considered, where the poor, and the policy regarding them, become the subjects of discussion. What, in this place, chiefly calls for attention, is the course of procedure and detail, in the hands of the parish officers; not as a system of waste and of oppression upon the contribution, nor as a system of tyranny and vexation to the paupers, but as a mode of making beggars. This they do, by their modes both of giving and withholding relief. They give it under such circumstances as to make people fly from it to beggary; they withhold it in such a manner as both to compel and seduce them into beggary. Mr Gurney was asked,—“What is the police establishment of your parish?—We have four beadles and six constables, besides special constables occasionally; but there is a great terror and alarm on the minds of the parish officers of all the parishes, lest the work-house should be overstocked, and lest the parish should be burthened; and, as long as persons get their livelihood without

looking to them, though it is by pilfering, unless they actually know that they are pilfering, they take no notice. I have often thought that if many of our poor laws were imperative, instead of permissive, it would be useful; and I am afraid many of the parish officers are ignorant of their duty, as well as the beadles and constables.

“Do you know whether persons confined in the work-houses, and relieved there, are ever let out of those work-houses for the purpose of begging, in the course of the day?—They go out on the Sunday generally, and I believe many of them beg, indeed I am pretty sure of it.”

As a cause of beggary, it is necessary here to mention *early and improvident marriages*, and all those other proceedings which tend to increase procreation beyond the measure of subsistence, and thus to keep the great mass of the people sunk near to the level of mendicity,—a proximity from which, by the slightest accident, many of them are continually falling down to it altogether. That this is the grand medium through which beggary is produced, it is needless to offer any proof. The mode in which the principle of population, when injudiciously encouraged, instead of being wisely restrained, operates to the degradation of the people, has been already, in part, explained; and it will be still farther elucidated in a subsequent article of this work.

Among the causes of beggary in England, one may be regarded as pretty remarkable, that is, *Ireland*. Ireland is one of the greatest of all the causes of beggary in England. Considerably more than one-third of all the beggars in the metropolis appear to be Irish. Of all human beings in any part of the globe, the mass of the Irish appear to be in the most deplorable circumstances, whether their moral or physical situation be considered; and that under a government regarded as the best in the world. The art of making governments efficient to the purposes of government is, therefore, still but imperfectly understood.

Some of the witnesses, Mr Colquhoun in particular, bring forward a very important subject. They give the state of the criminal laws as one of the chief among the causes of mendicity.—“About 5000 individuals,” he says, “are vomited out of the jails, without character. These people come on society, without any asylum provided for them. If such an asylum could be established, I think, in a very short time, it would relieve the town of a great many of the beggars.” The operation of the penal laws upon the moral state of the people is a field of inquiry far too extensive to be introduced into the present article. That an ill-contrived system of correction for offences may degrade the minds of a people, destroy their

sensibility to moral considerations, render many of them incapable of that self-esteem, on which the abhorrence of becoming a beggar is founded, nobody can help perceiving. That a great part of the British system of penal law is infected with this tendency, has long been the complaint of discerning and philosophic minds. The public is not a little indebted to the popular writings of Mr Colquhoun, for the degree of attention from men in power which it cannot long be hindered from receiving. Another place in this work will be found for giving to the subject that degree of elucidation which it so highly deserves.

Of all the causes of beggary, *war* may undoubtedly be assumed as one of the most extraordinary. We have already seen in what manner the people converted by it into soldiers swell the ranks of mendicity; but this is only a small part of the deplorable effects. It brings the condition of the whole of the labouring mass down nearer to the mendicant level; and, of course, a new and additional portion down to it altogether. This it does by the consumption which it produces. Exactly in proportion as money is spent upon war, exactly in that proportion is the means of employing labour, that is, of buoying up the condition of the people, destroyed; exactly in that proportion must the people, *cæteris paribus*, sink. These are conclusions which may be regarded as scientific, and which will never be called in dispute except by those who are ignorant of the subject. It is not impossible for war to be accidentally accompanied with circumstances which counter-balance this tendency, even in respect to wealth; but this is exceedingly rare. The great men very often gain by war: the little almost always lose.

There is one other cause of mendicity, which it is incumbent to mention, because it really includes all the rest; but it can be very little more than mentioned, as it is far too extensive for elucidation in this place. This cause is *legislation*,—*bad legislation*. An argument, which, though it is too general deeply to impress a mind unaccustomed to generalize, is in fact almost demonstrative, may be given in a few words. Perfect legislation, a legislation capable of turning to the best possible account the command which in this world man possesses over the good things of life, would so conduct society, that, as there would be scarcely any individual who would not, by his moral qualities, deserve, so there would be not one who would be left without the means of corporeal well-being. If this proposition be correct, it follows, as an unavoidable consequence, that every beggar who exists is, in some way or another, the effect and consequence of bad laws. Exactly in proportion as we can make our laws do more of that which all laws ought to do, we shall diminish the number of those who approach the level of mendicity; and at last dry up every source from which it springs. And in the

meantime, exactly in proportion as a greater number of the mass of any people are either at, or approach to, the level of mendicity, in that proportion infallibly may the laws be pronounced to be bad.

9. We have now stated what the present occasion appears to require, on the subject of the *causes* of mendicity. We proceed to the *effects*, which, being a much less complicated subject, will be much more quickly dispatched.

Effects of Mendicity.

The effects may be considered as bad, first, in respect to the beggar himself; next, in respect to the community.

With respect to the beggar himself, they are bad exactly in so far as he is less happy in that state, than he would have been in any other in which it is in his power to place himself. If it was not in his power to have placed himself in a situation above suffering to a greater degree for want of the means of well-being, he suffers nothing bodily; perhaps he even gains, if the bodily pains of begging are less than those of the labour to which he would have been deemed. He may suffer in his mind, by the sense of degradation. But when that ceases to be an object, this pain is at an end. In as far as he is likely to be more intemperate as a beggar, he injures his health, and destroys the pleasures of sympathy. And in as far as he is less religious than he would otherwise have been, he is a loser in respect to the hopes which religion bestows.

If he has fallen to beggary, by his misconduct, from a superior state, in which he would have enjoyed more happiness; of this loss, whatever it is, beggary is not the cause, but the previous misconduct. The question is not, what he would have been, had he not lost what he has lost by misconduct, but what, having made that loss, he can now do that would make him happier than begging. If a mind is well educated, and its sensibility to moral considerations acute, almost anything would render it happier than begging. If it is in the brutal state of an uneducated mind,—a mind which has never had its moral sensibility sharpened, few things would render it happier that did not afford it in greater plenty the means of sensual indulgence and ease.

These, such as these, are the considerations by which we should endeavour to estimate the loss of happiness which beggary produces to the generality of beggars *themselves*.

Let us next endeavour to estimate what is lost through it by the community to which the beggar belongs.

There is, first, the loss of his labour, provided he was able to work. He consumes without producing. In this particular he is equally mischievous with every useless soldier, every useless functionary of the state, and not more. Not so much, indeed, as often as their consumption is greater than his.

If the beggar is unable to work, the public, in a pecuniary sense, loses nothing by his beggary, because, it being not proposed to let him die of hunger, he would have been maintained in all events.

What remains, exclusive of moral effects, is only the annoyance which is given to the people at large by the solicitations of beggars; by conveying to them disagreeable impressions through their eyes and their ears. We shall not reckon this for absolutely nothing. But sure we are, that all the amount of pain which in a year is produced in this country by that cause is very inconsiderable. There are exhibitions of sores and filth, and a degree of importunity which we can conceive amounting to a pretty serious nuisance. But these things, we see, it is very easy to prevent.

We come now to the moral effects produced by beggary, which, except in regard to the beggars themselves, in which respect they have been considered already, consist entirely in example; in the tendency which the immorality of beggars has to produce imitation.

But it is the privilege of beggars that their vices are not contagious. The vices of the great infect the whole community. The vices of beggars infect nobody but themselves.

We do not think it is necessary to pursue this subject. The evidence appears to be satisfactory, that beggary, when considered as a *cause* of evil, turns out to be a cause of no great importance. Of the inconveniences sustained by the nation, a very small portion can be traced to beggary. For even the loss of labour, which is the main article, is very inconsiderable, as the number of able-bodied mendicants is very small, compared with that of the very young, the very old, the mutilated, and diseased.

In the case of beggary, as of many other results in an imperfect state of the social union, the disapprobation and hatred of the mind are very apt to be misplaced. We abhor beggary, but it is the *causes* out of which beggary springs, and from which, along with begging, infinite other evils arise, that deserve almost all our abhorrence.

10. We come now to consider the remedies which may be applied to the disease of beggary; the *facienda*, in short, the things to be done for its removal.

Expedients for  
suppressing  
Beggary.

The first and most natural course would be to go to the list of causes; the excess of multiplication, and consequent poverty of the mass of the people; the want of education; the poor laws; the criminal code; wars; and in one word including the whole, bad legislation. Take away the causes, and the effect immediately disappears.

As among the causes of beggary, however, there are some, and these among the most powerful, which cannot be easily or speedily removed, it remains to inquire what, in the meantime, can be done to check their operation.

The first question is, what can be done by the operation of the existing laws.

The following testimony was given by Sir Nathaniel Conant:

“You think if there was a strict execution of the laws now in force, the streets might be cleared of the beggars?—Certainly.

In what way would they then be disposed of under the existing law?—If they were taken in the act of begging in an individual parish, they must be sent into the Bridewell for seven days at least; then a pass must be made to the place of their last settlement; if that is not found by the examination of the Justice to his satisfaction, he sends them into the place of their last residence, the place where they were taken; that parish is to fight against them as well as it can, that is, by bribery, if it can be called so, by giving them relief and letting them slip out of doors.

What becomes of them then?—Then they begin again; the existing law will clear them, but it is only for a day.

Then the laws, as at present constituted, are not sufficient for clearing the streets?—My answer to that would be, that the nature of such a town as this is such, that they cannot be cleared in those intervals which occur between the application and the relief given; there will be distress and hunger, which will drive the paupers to mendicity.

Then, if they are passed to a parish near to London, they may be engaged in begging again in eight and forty hours?—Yes, in less than that; and where they are passed to distant parishes, there are perhaps only two or three farms; the occupiers of those farms are very unfit to have the care of such persons, perhaps, from their age or their sex, and very unwilling to have such pensioners.

Can you suggest any alteration of the law, which would have the effect of clearing the streets?—I think that might be effected by a

strict execution of the existing laws; but that would introduce such a degree of severity as to a considerable part, not perhaps half, that it would be quite as great as the laceration of the mind of the passenger on seeing such objects.

The question refers to the case of persons returning to their parishes, and then beginning begging again?—The nature of the legislation of England is, that it always goes upon the idea of the whole, and not of a crowded metropolis; and it supposes the profligacy or industry of each individual to be known.

You were understood to state, that when a person was taken up, he was sent to Bridewell for seven days, then passed to his parish, and that, if that parish was in London, he then returned to a state of mendicity. Can you suggest any alteration which would prevent the beggar who had been in Bridewell, and who had been passed to his parish, returning to a state of mendicity?—Parliament might compel the parish to maintain them until they are enabled to obtain their own livelihood, according to their age, or strength, or sex; but nothing less than that would do, for the person goes out without clothing sufficient for a decent occupation.”

Sir Nathaniel had stated, that he did not give orders for taking up the beggars with all the strictness of the law, and gave the following as his reasons:—“That if I did give those orders this morning, I should have those that are impostors all run away into the next street, only so to elude the people to whom I gave the directions; and I should have blind and imbecile creatures, who had no claim at all upon the justice of the parish in which they happen to be taken, though that parish would, in the first instance, be made liable to them, if I passed them into that parish after sending them to prison for a week, which the Act of Parliament necessarily includes; for no pass can be made till they have been in prison a week. If they were passed into that parish, the parish-officers would, in their policy, and in justice to their neighbours, say, “Why do you come here? you come here as a beggar, and have been punished; here is a shilling, go about your business, and get yourself conditioned in some other place.” They would walk down below the Tower, and beg there for another week, and then get up again into Westminster, and continue the practice of begging, having no settlement perhaps.

“Supposing the magistrates were to follow the letter of the law, might not they be all removed from the neighbourhood of the metropolis?—I think they might; I think the practice established at Edinburgh might be practised here, *but with dreadful cruelty to two-thirds of the persons subjected to that mode of subsistence.* In



Edinburgh, they act with extreme severity to every person found in a state of mendicity.”

Sir D. Williams gave the following testimony:—

“Do you take any steps, through the medium of your officers, to take up beggars?—We have given instructions generally to take up all beggars; and it has been done also by several parishes in the neighbourhood, who have directed their beadles to take them into custody.

Is it your opinion, that if the same mode was pursued by the other magistrates in different districts, that many beggars would be prevented from pursuing that course of life?—There can be no doubt of it.

You consider the present laws sufficiently strong, if those laws were put in force?—No doubt.

And that if the magistrates were to put the law into force as it now exists, public begging might be prevented?—There can be no doubt of it.

You consider that the laws might be so far put in force, as to clear the streets of beggars; have the goodness to state to the committee the process which takes place with the beggars found in your district?—Any person has a right to capture a beggar in the act of begging; he is to take him before a magistrate; the magistrate, by the confession of the party himself, or the oath of another party, is bound to pronounce him a rogue and vagabond, and send him to the House of Correction for the county of Middlesex; there he remains seven days, and is passed by the pass-master of the county to the next parish leading to his settlement, and so forward till he arrives at the place of settlement; and for which the person capturing the mendicant is allowed by law 5s.; there is a premium for it.

Supposing the parish to which he actually belongs remains within your district, or is that in which he is found begging; there is nothing to prevent him, on his return, resuming the same practice of begging?—The law will prevent that, by sentencing him as an incorrigible rogue, to six months imprisonment, if he has been pronounced a rogue and vagabond under the first charge.

Are those steps frequently taken by you?—They are brought before the Court, and the Court adjudges them to a further imprisonment.

How long do they remain there?—Seven days in the first instance, and six months in the second.”

Patrick Colquhoun, Esq. to whom, primarily, his Country is indebted for all the knowledge it has recently gained, and all the improvement it has made in Police, delivered the following testimony:—"Of late it is inconceivable the number that have received passes from the magistrates to go to their different parishes; which we give now, though directly in opposition to the Act of 1792, which requires they should be previously whipped or imprisoned a certain number of days, and then passed as vagrants to their parishes; that Act has been found impracticable. It arose from the Lord Mayor and the magistrates giving innumerable passes, of which I am afraid many make the very worst use; but we are very glad to get them out of the town, that they may be subsisted in the quarters to which they belong, or where they have friends; in that way we are relieved of a very considerable number, who must otherwise beg in the streets.

"Do you conceive that the laws as they at present exist relative to beggars, if put into due and strict execution by all the magistrates in London and its vicinity, would be sufficient to clear the streets of beggars?—I do not indeed; there have been attempts made at different times, and they have all failed. I think the Act of 17th Geo. II. totally inadequate to the purpose; it is loosely worded; it is not at all adapted to the present state of society; and that Act ought to be revised from the beginning, and adapted to the present state of society.

Do you mean individual and separate attempts?—I mean to say various attempts have been made, by taking up the beggars; the expence is enormous on the county rate. I believe at one time there was more than L. 100 paid to the office I belong to, in the course of the sessions.

If all the magistrates were to unite, the magistrates of the city of London, the magistrates of Westminster, and the magistrates of the vicinity, to put the laws in execution, do you think that would be successful?—As far as my judgment goes, if the whole were to join their efforts it would not succeed."

The beadles complain that when they take up beggars the magistrates discharge them. One of the beadles of St George's, Bloomsbury, said, "I took up a man yesterday that I observed knocking at every house, regularly, in Bloomsbury-square, two or three days ago. He was again yesterday taking every house regularly; I waited till the servant came to the door, and he then put a petition into her hand; I took the petition from him, and took him to the watch-house. I found three copies of the petition upon him. I took him to the office in Hatton Garden, and the magistrate discharged him.

“Did the magistrates examine you upon your oath?—They did; and I told them I had removed him out of Bloomsbury-square, three days before, in consequence of great complaints of the inhabitants, that those persons were suffered to be about.

You stated upon your oath, to the magistrate, that you believed him to be a common vagrant?—Yes; he paused a quarter of an hour upon it; and he said, the prison was so full of people that he thought it not right to commit him there. He talked of sending him to the New Prison, and the clerk said it must be the House of Correction. I told him I should not object, if he thought proper to discharge him, which he did. The magistrate told me, if I saw him again, I might bring him. I could have taken four beggars up on Sunday, but if we take them down they discharge them.

That is the practice of the magistrates?—It is. I have taken many and many down, and they have been discharged; and my brother beadles will give the same testimony.”

Mr Mills, a gentleman who had been Overseer of the parish of St Giles, stated, “We used to take them to the magistrates, and take the recourse the law provided; but, in fact, the magistrates themselves would have loaded the prison, they were so numerous. In our parish there was no end to the commitments which would have taken place. I have sat with my brother officers from two o’clock in the afternoon till eight in the evening, constantly relieving those persons.”

It thus, we think, sufficiently appears, that the law for the compulsive prevention of beggary cannot be executed, or, more accurately speaking, it is unfit for execution; it cannot be executed without producing a much greater quantity of evil than it seeks to remedy; and therefore the magistrates take upon them, without scruple, to violate it, and leave it without execution.

Of the things to be done, one, then, most obviously suggested, is a *review of the existing laws* which relate to beggary; the repeal of all the enactments, which are ill adapted to the object in view; and the passing of other enactments which may possess the greatest practicable degree of adaptation and efficiency. Into the detail of these enactments, it is not here the intention to enter, because they must embrace the provision which is made for the destitute; the questions relating to which, we reserve for the article on the Poor.

Another of the remedial operations, importunately demanded, is to make provision immediately for the careful and efficient education of the whole mass of the population, down to the lowest individual. On the potent connection between good education, and that sort of

conduct which keeps people above the level of mendicity, as well as on the mode in which education should be provided, our sentiments will be given with more propriety on another occasion.

As the tendency in population to increase faster than food, produces a greater number of individuals than can be fed,—as this is the grand parent of indigence, and the most prolific of all the sources of evil to the labouring portion of mankind, take all possible measures for preventing so rapid a multiplication; and let no mere prejudice, whether religious or political, restrain your hands in so beneficent and meritorious an undertaking. It would be easy to offer suggestions on this head, if we were not entirely precluded from going into detail. It is abundantly evident, in the meantime, that indirect methods can alone avail; the passions to be combated cannot be destroyed; nor, to the production of effects of any considerable magnitude, resisted. With a little ingenuity they may, however, be eluded, and, instead of spending themselves in hurtful, made to spend themselves in harmless channels. This it is the business of skilful legislation to effect.

In cutting off other causes, cut off Ireland; we do not mean literally; but what we mean is, that the mode of governing Ireland should be so reformed, as to make it able to send to England something better than a mass of beggars nearly equal to all her own.

Make a law to prohibit all modes of paying the people, which have an affinity with yielding to the cravings of a beggar.

Take all proper methods of rendering universal and preserving alive that exquisite moral sensibility, which is possessed by so great a portion of your population, and makes them willing to die of hunger rather than beg.

Provide a proper asylum for rearing to virtue the children of beggars; and let no person who begs be allowed, on any terms, to retain power over a single child; that, at any rate, you may prevent any portion of the young from being reared to beggary. This is an easy, obvious, and most important part of a good plan for lessening or extinguishing the evil of beggary.

Reform your criminal code; and cease to deal with offences in such a fashion, as to make the indigence of your people greater, and the virtues less, than they would otherwise be.

Under the head of improvement in the criminal law, it may be fittest to speak of that indispensable instrument for the cure of beggary,—a system of *Reformatories*, or houses in which bad habits may be eradicated and good acquired. On this point, some of the

witnesses, whose testimony is entitled to the greatest respect, used a language unusually strong. The chaplain to Bridewell Hospital said, "I have long thought, *seeing so much misery as I have done*, that, as to remedy, very little could be done, unless you deprive the beggars of the pretext of begging; *that* that could be only by a *large penitentiary system*.

"Has it occurred to your mind, that there could be a *Penitentiary* large enough to include all those persons?—I have not proposed one for the whole town, but four or five at different parts of the town.

Did you propose this for persons having settlements in the country, and others?—Yes; that every person knocking at the door might have admission, and that no person should have a pretext for begging in the streets. If a committee was sitting at either of those Penitentiaries, and work was going on at them, that would relieve from part of the expence; the *great advantage that appears to my mind is, the investigation of each case*. I do not know any place in town where that can be done. I have frequently thought, that unless there could be such a system as that to which I have alluded, the clearing of the town is hopeless: The great mass of misery which floats in this metropolis, I am fearful can never be removed, unless there is such a penitentiary system as that to which I have alluded: the two societies established for the reception of such persons are far too confined.

If one, two, or three large ships could be fitted up with good accommodation, do you think such places could be substituted for penitentiary houses, till the parties were disposed of?—I never but once saw any thing of the kind, and that was at Sheerness some years ago, when I think the sailors' wives lived in two large hulks drawn up on shore; but there appeared to be so much misery and wretchedness, and they were so close and confined, that I did not form a favourable opinion of it.

The question supposes the ships to be fitted up in an airy manner, with convenient apartments, that would receive nearly as many, at little or no expence to the public, as the Penitentiary House now building at a very great expence?—The penitentiary houses, as proposed by me, would include workshops and rope-walks, and so on."

Mr Colquhoun was asked,—“Do you think there could be any law devised by which there could be a possibility of furnishing relief to that class of persons who may be properly called beggars, by which they could be removed out of the streets?—I think it is perfectly possible to lessen the evil in a very considerable degree, but it must

be by legislative regulation, and at pretty considerable expence. The situation of this town, to which so many wander up, is such that there must be an asylum for beggars, with a species of work-house, or what I would call a Village of Industry, that would apply to all. That struck me so strongly in the year 1792, that I wrote a paper on the subject; and I believe if the war had not broken out, it would have taken place. About 5000 are vomited out of the jails, without character; those people coming on society, it would have been a most desirable thing to have had an Asylum for them; but it was so gigantic a thing, that that prevented its being carried into effect. If such an Asylum could be established, I think in a very short time it would relieve the town of a great many of the beggars; but the magistrates must necessarily have some place to send them to.

“The Committee have been informed, that, within these few weeks, as is customary at this season of the year, there have entered London about 5000 persons of the labouring class, probably many of the mendicant class?—I cannot speak to the number; but I have no doubt of it.

Would your plan of an Asylum go to the relieving those persons?—It would go to the relieving all persons who are mendicants, or had lost their character, by being committed for petty offences to the different prisons of the metropolis.”

This, undoubtedly, is the right idea. Provide a system of Reformatories as perfect as they might easily be made, and you may accomplish every thing. Deprive yourselves of this important instrument, and you can do but little to any good purpose. A more appropriate place for describing this measure in detail, will occur more than once hereafter. We know, however, only one good plan, and that is before the world already, in Mr Bentham’s *Panopticon*. Apply this, with the system of management which he has contrived for it, and if you do not extinguish the evil of pauperism, in all its degrees, you will undoubtedly reduce it to its lowest terms.

In the testimony given by the chaplain of Bridewell, as we have seen in the preceding quotation, he mentions, “the investigation of each particular case of beggary,” as an advantage of the highest possible kind.

Mr Butterworth said,—“I conceive that no plan of relieving the poor is so effectual as that of visiting them at their own habitations; and even then, inquiry must be made of their neighbours, to know their real characters, as persons in the habit of begging are adepts in the art of imposition.”

Mr Cooper was asked,—“In what way do you think poor families may be mostly benefited by the exercise of benevolence?—I know of no way more efficient than that of their being visited and relieved at their own habitations; and, in fact, as far as my observation and experience go, there is no certainty whatever of any donation being properly applied, without investigating the circumstances at their own habitations.”

We deem these testimonies of great importance; as we are convinced, that what is here recommended, a distinct investigation of each individual case, rendered co-extensive with the population, would be attended with innumerable advantages.

To render this investigation practicable, without enormous trouble, and, indeed, to render it possible with any tolerable degree of exactness, another and a most important operation is required, subservient to an infinite number of good purposes; and that is, a proper system of registration. The whole country should be divided into sections, containing each a moderate number of inhabitants; the names, residences, and descriptions of the inhabitants of each section should be entered in a public record; and means employed (as much as could be without incurring any serious inconvenience of a different sort) for placing the people of each under the full inspection of one another. How important a check this would be on improper conduct of every sort is intuitively manifest. How easy, too, it would render the business of visitation, and what perfect knowledge it would afford of the circumstances of each individual case, it is impossible to overlook.

The importance of registration was not unknown to some of the witnesses before the Mendicity Committee. Sir N. Conant observed,—“In a town like this, where no creature knows the inhabitant of the next house hardly, or their character, and especially among the poor, the overseers of parishes ready enough at all times to spare if they can, by any kind of indulgence (I was going to say) the parish purse, are always willing to put at a distance every person who applies, being entirely ignorant either of their character or of their necessity. Until they are forced to take them in, and give them relief, they seldom do, unless they know them, and they know very few of the inhabitants even of their own parish, in the very nature of the thing; this applies to any condition of life, and more especially to the poor; that introduces another class of mendicants, which are people deserving of parochial relief, in the interval before they get it. If the paupers apply to-day to the parish officer, being settled in their parish, they are not known to him; and the parish officer either says, he shall make some inquiry; or, that they look strong and hearty, and able to maintain

themselves, or that their families may be imposed upon them, and that he shall inquire and see, and they may work.”

We find Benefit Clubs, and Savings Banks, held forth as means for the preventing of beggary. But we question, whether the sort of people who apply to savings banks and benefit clubs are apt to become beggars. We see, that those among the common people, who have had any moral feelings implanted in them, will in general die rather than beg. We see also, that the having a provision already made is no security against mendicity, when the mind is worthless; because many of the Greenwich and Chelsea pensioners beg, and are among the most troublesome of all beggars. It would surely not be difficult to find a better mode of paying these pensioners, so as to afford a check upon their vices. Some way might also be found of punishing those parishes, who, when a beggar is passed to them, instantly let him out again, to prey upon the public. When a beggar appears, if it is resolved to suppress them altogether; or when he acts in any such manner as to create a nuisance, if it is only proposed to suppress what is noisome about them; it should always be easy at the moment for any passenger, or observer, to put in execution the means of taking them up. For this purpose, it would be necessary that a constable or beadle authorized for this purpose should be in every street, and his residence rendered conspicuous to all the passengers.

Under the head of remedies for the disease of beggary, it is necessary to speak of societies for the suppression of it. In the first place, it is abundantly evident, that an assemblage of private individuals have little power over the chief *causes* of mendicity; over wars, for example, excessive procreation, and bad legislation. They can only endeavour to counteract, by such powers as they possess, the operation of these causes. They may, indeed, contribute *indirectly* to the removal of the causes; namely, by holding them up in their true colours, to the legislature, and to the nation. This, it may be observed, in one of the ways in which they may effect the greatest quantity of good; may, in fact, advance with the greatest expedition to the accomplishment of their own end. With the means possessed in this country of operating upon the public mind, and the influence of the public mind upon the legislature, a society of gentlemen, rendered conspicuous by their union, and the beneficence of their proceedings, might, by representations, sufficiently persevering, and sufficiently strong, more especially if the operation was not confined to one society, but common to a number of societies, in numerous parts of the country; effect almost any improvement of which the nature of the case would admit.



The first idea of a Society of this sort, as far as we know, was started in Edinburgh, and there carried into execution in the year 1813. The sole object of this society appears to have been to try what they could do for the cure of beggary, under the existing laws. There is no evidence of their having elevated their views to the thought of operating through the public upon the legislature, and through the legislature upon the sources from which mendicity flows.

Society at  
Edinburgh for  
the Suppression  
of Beggary.

In the sphere which the *Society of Edinburgh* have chalked out for themselves, it is impossible for us not to bestow upon their proceedings the highest encomiums; since they have put in practice, as far as it lay within their power, the principles which we have here recommended as the groundwork of reform.

In the first place, the *Visitation principle*:—"The basis of the whole plan," says their Report, "was to be investigation, and personal inquiry."

Secondly, the *Registration principle*:—"For the sake of facilitating the task of making such inquiries," continues the Report, "and the labour of superintending the poor, as the only means of preventing fraud and imposture, it was necessary to divide the city into separate wards or districts." From the want of legislative powers, however, it is abundantly evident, that they could perform the work of registration very imperfectly; were obliged, in fact, to content themselves with the registration of those persons exclusively who applied to them for relief; and instead of placing them effectually under the superintendence of the district itself, to take the labour of superintendence wholly upon themselves. If the business of registration, thus imperfectly performed, is yet an important instrument, how much would that importance be increased, if it were performed completely by legislative regulation.

Thirdly, the *Reformatory, or Employment principle*: The society is divided into four committees, of one of whom the business is to find employment for those of the applicants who are able to labour. It is evident under what prodigious disadvantages they carry on this part of their beneficent work. To perform it with any degree of completeness, a great establishment, such as those which have been called penitentiaries, houses of industry, reformatories, or panopticons, is required; an establishment in which different species of work may be carried on with all the accommodations which belong to them; in which the parties may work under the most complete superintendence; and in which they may be as completely as possible exposed to the operation of all the salutary motives which can be brought to bear upon them.

Fourthly, the *Education principle*: The children of the beggars are clothed, and sent to a Lancastrian school; and so important is this part of the business of the society accounted, that one of the four committees is wholly employed in conducting it.

What the Society professes is, to provide subsistence for all those who really are deprived of it, and of the means of providing it for themselves; and upon the strength of this undertaking the police of the city prohibit begging, by imprisoning and removing the beggars.

The only question which applies to this expedient regards the power of the Society to accomplish all which they undertake. If they can make provision for all who really and truly are in want; to prohibit begging is then to prohibit imposture, and can produce nothing but good. And if, along with this, they are able to make the distinction completely between those who are and those who are not able to provide for themselves; and to draw the benefit of labour from all who are capable of it; as far as there is any evil in mere begging, beyond the evil of being reduced to the begging condition, which is the principal, it is removed. It is not absolutely impossible that such an expedient as that of the Edinburgh Society, at one particular place, and one particular time; namely, when taken up with extraordinary ardour, owing to some particular concurrence of circumstances,—as in Edinburgh at the era of a new System of Police; or to the ardour of one or more individuals of sufficient influence to set a fashion, may, to a considerable degree, succeed. But it is abundantly certain, that it is not calculated for general or permanent use. How could it be applied to London, for example?—Besides; a great national benefit can never rest with safety on any thing so precarious, as the chance of extraordinary virtue in particular men.

(f.f.)

[\[Back to Table of Contents\]](#)

## **BENEFIT SOCIETIES.**

The general conception of these institutions may be shortly expressed. A number of individuals associate together, and, by payments made at stated times, create a fund, out of which they receive certain specific sums on certain specific occasions.

Definition and Objects.

The people, whose course of life is most apt to present to them occasions where sums of money, derived from other than their ordinary resources, are of great importance to them, are those of whom the ordinary resources are the most scanty; in other words, the whole mass of the people employed in the ordinary and worst paid species of labour.

The occasions on which sums of money, derived from other than their ordinary resources, are of most importance to these classes of the people, are those on which the ordinary sources are diminished or dried up,—those of sickness, disablement, and old age.

Benefit Clubs are, accordingly, associations of persons of the rank thus described, who agree to make certain payments, in general so much a-month; in consequence of which, they receive certain sums, proportioned to the money which they pay, in times of sickness, of disablement, and in old age.

Sir F. M. Eden, in his work on the Poor, refers to Hickes's *Thesaurus* for a proof that Benefit Clubs are of very ancient date, as the *Gilds* of our ancestors were nothing but associations of the same description. A Saxon MS. in the Cottonian Library contains the constitution of a *Gild*, or *Sodalitas*, as it is rendered by Hickes, a Friendly or Benefit Club, established at Cambridge.

History.

“It was first of all,” says the MS. “agreed, that all members shall, with their hands upon the sacred relic, swear that they will be faithful to one another, as well in those things which relate to God as those which relate to the world; and that the whole society will always help him who has the better cause. If any member dies, the whole Society shall attend his funeral to whatever burying-place he himself may have chosen; they shall defray one half of the expence which is incurred by the funeral entertainment; and each member shall further pay two-pence, under the name of alms. If any member kill another, he shall pay not more than eight pounds, in the way of satisfaction. But if he who has committed the murder refuses to satisfy, the whole club shall revenge their brother, and all

shall contribute to the expence. If any member, who is poor, shall kill a man, and have satisfaction to make; and if the person killed was worth one thousand two hundred shillings, every member shall contribute half a mark, and so in proportion. If any member shall address another with coarse and uncivil language, let him pay a sextarius of honey," &c.

From the same source we have the formula of another *Club* or *Gild*, formed at Exeter. After the religious services which the members were to perform for themselves, and for one another, it is ordained, "that when any member shall go abroad, each of the other members shall contribute fivepence; when the house of any one is burnt, each shall contribute one penny. If any one neglects the appointed times of meeting, he shall be fined; for the first offence, the price of three masses; for the second, the price of five; if, after admonition, he is absent a third time, without substantial ground, of sickness, or other cause, he shall not be excuseable. If any member shall use towards another gross and uncivil language, he shall make compensation by thirty pence."\*

*Gilds*, we are told, did not confine themselves to cities, though it is only in cities that the vestiges of them remain. Little *Gilds*, it appears, were established in every parish. And of all those unions, the object was to entitle each of the members individually, on certain occasions, on which it was most apt to be required, to receive pecuniary or other specified aid from each of the rest.

Sir F. M. Eden speaks of Clubs which had existed in the north of England, for the purposes above described, above one hundred years; and there is a treatise on the poor laws by Mr Alcock, printed in 1752, which represents a number of them as existing at that time in the west of England. From that time to the present, they have been gradually multiplying; and have grown so numerous, within the last fifty years, as to have become an object of great importance in our national economy, and one of the most striking manifestations of virtue that ever was made by any people.

For persons merged in poverty, and totally deprived of education, as the English population heretofore have so generally been, it is not easy or common to have much of foresight, or much of that self-command which is necessary to draw upon the gratifications of the present for those of a distant day. When a people thus situated have a provision made for them, to which they can with certainty have recourse, as often as they themselves are deprived of the means of earning their own subsistence; and yet, notwithstanding this security, choose to form themselves almost universally into Benefit Societies, in order that, by taking something from the

Striking Feature  
in these  
Institutions.

means of their present scanty enjoyments, they may in sickness, disablement, and old age, be saved from the necessity of having recourse to public charity, and may continue to live to the end of their days upon the fruit of their own labour, no burthen to the public,

or dependent upon its bounty,—they exhibit a combination of admirable qualities, the existence of which could hardly be credited, if it were not seen; above all, in a country in which the higher ranks too often display an eager desire to benefit themselves at the public expence.

Benefit Societies.



There is much similarity in the constitution of these societies. The rules and regulations of from twenty to thirty of those established in the metropolis, as well as those of several in other places, have been perused for the purpose of this article. The payments are, in general, monthly, and about two shillings the most common amount; though sometimes associations are formed of persons whose incomes are fixed pretty high, and then the payments are somewhat larger.

The mode of regulating the benefit is commonly by three different rates of allowance; one during a temporary sickness; another, commonly one half of the former, during a chronical illness; and a third, still less than the preceding, a permanent annuity for old age. When a member falls sick, so as to be unable to labour, he receives the allowance for sickness; if the disease continues beyond a specified number of weeks, he is reduced to the chronical allowance; if the chronical illness continues beyond a certain number of months, the member is put upon the superannuation list, and receives the allowance for old age. Besides these rates, there is almost always a sum of several pounds which is paid for the funeral expences of a member or his wife. It is one of the ill-grounded desires of the least instructed part of the population of this country, to have what they call a decent, meaning by decent an *expensive*, funeral. As this is so much absolute waste, a consumption for which nobody is the better, and ravaged from a suffering family at a moment when most commonly their resources are diminished, or rather destroyed, the sooner they can be weaned from this superstition so much the better. It might soon be done by the example of their superiors. If those among them who are above vulgar error would enjoin their successors to put them in the earth at the smallest expence which the physical operation would admit, the childish passion for a costly funeral would soon disappear. It is necessary that sepulture should be performed in places, and by persons pointed out by the proper authority, for the security due to the health of the living. But if the business of the cemetery is not performed altogether at the public expence, and in the same

Constitution and Rules of these Societies.

manner for all, which would be the best regulation, there assuredly ought to be no fees, nor any charge beyond the rigid payment of the labour. When the religion of the relatives requires a devotional service to be performed at the grave, it ought assuredly to be performed without any fees or presents to the actors in the scene. Fees to the clergyman, and others, in a church of England funeral, are a serious grievance to the poor.

The mode of doing the business is exceedingly simple. When the society is not numerous, there is, in general, a monthly meeting of all the members. When they are numerous, a committee is formed, of which the meetings are monthly; and general meetings, at more distant periods, are held of the whole. Two or more stewards, as the business may require, are chosen at certain short intervals, whose business it is to visit the members applying for relief, and to pay their allowance. Members are admitted only within a specified age, most commonly between twenty and forty-five; and the persons belonging to occupations regarded as unwholesome or dangerous, are excluded by name from most of the clubs not expressly established for themselves. There are some curious exclusions in most of the London societies. From a great proportion of them, Irishmen are excluded; and in almost all of them, it is particularly declared, that no *attorney*, or *attorney's clerk*, shall be admitted a member.

Some of their rules are in a very remarkable manner favourable to virtue. In almost all the London clubs, it is a rule that sickness or disablement, produced by drinking, by the venereal disease, or by fighting, except in self-defence, shall receive no benefit. If any member, while in the receipt of an allowance, is found gaming or intoxicated, or out of his own house after a certain hour in the evening, he is subject to heavy penalties, very often expulsion. If any member appears at a meeting of the society in a state of intoxication, or uses rude or provoking language to any person present, or is guilty of profane cursing and swearing, or offers wagers, he is fined; in some cases he is fined if he comes to the meeting without being clean in his dress and person; and, in other cases, attention to this object is recommended without being enforced.

Of some of the rules, which are also very generally adopted, the reason is not so easily seen. One of them is, that none of the members shall belong to any other association of the kind. If a member complies with all the rules of one society, it can be of no detriment to that society, if he belongs to another. A man whose earnings place it in his power, may thus secure to himself a double benefit in sickness, disablement, or old age. It would lead to the same end if a man was allowed to take more than one of what may

be called the shares of one society, double, for instance, the monthly and other payments, on condition of receiving all the allowances double; but his security, as long as clubs are on a precarious footing, would be somewhat increased by dividing the risk.

By another of these rules, the utility of which seems rather more than doubtful, a member, while receiving aid, is not allowed to work. The intention of this is sufficiently evident. It is to prevent that sort of imposition to which the societies in question are most exposed, receipt of bounty at seasons when it is not required. The question is,—whether if a man was allowed to earn, were it ever so little, as soon as he was capable, and even, when entitled to relief, to divide the produce with the club; deducting, for example, from his allowance, a portion equal to one half of his earnings,—both parties would not find their account in it? and whether means might not to be discovered of guarding against imposition as effectually in that case as by the expedient which is now in use? In the case of the superannuation annuity, the member is, in general, at liberty to do any thing which he can for himself, provided his earnings go not beyond a particular amount.

Such, then, in a general point of view, is the end aimed at by these societies, and the means through which they endeavour to accomplish it.

We shall next consider the effects which they have a tendency to produce.

The effects which they have a tendency to produce, regard either the individuals themselves, who are the members of the societies, or the community at large.

Effects produced by these Societies.

1. The effects which they most immediately produce with regard to the individuals themselves, are two; *first*, They deduct somewhat from the ordinary enjoyments; *secondly*, They diminish greatly certain occasional pains; and there can be no doubt that what is lost by the diminution of the ordinary enjoyments, is much more than compensated by what is gained in the diminution of the extraordinary pains. The pains are either those of want, in times of sickness and disablement, where no provision is made for the poor, or those of disgrace and aversion, where relief may indeed be received, but in a way inconsistent with all sense of independence, and in general various little habits from which the idea of happiness can no longer be disjoined.

Under this head, something may perhaps be allowed on the score of temperance. Of the money paid by the members to the club, part, if not so paid, might have been spent upon intoxicating liquors, by which the health and strength would have been impaired.

2. The effects which Benefit Clubs produce in regard to the public, are either pecuniary or moral. Whatever portion of money would otherwise have been spent by the public in maintaining, during sickness, disablement, and old age, the persons who, in these circumstances, are maintained by the clubs, this exactly is the pecuniary advantage which accrues to the public.

The moral effects are not so easy to define. But circumstances present themselves in sufficient abundance to prove that they are not inconsiderable. In whatever degree they contribute to diminish the use of intoxicating liquors, they weaken one of the grand causes of the uselessness and mischievousness of human beings. In whatever degree they contribute to keep alive the sensibility to disgrace, they preserve one of the greatest of all incentives to useful conduct, and one of the greatest securities against a course of life, either mischievous or useless. That they contribute greatly to keep alive the sensibility to disgrace is not to be disputed. It follows that they contribute greatly to all that virtue and good conduct of which the labouring classes of this country are day after day displaying a greater and a greater share.

Since Frugality Banks became the fashion, it has been customary to allege, that all the benefits capable of being derived from Benefit Clubs, and still higher benefits, may be derived from the banks, and with the avoidance of several evils. It will not require many words to enable us to effect a comparison. We shall follow that division of the effects, into those regarding the individuals, and those regarding the public, which was presented above.

Compared with Savings Banks;

1. In regard to the individuals, it is supposed that the banks will make them save more eagerly. If this enables them to make a greater provision for the seasons of distress, it is good; if not, all that they would have spent in innocent enjoyments is so much good lost.

*First*, In regard to the Individuals;

But it may well be questioned whether banks are calculated to make them save more rigidly. The idea of a stock which they may leave behind them is something. But the idea of a better provision for the occasions of their own distress is something also; and with the greatest number, it is probable, the greatest something of the two.



With regard to the convenience of taking the money in small sums, the monthly payments of two shillings, are nearly as small as can be desired. If this is too small for the rate of any man's abilities, there might in each society be different rates, or one man might belong to several societies.

A circumstance which has been urged more strongly is, the inconvenience of paying, as required in Benefit Clubs, on a particular day; to banks the payment is made whenever it is convenient. This has its advantages, and its disadvantages. The disadvantages appear to exceed the advantages. With this opinion Mr Duncan was so deeply impressed, that he thinks stated payments, with penalties, a proper law for Frugality Banks. "Though it may bear hard," he says, "on a contributor to be bound to pay annually a stated sum, as in Friendly Societies, under the pain of forfeiting the whole, it is, notwithstanding, useful in such institutions, that some strong motive should exist for regular payments. The reason on which this opinion is founded, must be obvious to all who know any thing of human nature. What we have no pressing motive to do at a particular time, we are apt to delay till it is beyond our power to do at all. So sensible are the common people themselves of this tendency, that we frequently observe them having recourse to contrivances for *forcing* themselves to save money for a particular object. It is partly on this principle that Friendly Societies find so many supporters; and that there are such frequent associations among the lower classes, with the view of raising funds, for the purchase of family Bibles, or some of the more expensive articles of furniture." (*Essay on Parish Banks*, p. 24.)

This important fact, of the voluntary associations of the people to raise funds, not merely for support in seasons of distress, but for the purchase of articles of fancy and luxury, is a strong argument in favour of Clubs. It shows two things; it shows the pleasure the people take in them; and it gives the experience of the efficacy which attends them.

The difficulty of making good the stated payments to the club, at moments of great pressure, as when employment is wanting, or a man's wife and children are sick, is objected to Benefit Societies. This is an inconvenience, no doubt; but we have seen that it is not unattended with compensation. In fact, a man must be in a state of distress very uncommon, if he is prevented by real necessity from paying his club-money. Besides, this is one of the occasions on which very extraordinary exertions are made by his acquaintance and friends; especially if he is not a man thoroughly worthless, whose vices, not his misfortunes, are the cause of his distress, to supply him with the means. And this is an exercise of virtue in

these acquaintances and friends, which is highly useful; and tends forcibly to the increase of the benevolent feelings in the minds both of those who make it, and of those in favour of whom it is made.

It is urged as a hardship of great magnitude, that a man, after he has been a long time a contributor to a club, should lose the benefit of the whole, for a delay in payment at a season of peculiar distress. But a certain degree of indulgence is allowed; a defaulter does not forfeit till the first meeting, which is a month after the quarter-day. Besides, it is very common to misrepresent the amount of the loss in this case. What a man really and truly loses is that which will be necessary to place him in the same situation. But that is only as much as will be necessary to entitle him to the allowances of another club. This may be nine or twelve months' contributions. Suppose the rate of contribution is 2s. a-month, and 5s. of entry-money. What a man loses by expulsion, however much he may have paid, is only 29s. If, indeed, he is an old man, past the age of admission into another club, what he loses is much more serious; it is the value of all the benefit which he would have been entitled to derive. And, in this case, some modification of the rule of forfeiture would be desirable. It is, however, no fundamental objection, because such a modification may be easily made. Lastly, the number of those who suffer forfeiture from real necessity, and not from their vices, is small, bearing a very insignificant proportion to the whole. For a hardship to the very small number, a great benefit to the very great number is not to be foregone. This is the very principle on which bad government is distinguished from good.

It is brought as a strong argument against Benefit Clubs, that the meetings are held at public-houses. From this, it is inferred, that the members are at these meetings very commonly seduced to drink; and acquire, increase, or confirm habits of intemperance. This appears to be an inference altogether unwarranted, and contrary to the fact. The members are, in general, under the necessity of holding their meetings at a public-house, because it is only at a public-house where they can, in general, hire an apartment for the purpose. The use of the apartment is sometimes paid for by the money spent, which is always a limited, and always a very small sum, threepence most commonly, or a pint of porter for each; and sometimes the room is paid for, not in this way, but by the contribution of a penny or other small sum from each; and intoxication, at the time of meeting, is punished with a fine. It is affirmed by those who have most attended to the practical proceedings of these societies, that instead of being a source of intoxication, they have been one of the grand causes of its decrease.

One decided advantage which the Benefit Clubs possess above the Savings Banks is, that the money paid to the club cannot be taken out, first, to gratify any unnecessary desire; secondly, to buy furniture for the sake of an early, and hence, in all probability, a fruitful, that is, a deplorable marriage; thirdly, to satisfy the parish for a bastard, which often would not have been gotten, but for the reflection, that if the worst came to the worst, means were had to get rid of it.

In a moral point of view, the formation of the people into little combinations and fraternities is of the greatest importance. It concentrates the eyes of all upon each individual; and renders good conduct a thing of infinitely more value to him, as it renders bad conduct for men detrimental. It is this circumstance which the sage mind of Dr Adam Smith loads with such emphatic praise in the supposed case of the division of a country into so great a number of religious sects, that each congregation might be regarded as differing from the rest. In this manner, without difficulty, and without care, is exercised one of the most vigilant and effectual of all censorships; the most salutary of all inspections. When an ignorant, or almost any man can say to himself, my conduct is regarded by nobody,—it is astonishing how easy it is for temptation to subdue him; when he must say to himself, I cannot perform a disgraceful act without reading aversion and contempt in the eyes of all my acquaintance,—it is astonishing how much he is strengthened for resistance.

There is yet another thing of cardinal importance. If it were possible for the superior to do everything for the inferior people, and to leave them nothing to do or care about for themselves, nothing would be more calamitous than the accomplishment of such an event. The mass of the human species would thence become what the people of Paraguay became in the hand of the Jesuits; most perfectly helpless, and ready, on the least derangement in the machinery which conducts them, to fall into the deepest wretchedness and barbarity. As that machinery would be liable to be deranged by the slightest accidents, it could not be preserved in order long, and would then serve as an introduction, a necessary and certain introduction, to one of the most deplorable conditions of human affairs. The case is altogether different where the power of suffering for themselves is generally spread throughout the community; where the people have resources; where every man is accustomed to combine for himself the means of warding off evil, and attaining good. There the machine of society cannot be easily disordered, and human happiness is placed on a much more secure foundation. Then, if any of the larger arteries of the body politic is obstructed, the nourishment of the system is carried on by the admirable service which may be

rendered by the smaller. To a system which has thus a *vis medicatrix* in all its parts, no shock can be given that is not immediately repaired. Were the greatest disorder introduced, things of their own accord would hasten to their proper place.

It is, therefore, a prodigious recommendation of Benefit Societies, that in them the people act for themselves. We do not mention this, however, as one of the circumstances in which they differ from Savings Banks. It is, indeed, true, that in most of the Savings Banks which have yet been started, the upper people have taken upon them to manage for the under. But this is not necessary. The contributors to Savings Banks may themselves, if they choose, manage a bank just as well as a club-box; in fact, the business of the bank is far more simple than that of the box. There is one important example of a bank conducted by the people themselves, in that established in Clerkenwell, at the suggestion of Charles Taylor, Esq.

So much with regard to the effect of Benefit Societies, as compared with Savings Banks, in promoting economy and other good qualities among the contributors. Let us next compare them with regard to the benefit received. This part of the subject has already been so well handled by the Reverend Richard Vivian, rector of Bushey Herts, in *A Letter on Friendly Societies and Savings Banks*, published in 1816, that it would be improper to do anything more than transcribe what he has written.

“For a view of the powers of the institutions, to secure independence, let Mr Rose’s table be compared with the Benefit Society long established in this parish. By the table the amount of *one shilling per week* after one year is L.2, 12s. If the contributor should be ill at the beginning of this year, there is nothing for him: if quite at the end of the year, he should be ill four weeks, and should draw equal to the allowance of the Bushey Benefit Society, his capital is gone; and he must begin again. A member of the society pays *two shillings per kalendar month*, and, if he has paid one pound to be free, supposing him under twenty-five years of age (and other ages in proportion), he will receive 12s. a-week during illness in any part of the whole of the year; and will find his right to the same payment for future years undiminished. There is no occasion to go through the intermediate years. Let us take the twentieth. After twenty years, the contributor to the bank (if he has had no illness, which would quickly have exhausted his stock, especially in the earlier years) will have paid L. 52, and will be worth L. 77, 8s. 6d. We will suppose that he is come to old age, or some lasting infirmity. He can afford 6s. a-week for five years, and then comes to the parish, with the aggravation of disappointed hopes of independence. In the society the payments in twenty years

will amount to L. 24; the receipt 6s. a-week in old age, if his life should be protracted to the (I hope incalculable) date of a national bankruptcy.

You will perceive, that the great defect of Savings Banks is the want of benefit of survivorship. But (say their advocates) there are the advantages of bequeathing their stock, and of taking their money, whenever they want it; the advantage of bequeathing I will leave to be estimated by the most sanguine admirers of Savings Banks, only desiring them to take into their account, the high probability that his little stock will be hardly worth bequeathing, even if not exhausted by the illness of the testator, in the case of his dying in youth; and the certainty of his being his own heir, if he should die in his old age. The power of taking out the money at any time is the very circumstance which fills me with alarm. There is danger lest the subscriber should leave his club, and become a contributor to a bank, from the fallacious hope of enjoying this advantage *in addition* to all the others. No doubt this may be an advantage to prudent persons in certain situations. But is there no danger of cases, which I might have mentioned before, in which the stock will be sunk in unfounded projects, in wanton expences, in a childish impatience of possessing money? All this imprudence would be of comparatively little consequence, if the parties were by any means protected from absolute want; that is to say, if they were, at the same time, members of Benefit Societies.

The truth is, Savings Banks are not calculated for the lowest and most numerous rank of the community. This is evident from Mr Rose's table, beginning with 1s. *per* week. Many members of Benefit Clubs cannot make good their payments of less than half that sum without the best charity that can be bestowed by the rich—assistance towards the payment of their subscriptions to members of Benefit Clubs, with large and helpless families. Men in elevated stations imagine that they see the *lowest* order, when they see but the lower. The "*Corinthian capital*" looks down, and mistakes the cornice of the pediment for its base. While the great are providing for their immediate dependants, they seem to be providing for the poor. I do not wish to retort upon some of the defenders of Savings Banks, and by exaggerating their possible ill effects to exalt the merit of Benefit Societies. Savings Banks have done, and I hope will continue to do, much service to many. They often lift a little higher them who are not already very low. But a man should be secured from sinking into absolute wretchedness, before he is encouraged to mount into a higher sphere. By a Savings Bank, a butler may lay up money enough to keep a public-house. But there must be a Benefit Society to keep a ploughman and his family from the workhouse. Now, I hope I may be allowed to say, that it is better that one ploughman should be preserved from

a receptacle of misery, than that ten butlers should be exalted into publicans.”

Even Mr Duncan says, “There is one point of view in which the Friendly Society scheme can claim a decided advantage. An individual belonging to the labouring part of the community cannot expect, by making the most assiduous use of the provisions of the Parish Bank, to arrive at sudden independence;—on the contrary, it is only by many years of industry and economy that the flattering prospects held out by that system can be realized. But health is precarious, and an accident or disease may in a moment put an end to all the efforts of the most active and expert. It is under such circumstances that a very striking difference appears in favour of the scheme we are considering. He who should trust to the progressive accumulation of his funds in a Parish Bank, might now find himself fatally disappointed. If he had not been fortunate enough to realize a considerable capital before the sources of his subsistence were dried up, the illness of a few weeks or months might reduce him to a state of want and dependence, and cause him to experience the unhappiness of mourning over impotent efforts and abortive hopes. On the other hand, the man who has used the precaution to become a member of a Friendly Society, has made a comfortable and permanent provision against the sudden attack of disease and accident. The moment that he comes to acquire the privileges of a *free member*, which, by the rules of most of these institutions, is at the end of the third year after he began to contribute, he is safe from absolute want, and the regular manner in which his weekly allowance is paid him enhances its value. Nor is this provision liable to any of those objections, which have been so strongly and so justly urged against the well-intended but mistaken system of poor rates. Instead of degrading and vitiating the mind, its tendency is directly the reverse. The poor man feels that he is reaping the fruit of *his own* industry and forethought. He has purchased by his own prudent care an honourable resource against the most common misfortunes of life, and even when deprived of the power to labour for a livelihood, the honest pride of independence remains to elevate and ennoble his character.”

It is objected, that Benefit Societies have been established on improper calculations, and thus have come to ruin. But this is an evil which has a tendency to correct itself. Experience, if there were nothing else, discovers what rate of benefit the payments can afford, and the thing is now so well understood, that mistakes, it is probable, are very seldom incurred. At any rate, this is a chance of evil which may always be precluded by communicating information.

The funds, it is said, of Benefit Societies, are often confided to improper hands, and by consequence lost. This, too, is an evil, which, so far from being necessary, has a sure tendency to correct itself. People learn by a little experience where their money may be safely lodged. It is, indeed, a lesson which probably they have already learnt. We perceive it is a rule in most of the London Societies, that whenever the fund exceeds what is necessary for the current expenditure, it is invested in Government securities. Another thing should be observed, that it is a great advantage of Benefit Clubs not to require much in the way of fund. If the calculations are correct, the outgoings within an average period will balance the incomings; and all that is requisite in the way of fund, is a small sum to meet accidental inequalities. When this fund is lost, it is not much that is lost. If a small additional sum is subscribed by each member; or, instead of this, if the allowances are for a short time suspended, or only reduced, the society is placed in its former situation. The case is wofully different with a bank. There, if the funds are lost, the whole is lost.

2. Thus stands the comparison between Savings Banks and Benefit Societies, in regard to the members or contributors. How stands it in regard to the community as a whole?

*Secondly, In regard to the Community.*

In the first place, it is evident, that the classes, of whom such members and contributors are composed, being the whole population, with the deduction of a number comparatively small, it is not easy for any thing which is good for them, one by one, not to be good for the whole conjointly.

Further, if Benefit Societies afford, as appears to be ascertained, a better security for the maintenance of the people, free from public aid, than Savings Banks, the public is benefited to the amount of all the support which otherwise it would have been obliged to afford.

If the moral and intellectual qualities of the people are more favoured by the societies than the banks, the public is benefited in respect to a cause of good, the effects of which are incalculable.

Thus far on the side of good. On the side of evil, a great fear has been expressed, that out of any joint proceedings of the people would arise mischief to the government. The operation of fears of this description has been one grand cause of the evils which human beings have brought upon one another. It is a circumstance full of suspicion, when governments count upon the hatred of their people. It seldom happens, and seldom can happen, unless when they know well that the people have reason to hate them. It is not natural for the people to hate their government, unless oppressed

by it. The people, instead of being disposed to hate a good government, are far too much disposed to be pleased with a bad one; as the history of the whole earth so abundantly and wofully testifies. If a government takes care of the interests of the people, and gives them instruction sufficient to know their own interests, that is to say, takes no measures to prevent their instruction (for that, in such a state of society as ours, includes all that is necessary), it will have nothing to fear from the little societies which the people may form, to insure one another against some of the calamities to which they are most commonly exposed. Besides, if ever the people are stimulated to combine against the government, they will find better mediums of combination than the Benefit Societies, which appear to have an unnecessary and improper jealousy of one another.

A fear has been also expressed, that Benefit Societies may be rendered subservient to conspiracies for the raising of wages. Upon this it may be sufficient to observe, that many instances of what the workmen call *striking for wages* have taken place, since Benefit Clubs were frequent; in these instances, other means of combination have always been found; and Benefit Clubs are by their nature ill adapted to the purpose.

Such is the present state of the business of Benefit Clubs in this country at this moment, and such are the effects they have a tendency to produce. The grand cause why more of the good effects which they are calculated to produce have not been realized, is the unhappy state of the law in England.

This deserves a few words of illustration.

For a long time, the unhappy state of the English law rendered the Benefit Societies a mere object of prey. Any person whatsoever, who found it agreeable to cheat them, might do so with perfect impunity. They had no means of redress. This was owing to one of the fopperies or quaint conceits of the English law, bred in times of ignorance and imposture, and hugged with ecstasy by the lawyers, in spite of the wisdom of an enlightened age. In consequence of the conceit to which we allude, no assemblage of men could be regarded as one body, or entitled to sue for property possessed in common, unless they had certain ceremonies performed in regard to them,—ceremonies exquisitely useless; after the performance of which, the lawyers would give them a nickname (that of a corporation), and would then permit them to sue as one party, for any cause of action common to them all. The ceremonies, the performance of which gave an assemblage of persons this potent name, depending upon the will of great men,

Inconveniences experienced from peculiarities of English Law.



were not easy to be got; nor was the getting of them without an expence fatal to such institutions as Benefit Clubs. They remained, therefore, deprived of the benefit of law till the year 1793, when an act was passed which had two objects in view. One was to take securities against certain dangers at that time intensely associated with the idea of any thing called an assemblage of the people. Another was, to give to Benefit Societies, though without the name corporation, which performs legerdemain, if not magic, in the kingdom of the lawyers, something of the protection of law. The treasurers and trustees, as vested with the property of the society, were enabled to bring or defend any action, suit, or prosecution, relative to the property of the society. But to obtain this advantage, it was rendered incumbent upon the society to make known all its rules to the justices of the peace, and obtain their approbation.

As the expence of law-proceedings was so great, that the expence of a suit, or at least of a few suits, would be completely ruinous to a Benefit Society, something was also done towards the diminution of that expence. It was ordered that no fee should be taken by any officer or minister in the courts, and that the proceedings should not be chargeable with any stamp duty.

This was most undoubtedly travelling in the right path; but it was not doing enough. It did not render the access to justice sufficiently easy. The proceedings of English law are full of delay, and full of intricacy. The business of the great mass of the people, of which Benefit Clubs is a part, requires dispatch and simplicity. A suit at law in behalf of a Benefit Society is still attended with so much trouble, and so much expence, that, virtually, the doors of the Courts are well nigh shut upon them down to the present hour. And this want of the protection of law they are obliged to supply, as well as they can, by rules of their own,—rules of some inconvenience, and of which they would never think, if the protection of law were as it should be.

Thus, with the delay, trouble, and expence of the regular courts, it would never do to sue for arrears, as often as a few shillings became due. The societies are therefore obliged to make a law of their own, that a member who does not at a certain time pay up his arrears, forfeits his place as a member. If a single attendance of a few minutes at a summary court, which would be all that would be required, would suffice to procure a sentence and execution upon the goods of a defaulter, the law of expulsion would not be required.

It is evident that, to give to Benefit Societies all the salutary operation of which they are capable, some court is wanting, where, free from the superstitious perplexities of barbarous law, the

matter of all applications may be immediately tried, in the way of natural and rational inquiry; the parties themselves and their witnesses instructing the judge upon their oaths, and receiving his award without delay and without expence. If every man who fancied himself aggrieved by his club, and every club who had a complaint against an offender, could receive justice on these terms, the business of societies would be very simple, and their benefits sure. Their rules might then be limited to the fixing of the periodical payments, apportioning the benefits to be returned, and settling the order of conducting the business. They would attain a sort of ideal perfection, could they only obtain in a degree at all approaching to perfection, the benefit of law. With no other than the functionaries at present in Great Britain administering the law, the easiest mode of composing a judicatory for Friendly Societies would be to make the reference to a single Justice of the Peace, who should hold a regular tribunal for this purpose, and go through immediately, even to execution, with all disputes, reserving one appeal to any of the neighbouring Justices, upon whom the parties should mutually agree. Upon no part of the proceedings should there be the shadow of a tax or a fee; and, as lawyers would be altogether unnecessary, and the witnesses would in general be few and at hand, justice would in general be done without an hour's delay; with the loss, even in the most tedious cases, of but a few hours of time, either to the parties or the witnesses; without any expence in most cases, with a very small expence in any. The consequence would infallibly be, that, in such cases, no man would have any interest in an injustice, for which he would be immediately called before the judge, which he would be immediately obliged to repair, and from which he could therefore derive no advantage, not so much as a little momentary ease.

(ff.)

[\[Back to Table of Contents\]](#)

## CASTE.

By this term is here distinguished the classification and distribution of the members of a community into certain classes or orders, for the performance of certain functions, with the enjoyment of certain privileges, or the endurance of certain burthens; and the establishment of hereditary permanence in these orders, the son being ordained to perform the functions, to enjoy the privileges, or sustain the burthens of the father, and to marry only in his own tribe, without mixture of the classes, in regular succession, through all ages.

Definition.

The term *Caste* is borrowed from the Portuguese. It was the term applied by that people, who first of the European nations formed establishments in India, to the classes which they found established upon this principle among the inhabitants of that portion of the globe; and from them, as it was from their intercourse that the rest of the nations of modern Europe first derived their familiarity with the manners and institutions of the people of India, the term made its way, and was established in the other languages of Europe.

Caste.



Origin of the Term.

The institution itself appears in the early ages of society to have been very extensively introduced.

In regard to the ancient Egyptians, the fact is universally and familiarly known. The President de Goguet, who, with singular industry, and no ordinary judgment and sagacity, explored the remains of ancient times, comprehends a great body of history in a few words. "We may farther observe," says he, "that, in the Assyrian empire, the people were distributed into a certain number of tribes, and that professions were hereditary; that is to say, children were not permitted to quit their father's occupation, and embrace another. We know not the time nor the author of this institution, which, from the highest antiquity, prevailed over almost all Asia, as well as in several other countries." It is not necessary here to surcharge the reader with the authorities which he quotes. The passage itself (P. i. B. i. Ch. i. Art. 3.) will be consulted by all who distrust the legitimacy of his inference, or desire to prosecute the inquiry.

This Institution widely diffused.

It is stated in the common histories of Greece, that Cecrops distributed into four hereditary classes, or tribes, all the inhabitants of Attica. And we are informed by Plutarch, in his Life of Theseus, that by this prince, the class of priests, and that of

nobles, in other words the magistrates or military leaders, were united into one: whence the society was composed of three classes; 1. The sacerdotal, legislating, and ruling class; 2. The class of husbandmen; and, 3. The class of tradesmen. "To the nobility," says the illustrious biographer, "he committed the choice of magistrates, the teaching and dispensing of the laws, and the interpretation of all holy and religious things; the whole city, as to all other matters, being as it were reduced to an exact equality; the nobles excelling the rest in honour, the husbandmen in profit, and the artificers in number. And Theseus was the first who, as Aristotle says, out of an inclination to popular government, parted with the regal power; which Homer also appears to attest, in his catalogue of the ships, where he gives the name of People to the Athenians alone." There is a passage near the beginning of Plato's *Timæus*, which, though in a work of fancy, is not without some weight, as evidence either of conclusions which were drawn by men of research, or of traditions which were current among the people. In this passage, not only is it asserted, that, in the primeval state of the inhabitants of Attica, they resembled the Egyptians in the division into hereditary classes and professions; but a very accurate description is given of those classes, five in number; viz. 1. The class of priests; 2. The class of handicrafts; 3. The class of shepherds and hunters; 4. The class of ploughmen; 5. The military class. Πρωτον μεν το των ιερεων γενος, απο των αλλων χωρις αφωρισμενον· μετα δε τ?το το των δημι?ργων, οτι καθ' αντο εκασον, αλλω δε ?κ επιμεμιγμενον, δημι?ργει· το τε των νομεων και των θηρευτων· το τε των γεωργων· και δη το μαχιμον γενος, απο παντων των γενων κεχωρισμενον, ος δδεν αλλο πλην τα περι του πολεμου υπο τ? νομ? προσεταχθη μελειν.

We are informed by Aristotle, that the people of Crete were divided into castes, after the manner of the Egyptians, by the laws of Minos. Εοικε δε ? νυν ?δε νεωι τ?τ' ειναι γνωριμον τοις περι πολιτειας φιλοσοφ?σιν, οτι δει διηρησθαι χωρις κατα γενη την πολιν, και το τε μαχιμον ετερον ειναι, και το γεωργ?ν· εν Αιγυπτω τε γαρ εχει τον τροπον τ?του ετι και νυν· τα τε περι την Κρητην. Τα μεν ?ν περι Αιγυπτον, Σεσωσριος, ως φασι, δτω νομοθετησαντος· Μινω δε τα περι Κρητην. *Polit.* vii. 1.

It is worthy of observation, that certain vestiges at least of that ancient institution are *still* visible in Egypt. "La distinction par familles," says General Reynier (*De l'Égypte*, p. 56), "se retrouve encore dans les villes: l'exercice des arts et metiers est hereditaire: le fils imite les procedés de son pere, et ne les perfectionne pas."

We have a remarkable passage to prove, that, among the ancient Persians, the same division into castes existed which now has place among the Hindoos. In the *Zendavesta*, as translated by M.

Anquetil Duperron, it is said: "Ormusd declared, There are three measures (literally weights, *i. e.* tests, rules) of conduct, four states, and five places of dignity. The states are, that of the priest; that of the soldier; that of the husbandman, the source of riches; and that of the artisan or labourer."—"We are told," says Sir John Malcolm (*Hist. of Persia*, i. 205), "that Jemsheed divided his subjects into four classes, and that he allotted to each a separate and fixed station in life; which seems to imply that the condition of the ancient Persians was like that of the modern Hindoos; and that the extraordinary institution of cast, which now exists in India, was once known in Persia." Sir John proceeds to state some reasons which induce him to doubt the reality of the fact; in not one of which, however, there is a particle of weight.

Sir John quotes, and translates for us a passage from Strabo, which asserts that a similar institution existed in Iberia. "Four kinds or classes of people inhabited that country. From what they consider the first class, they appoint their kings according to nearness of kindred and seniority; these administer justice, and head their armies: The second is of priests, who take charge of their political rights with respect to their neighbours: The third of soldiers and husbandmen: The fourth of the people in general, who are slaves of the king, and perform every menial office." This account of the distinctions of the castes is evidently incorrect, and by a man who was not well informed. The fact of the Iberians being distributed in a remarkable and uncommon manner, he knew; otherwise there would have been no occasion to single out the fact, in the description of this particular people. He knew also that they were divided into four principal classes. With regard to the matters of detail, however, his words bear internal evidence that either his information had been vague and inaccurate, or that his recollection had become so.

From a dissertation of Mr Joinville, on the religion and manners of the people of Ceylon, (*Asiat. Researches*, vii. 430.) we find that there is sufficient evidence to prove the existence of a similar institution, anciently, among the Buddhists of Ceylon; and by consequence to infer it, among the other Buddhists, spread over so large a portion of Asia.

After this evidence of the general diffusion of the institution of castes, in the rude ages of the world, especially in Asia, there is a temptation, from the following passage of Herodotus, (Lib. I. cap. 101.) to infer its existence among the Medes, at the commencement of the monarchy. Εχι δε Μηδων τοσαδε γενεα, Β?σαι, Παρητακηνοι, Αδιζα?τοι, Β?διοι, Μαγοι. There is nothing in the passage which serves to fix the meaning of the word γενεα; and the names, it is plain, are words of the ancient Median language.

But we know that the *Μαγοι* were the priests; and hence there is reason to conclude, that the other words also are names of classes and professions; in other words, of hereditary castes.

The institution of castes may be traced in places with which we are more intimately connected. Mr Millar, to whom the world is indebted for almost the first lessons which it received, in tracing the facts of history up to the general laws of the human mind, has called our attention to the fact, that in the ancient condition of our Saxon ancestors, they were divided into four great classes: 1. The artificers and tradesmen; 2. the husbandmen; 3. those who exercised the honourable profession of arms; and 4. the clergy. Mr. Millar adds, (*Hist. View of the English Gov.* B. i. ch. ii.) "From the natural course of things, it should seem, that, in every country, where religion has had so much influence as to introduce a great body of ecclesiastics, the people, upon the first advances made in agriculture and in manufactures, are usually distributed into the same number of classes or orders. This distribution is accordingly to be found, not only in all the European nations, formed upon the ruins of the Roman Empire; but, in other ages, and in very distant parts of the globe. The ancient inhabitants of Egypt are said to have been divided into the clergy, the military people, the husbandmen, and the artificers. The establishment of the four great *castes*, in the country of Indostan, is precisely of the same nature."

Human nature is very uniform in the phenomena which it exhibits. The new world displays a striking resemblance to the old. The same stage of society presents nearly the same results. There is reason to conclude, that something which resembled the institution of castes existed among the ancient inhabitants of Peru and Mexico. The Count Carli, the celebrated author of the *Lettres Americaines*, when treating (Lett. xiii. and xiv.) of the laws of the Peruvians says: "Les citoyens furent distribues en classes ou tribus. \* \* \* Il n'etoit pas permis, ni par mariage, ni par changement d'habitation, de confondre une classe avec l'autre: car la loi defendoit de se marier dans une autre famille que celle d'ou l'on sortoit. \* \* \* N'oublions pas le soin qu'on avoit de l'education des enfans. C'etoit toujours le pere qui elevoit son fils. L'education consistoit à apprendre aux enfans rôturiers le metier que chaque pere de famille exerçoit," &c. We are informed by Clavigero (*Hist. of Mexico*, B. iv. § 5.), that "the sons in general learned the trades of their fathers, and embraced their professions; thus they perpetuated the arts in families, to the advantage of the state."

Such is the extent to which this institution has existed on the surface of the globe. We shall next endeavour to ascertain the state and condition of the human mind, to which it may be considered as owing its origin.

The lowest and rudest state in which the human race are found to exist, may, in a certain general way, be described as the hunter state. That of the shepherd is the next stage in the progress toward the advantages of civilized life. The agricultural state succeeds; when men begin to cultivate the ground for the means of subsistence, and experience the benefit of fixed habitations.

Origin, and Causes of the Wide Diffusion of his Institution.

So long as they continue in the condition of hunters or of shepherds, the division of labour is unknown, and all the multitude of blessings which it brings. Every family is itself the author of all the simple accommodations which it knows. The tent or hovel, the waggon or cart, is constructed by the men; the coarse garment is spun and even woven by the women.

In this situation of things, the accommodations with which it is possible for human beings to supply themselves are few and imperfect; and life is a scene of privation.

When population has so far multiplied as to render the produce of flocks and herds insufficient for the means of subsistence, and the cultivation of the land has become necessary, the inconveniences arising from the want of the division of labour becomes still more sensible and oppressive. The labours of the field are neglected while the family are engaged at the loom, or repelling the incursions of an enemy. The accommodations of lodging, of clothing, of taste, and fancy, are wretchedly supplied, when the business of extracting the means of subsistence from the soil, exacts the greater part of their time and attention.

The progress, however, of human improvement, though not necessarily, is commonly, in point of fact, at least in the more uncultivated ages, exceedingly slow. Men continue to suffer under the inconveniences which their present condition imposes upon them, complaining of their miseries, but unable to form a clear conception of the means of exemption, and doubtful of all the remedies which are pointed out to their attention. In the mean time, as the human mind is essentially progressive, and, unless in very extraordinary circumstances, never fails to make progression, the uneasiness which is felt under the inconveniences of a state to which the mind has become superior, and above which it is rising higher and higher every day, is continually increasing; and at last rises to such a height that some change is unavoidable; and the society are prepared to welcome the most plausible of the schemes which are proposed to them.

The grand steps which are made in improving the condition of mankind, though essentially the result of a progression in the minds of the society taken as a whole, are commonly the immediate suggestion of some one individual, or small number of individuals, whose conception of the necessity of a change, and of the means of relief, is more clear and determinate than that of the rest of the community.

In the earliest stages, when the human mind is weak and prone to superstition, the individuals who project the great improvements in the state of society, endeavour to accelerate the consent of the people, and overcome their reluctance to innovation, by giving to their projects the character of a divine revelation and command. The first legislators of almost every country, we find to have represented themselves as depositaries of the divine will, and entrusted with a revelation from heaven.

If we take the Hindoos as a model, the people divided into castes with whom our acquaintance is the most complete, we shall conclude, that some individual, wise enough to perceive the cause of the inconveniences under which men suffer while the division of labour is unknown, and placed in circumstances which enabled him to clothe himself with a divine authority, overcame in most places the reluctance of the people to so great a change of their manners and habits, and accelerated the date of their improvement, by persuading them that the divine power, or divine powers, now commanded them to be divided into classes for the performance of certain offices.

In the early stages of society, however, the wants of men are few; and the ideas of the legislator himself are incapable of extending to a great variety of cases. In such periods, the power of superstition is always exceedingly great. Unacquainted with the laws of nature, and exposed to the most dreadful vicissitudes, which they are altogether unable to foresee, human life appears to men in that situation to hang altogether upon invisible powers. The human mind is incessantly occupied with conjectures respecting what those unknown powers will produce, and with tormenting apprehensions that they will produce evil rather than good. The persons who, in this state of things, are skilful enough to create a persuasion that they are better acquainted than others with the will of these powers, more especially if accompanied with a persuasion that they have an influence over that will, and can turn it more or less whichever way they please, become an object of supreme regard. Nothing can be done without them. They are the most important class in the community. When society is first divided into classes, for the sake of the division of labour, the priests, therefore,



are always a separate class, and always in the place of highest distinction.

After the evils to which men in the rude state of society conceive themselves liable from the unknown and invisible authors of physical events, the evils to which they are liable from the incursions of hostile men, appear the next in magnitude. While the institutions of society are imperfect, and the human mind is weak, these evils are very great, and present a terrific picture to an imagination perpetually haunted with fear. In the rude ages of society, therefore, the soldier is always a character of great importance. He is the barrier against those evils which rank next in order after the evils against which the priest affords relief. When classes are first formed, the military are, therefore, always a separate class, and next in rank and veneration to the class of the priests. It is remarkable, that the rank and consequence of both classes are founded upon fear. It is also remarkable, though a natural consequence, that, in all ages, they are most apt to be venerated by the most timid persons,—the most timid sex, for example; over whose imagination the priest and the soldier have a proverbial away. It is farther observable, and a necessary consequence, that as the fears with respect to invisible powers, and with respect to the incursions of hostile men, gradually decline as society advances, and have less and less effect upon the imaginations even of those who are most apt to be governed by the passion of fear, so the respect for the castes of priest and soldier are destined to sink in relative importance, as the institutions of society are improved, and the human mind becomes strong.

After provision is made, in that early stage of society which we are endeavouring to describe, against the two classes of fears against which the priest and the soldier hold up their respective shields, the care of subsistence is the object of greatest importance. A class of husbandmen, therefore, is a necessary and never failing institution, and, in the scale of rank and consequence, this order follows immediately after the sacerdotal and the military castes.

Beside the means of subsistence, other accommodations are required. But, at first, very few are so much as known, and, by consequence, very few are demanded. One class of the community are, therefore, supposed to be sufficient for the supply of all other wants, and the performance of all other services.

It is obvious, that reflection upon the laws of human nature would lead us to draw a picture, nearly the same with this, if we were called upon to describe the state of society, at the time when the division of labour is first introduced, even if we had no specific facts to direct our inquiries. In a remarkable passage in Plato, in

his second book *De Republica*, he ascribes the origin of political association and laws, to the benefits which were sought for by the division of labour. Γεγνεται πολις, ως εγ' ὤμαι, ?πειδαν, τυγχανει [Editor: illegible word] ἕκαστος, ?κ αυταρχης, αλλα πολλων ενδοης. As men cannot be supplied with accommodations in any tolerable degree, but by the division of labour and employments, one man producing one thing, another another, and every man getting what he wants, by exchange with other men, an association of a certain number of men is necessary for well being; and hence society and laws. In exact coincidence with the deduction which we have presented above, he says, that the simplest form of a society would consist of four or five orders of men. Αλλα [Editor: illegible word] πρωτη [Editor: illegible word] και [Editor: illegible word] των [Editor: illegible word] της τροφης [Editor: illegible word] [Editor: illegible word], [Editor: illegible word] δι [Editor: illegible word] [Editor: illegible word] [Editor: illegible word]. . . . . Ευη [Editor: illegible word] ἡ [Editor: illegible word] ανωγκα?στατη [Editor: illegible word] ?κ [Editor: illegible word] η [Editor: illegible word] ανδρων. The coincidence is very nearly complete between the speculation and the practice; between what is in this manner inferred, and what is recorded of ancient nations, and witnessed among the Hindus.

Under all the difficulties under which, especially in rude ages, human society, and the human mind, make progress, small are the steps which can be taken at once. When professions were separated, and the vast benefits derived from the separation began to be felt, the human mind was not sufficiently strong to perceive, that there was no danger whatsoever that they should ever again be combined and confounded. No; it was imagined to be another grand effort of the same wisdom which had made the separation, to take care of its permanence, and to make provision for securing the benefits of it through all ages. With this view it was thought necessary to ordain and sanction, by divine authority, that the son should follow the profession of the father, and be subject to the severest punishment if he engaged in any other occupation. To secure also, in each profession, the due succession of sons to fathers, it was necessary that marriage should be strictly regulated; and the method which obviously enough suggested itself for that purpose was, that the members of each class, male and female, should be compelled, under the severest penalties, to marry only among themselves, and never, by intermarriage, to ruin and confound the separate castes.

So far the *aim*, at any rate, was good. The benefit of the whole society was the object which all these regulations were accounted useful to promote, and no degradation of any of the classes was

either intended by any of these enactments, or necessary for the ends which they were destined to serve.

The degradation of one set of the castes, in comparison with another, was the result of an after thought, and in the pursuit of ends of a different description. When one of the castes, as that of the priests, or the soldiers, found itself possessed of an influence over the minds of the rest of the community, such, that it could establish certain points of belief in its own favour, it was never long before it availed itself of that advantage, and pushed it to the utmost. If it could inspire the belief that it was more noble, worthy of higher privileges, and greater honour, than the rest of the community, it never failed to get this point established as an incontrovertible right, not the result of the mere will of the community, but of an absolute law of nature, or even a revelation and command from God.

As every elevation of one class implies a correspondent degradation of another, and as there is no end to the elevation which one class will aim at, there is no end to the degradation which will be imposed upon another, if the state of the human mind is sufficiently weak to give to one class an unbounded influence over the belief of another. How naturally this extreme degradation is grafted upon the institution of castes, will immediately appear.

As we derive our most minute and practical acquaintance with the shape into which society is moulded by the establishment of castes, from our intercourse with the Hindus, the particulars which are at this day exhibited in Hindustan, and provided for by their laws, afford the most certain means of acquiring precise and specific ideas concerning this remarkable institution.

According to the sacred law book, entitled the "*Ordinances of Means*," the Creator, "that the human race might be multiplied, caused the Brahmen, the Cshatriya, the Vaisya, and the Sudra (so named from the *Scripture, protection, wealth, and labour*), to proceed from his mouth, his arm, his thigh, and his foot." "For the sake of preserving this universe, the Being, supremely glorious, allotted separate duties to those who sprung respectively from his mouth, his arm, his thigh, and his foot. To Brahmens he assigned the duties of reading the Veda, of teaching it, of sacrificing, of assisting others to sacrifice, of giving alms, if they be rich, and, if indigent, of receiving gifts: To defend the people, to give alms, to sacrifice, to read the Veda, to shun the allurements of sensual gratification, are, in a few words, the duties of a Cshatriya: To keep herds of cattle, to bestow largesses, to sacrifice, to read the scripture, to carry on trade, to lend at interest, and to cultivate

Of the Indian  
Castes in  
particular.

land, are prescribed or permitted to a Vaisya: One principal duty the Supreme Ruler assigns to a Sudra, namely, to serve the before-mentioned classes, without depreciating their worth."

Such is the employment of the castes; and such the authority whence it is derived. The next great peculiarity is, the degree of elevation which one set of the castes was enabled to usurp, and the correspondent degradation of the others.

1. The Brahmens, or the priests. "Since the Brahmens sprung from the most excellent part," says the same divine code, immediately quoted, "since he was the first born, and since he possesses the Veda, he is, by right, the chief of this whole creation. Him the Being, who exists of himself, produced in the beginning from his own mouth, that, having performed holy rites, he might present clarified butter to the gods, and cakes of rice to the progenitors of mankind for the preservation of this world. What created being then can surpass Him, with whose mouth the gods of the firmament continually feast on clarified butter, and: the manes of ancestors on hallowed cakes? Of created things, the most excellent are those which are animated; of the animated, those which subsist by intelligence; of the intelligent, mankind; and of men, the sacerdotal class. When a Brahmen springs to light, he is horn above the world, the chief of all creatures. Whatever exists in the universe, is all, in effect, the wealth of the Brahmen; since the Brahmen is entitled to it all by his primogeniture and eminence of birth."

Priests.

As the Brahman exclusively, or at least to a supreme degree, engrosses the regard and favour of the Deity, so he is entitled to the worship and adoration of mortals. Kings themselves, and the most exalted of men, are infinitely inferior to the meanest of the Brahmens. "Let the king," we again quote the ordinances of Menu, "having risen at early dawn, respectfully attend to Brahmens learned in the three Vedas, &c. . . . and by their decision, let him abide. Constantly must he show respect to Brahmens, who have grown old, who know the scriptures, who are pure." "The king must appoint seven or eight ministers, &c. . . . To one learned Brahmen, distinguished among them all, let the king impart his momentous counsel. To him, with full confidence, let him entrust all his transactions; and with him, having taken his final resolution, let him begin all his measures." "Let him not, although in the greatest distress, provoke Brahmens to anger, by whom Brahma, the all-devouring fire, was created, the sea with waters not drinkable, and the moon with its wane and increase. What prince would gain wealth by oppressing those, who, if angry, could frame other worlds, and agents of worlds, could give being to new gods and mortals? What men, desirous of life, would injure those by the aid

of whom, worlds and gods perpetually subsist; those who are rich in the knowledge of the Veda? A Brahmen, whether learned or ignorant, is a powerful divinity; even as fire, is a powerful divinity, whether consecrated or popular. Thus, though Brahmens employ themselves in all sorts of mean occupations, they must invariably be honoured; for they are something transcendently divine.”

The least disrespect to one of the sacred order, is the most atrocious of crimes. “For contumelious language to a Brahmen,” says the code of Menu, “a Sudra must have an iron style, ten fingers long, thrust red-hot into his mouth; and for offering to give instruction to priests, hot oil must be poured into his mouth and ears.”

The laws give to the Brahmens the most remarkable advantages, over the other classes of the community. Neither the person, nor so much as the property of the Brahmen, can ever be touched, in awarding punishment for the most atrocious crimes. “Never shall the king,” says one of the ordinances of Menu, “slay a Brahmen, though convicted of all possible crimes; let him banish the offender from his realm, but with all his property secure, and his body unhurt.” This privileged order was entirely exempt from taxes. One of the most important of all duties is to bestow wealth upon the Brahmens, by incessant gifts and donations.

2. The Cshatriyas, or the military caste. Though the Brahmens look down upon this class, they are looked up to by all the rest of the classes, with a prostrate veneration, inferior only to that with which the Brahmens are regarded. The difference of rank in India, is not a mere ceremonial distinction. The advantages which are conferred by it, or the injuries endured, are immense; and to the suffering party unspeakably degrading. Any infringement, even of the external marks of the abjectness of the degraded party, is punished as a heinous crime. “If a man of an inferior caste,” says Halhed’s *Gentoo Code*, “proudly affecting an equality with a person of superior cast, should speak at the same time with him, the magistrate in that case shall punish him to the extent of his abilities.” It is unnecessary, under this head, to enter into details, which would occupy a disproportioned space.

Military Caste.

3. The Vaisyas, the agricultural and commercial class. It is still less necessary to multiply particulars under this head. When the two extremes are sufficiently explained, what modifications of respect or disrespect belong to the intermediate stages, may be easily inferred.

Agricultural Caste.

4. As much as the Brahman is an object of intense veneration, so much is the Sudra an object of contempt, and even of abhorrence, to the other classes of his countrymen. The business of the Sudras is servile labour; and their degradation inhuman. The most abject and grovelling submission is imposed upon them as a religious duty, enforced by the most dreadful punishments. They are so completely deprived of an equal share in the advantages of the social union, that few of those advantages are reserved to them. The classes above them are restrained from injuring them, even in the case of the greatest crimes, by punishments far slighter, than those which are appointed for injuries done to the superior classes. The crimes which they commit, are punished with much heavier inflictions than equal crimes committed by individuals of the classes above them. Neither their persons nor their labour is free. "A man of the servile caste," says the sacred ordinance of Menu, "whether bought or unbought, a Brahmen may compel to perform servile duty; because such a man was created by the Self-existent for the purpose of serving Brahmens."

Servile Caste.

According to the principles of the same code, the Sudra was excluded from the benefits of property. "No collection of wealth must be made by a Sudra, even though he has power, since a servile man who has amassed riches gives pain even to Brahmens." "A Brahmen may seize without hesitation, the goods of his Sudra slave; for as that slave can have no property, his master may take his goods."

The degradation of the wretched Sudra extends not only to every thing in this life, but even to religion, and the prospect of future happiness. "Let not a Brahmen," says the above code, "give advice, nor what remains from his table, nor clarified butter, of which part has been offered, nor let him give spiritual counsel to such a man, nor inform him of the legal expiation for his sin; surely he who declares the law to a servile man, and he who instructs him in the mode of expiating sin, sinks with that very man into the hell named Asamvrita." Not only are the Sudras not allowed to read any of the sacred books; but, "If," says the *Gentoo Code*, "a man of the Sooder reads the Beids of the Shaster, or the Pooran, to a Brahman, a Chehteree, or a Bice" (Halhed's mode of spelling the names of the four castes), "then the magistrate shall heat some bitter oil, and pour it into the aforesaid Sooder's mouth; and if a Sooder listens to the Beids of the Shaster, then the oil, heated as before, shall be poured into his ears, and arzeez and wax shall be melted together, and the orifice of his ears shall be stopped up therewith. If a Sooder gets by heart the Beids of the Shaster, the magistrate shall put him to death. If a Sooder gives much and frequent molestation to a Brahman, the magistrate shall put him to death." From this

specimen of particulars, a judgment may be formed with regard to the rest.

Though this is the primary and original formation of castes, the institution, unless where it happens to be early broken up, does not rest here. The distribution of the members of the community into four classes only, and the appropriation of their services to four species of employment,

though a great step in improvement at the time they were instituted, must have become productive of many inconveniences, as the wants of society multiplied. The bare necessities of life, with a few of its rudest accommodations, are all the means of gratification which it affords, or is capable of

Inconveniences which flow from this Institution as Society advances.

affording to mankind. As the desires of mankind, however, speedily extend beyond such narrow limits, a struggle must have early ensued between the first principles of human nature, and those of the political establishment.

And this was not the only evil to which, under this primary institution, society was exposed. The different castes were strictly commanded to marry with those exclusively of their own class and profession; and the mixture of the classes by the union of the sexes, was guarded against by the most sanguinary laws. This, however, was a result which laws were not sufficiently powerful to prevent. Irregularities occurred, and children were born who belonged to no caste, and for whom there was no occupation. A more calamitous event could not fall upon human society. Unholy and infamous on account of that violation of the sacred law to which they owed their unwelcome birth, those wretched outcasts had no resource for subsistence, except two; either the bounty of the regular classes, to whom they were objects of contempt and abhorrence, not of sympathy, or the plunder of those classes by whom they were oppressed; a resource to which they would betake themselves with all the ingenuity of necessitous, and all the ferocity of injured men.

When a class of this description became numerous, they must have filled society with the greatest disorders. The nature of the case would have drawn the philosophical mind to this conclusion, had no testimony existed. It so happens, however, that this is one of the few facts in the ancient history of the Hindus, which can be ascertained from their records. In the preface to that compilation of the *Hindu Laws*, which was translated by Mr Halhed, it is stated that, after a succession of good kings who secured obedience to the laws, and under whom the people enjoyed felicity, came a monarch, evil and corrupt, under whom the laws were violated, the mixture of the classes was perpetrated, and a new and impious race were produced. The Brahmens put this wicked king to death; and, by an

effect of miraculous power, created a successor, endowed with the most excellent qualities. Nevertheless the kingdom did not prosper, by reason of the Burren Sunker (so were the impure and irregular brood denominated); and it required all the wisdom of this sage and virtuous king to devise a remedy. He resolved to form a classification of the mixed race; and to assign them occupations. This accordingly was the commencement of arts and manufactures. The Burren Sunker became all manner of artisans and handicrafts. Of the classes into which they were distributed, one was appointed to the weaving of cloth, another to works in iron, and so in all other cases; till the subdivisions of the race were exhausted, and the wants of the community were provided for. Among the Hindus, thirty-six castes of the impure race are enumerated, all inferior in rank and privileges even to the Sudra. To proceed farther in the detail, would be inconvenient and useless. By this supplement to the institution of the four primary castes, two great evils were remedied at once; the increasing wants of an improving society were supplied, and a class of men, who had been the pest of the community, were converted to its service.

The only remaining inquiry with respect to the institution of castes, which seems appropriate to this place, is that of its utility or inutility as a part of the social establishment.

A few words, we think, will suffice, to convey clear and determinate ideas upon this subject.

It is the distinction of man's nature, that he is a progressive being. It is by this grand characteristic that he is separated so widely from the inferior animals. When found in circumstances and situations in which the benefits of progression seem not to have been reaped, he is raised but a slight degree above the condition of some of the more perfect of the inferior animals. His peculiarity is, that he is susceptible of progression; and unless when he is placed in circumstances which impose extraordinary restraints upon the principles of his nature, does invariably and incessantly make progress. Even when he originates in a state little above that of the inferior animals, he rises, and gradually ascends from one stage to another, till his elevation above all the other inhabitants of this globe is immense; nor is there any limit which our knowledge permits us to set, to his final attainments and felicity. In whatever state the other animals originate, in that same state they remain through all ages; and seem altogether incapable of improvement.

General View of  
the Effects of this  
Institution.

In regard to man, therefore, considered as a class of beings, or an order of existence; every thing is to be considered as beneficently important, in proportion as it favours his progression; every thing



is to be considered as mischievously important, in proportion as it obstructs and impedes that progression.

It is by this grand test of all that is good and evil in human institutions, that we shall endeavour to estimate the effects of the establishment of castes.

We shall not here adduce the elevation of one set of the classes, and the correspondent degradation of another, obviously the cause of infinite evil; because it may be with justice maintained, that this horrid elevation, and equally horrid depression, are not essential parts of the institution of caste, but arise from other causes, and may, in fact, be separated from that institution.

First of all, it is evident, that at the time when the number of castes and professions is established, unless it could be foreseen what are all the species of operations or arts, by which the desires of man, in all their possible varieties, are capable of being gratified; and what are all the possible divisions of labour from which any good can arise; the appointment of fixed, unalterable castes and professions, must oppose an irresistible barrier to human advancement in these two grand instruments of progression, the division of labour, and the practice of new arts, as invention may suggest them, or the multiplying desires of an improving society may create the demand. Since it is obviously impossible that all these things can be foreseen, it is abundantly certain, that the institution of any fixed number of arts and trades is exactly an institution for preventing the progression of mankind. This deduction appears to be conclusive; and, if there were no other argument, affords a complete answer to the question respecting the utility of castes.

Even in the trades and arts which are known and provided for at the time of the institution, it is by no means certain, that this fixed order of the persons who are to practise them is a contrivance well adapted for carrying these arts themselves, whether large in number or small, to their highest state of perfection. It by no means follows, that a man will do any thing better than any other man because his father did it before him. To establish a caste for any particular art or profession, is giving a sort of monopoly to that particular description of men. It is a wide monopoly, to be sure; but as far as the appropriation of the art to one class is calculated to have any effects, they must so far be such as it is of the nature of a monopoly to produce, and hence unfavourable to the progress of the art. The way which presents itself to the reasoning mind, as that which is best calculated for improving every branch of human industry or skill, is to open, as widely as possible, the doors to competition; not to exclude any man, of whatever origin, who may appear to have an extraordinary genius for any particular thing,

but allow him, through competition, to reap the reward of his superiority, and hence to feel all the motives that can prompt him to excel. The acquirements of one generation are not transmitted to another more surely when they are transmitted from father to son, than when they are transmitted in the way of promiscuous instruction. Nor does it necessarily, or even commonly, happen, that the learner gets more careful instruction from his father, than he would from a man who is not his father; or, that he himself is more intent in his application, and careful to learn, because it is his father who instructs him.

In the sciences and the fine arts, the power of excelling in which depends upon rare combinations of circumstances, to limit the number of competitors, and shut up the field from all but the members of a particular tribe, is obviously a powerful expedient for diminishing the chance of progression. In regard to literature and knowledge the case is clear and decisive. To confine the prosecution of it to a particular tribe, is to insure a perpetuity of ignorance and misery to the human race. It will be decidedly the interest of the knowing class to maintain as much ignorance as possible among the rest of the community, that they may be able the more easily to turn and wind them conformable to their own purposes; and, for that end, to study, not real knowledge, not the means of making mankind wiser and happier, but the means of deluding and imposing upon them; the arts of imposture. With this clear and incontrovertible inference, how exactly does the historical fact correspond? How truly and faithfully have the Brahmins acted up to that rule? They have made it a law revealed from heaven to keep the great bulk of the community in ignorance. And what branch of knowledge have they ever studied but the science of delusion? There is first their theology; a mass of absurd fictions to chain the imagination of ignorant and foolish men. And then there is astrology, which concludes the circle of all their studies, and may be justly styled the "Second Part of the Act of Imposture;" even their mathematics, in which they made some little progress, being studied in no other shape than as a part of the business of astrology.

Another circumstance appears to merit no slight regard. The institution of castes is calculated to multiply the evils, so dreadful in magnitude, which are apt to arise from the principles of population, and is opposed to the measures which are calculated to lessen or prevent them. The evils which are apt to be produced by an occasional superabundance of people in any one of the departments of industry and subsistence, are exceedingly diminished, when the greatest possible facility is given to the supernumerary individuals, of distributing themselves through all the other departments of industry and subsistence. And these evils,

it is obvious, are all raised to the greatest height when the possibility of that distribution is taken away; and individuals, in whatsoever degree superabundant, are still confined to their own department. As this is a topic, the elucidation of which is easy to carry on, we shall content ourselves with the bare hint which has thus been given, and leave the development to the reflections of the reader.

It may be added, as a supplement to what was said about the obstruction which, by the institution of castes, is given to progression, not only in the division of labour and the multiplication of arts, but even in perfecting the arts which are known and practised, that the strict confinement of one tribe of men to one tribe of operations must have a strong tendency to create a habit of routine, and hence an aversion to all innovation; a disposition to acquiesce in what has constantly been done, as if it were that which ought to be constantly done; and hence to deaden that activity of mind which is on the alert to catch at every chance of improvement,—that admirable temper, on which the greatest rapidity in the march of human amelioration essentially depends.

It was intended, after thus presenting the reasons on which we conclude that the institution of castes is an arrangement altogether opposite to the interests of human nature, to have stated and answered the reasons which have been advanced by Dr Robertson, in the *Appendix* to his *Historical Disquisition Concerning India*, and very recently by the Abbé Dubois, in his *Description of the Character, &c. of the People of India*, to prove that the institution of castes is really beneficial. But after looking over these reasonings, with a view to that answer, they have appeared to us to be so weak and insignificant, as to be altogether unworthy, the trouble of transcription. A sufficient answer to every point which they adduce, will be found in the considerations which we have already urged upon the subject; and we doubt not, that we may safely intrust the decision to the judgment of the reader.

(f. f.)

[\[Back to Table of Contents\]](#)

## COLONY.

The term *Colony* has not been used with much precision. Dr Johnson defines it, "A body of people drawn from the mother country to inhabit some distant place;" and it would not be easy to find a short expression better calculated to embrace all the particulars to which, at any time, the term is applied. Yet this will be found to include some very heterogeneous objects; and, what is more, to express particulars to which the term Colony really does not extend. When the French Protestants, for example, settled, in great numbers, in England, and in the United Provinces, they were "a body of people drawn from the mother country to inhabit a distant place," but did not, for that reason, become a colony of France. Let the first part of the definition be supposed to be correct, and that a colony must, of necessity, be "a body of people drawn from the mother country;" something more is necessary to complete the definition, than the idea of inhabiting a distant place; for not every sort of inhabiting constitutes them a colony.

Colony.



Definition.

It seems necessary that, inhabiting a distant place, they should not come under the authority of any foreign government, but either remain under the government of the mother country, or exist under a government of their own. Of colonies remaining under the government of the mother country, the West India islands of the different European states afford an example. Of those existing under a government of their own, the most celebrated example is found in the colonies of the ancient states of Greece. The United States of America, as they constituted an example of colonies of the first sort, before the revolution which disjoined them from the mother country, so they may be regarded as constituting an example of colonies of the Grecian sort, now that they exist under a government of their own; though our resentment at their preferring to live under a government of their own, has prevented us from regarding them in the endearing light of a colony, or daughter country—has made us much rather apply to them the name of enemies—and our feelings towards them, to possess a greater share of those of the hostile, than of those of the amicable sort.

Again, however, the term Colony is sometimes employed in a sense in which the idea of a body of people, drawn from the mother country, hardly seems to be included. Thus, we talk of the British colonies in the east, meaning, by that mode of expression, the East Indies. Yet it can hardly be said, that any body of people is drawn from the mother country to inhabit the East Indies. There is nobody

drawn to *inhabit*, in the proper sense of the word. A small number of persons, such as are sent to hold possession of a conquered country, go; and, in this sense, all the conquered provinces of the ancient Roman empire might be called, what they never have been called, colonies of Rome.

In the meaning of the term Colony, the predominant idea among the ancient Greeks and Romans, appears to have been that of the *people*,—the going out of a body of people to a new and permanent abode. Among the moderns, the predominant idea appears to be that of the *territory*,—the possession of an outlying territory; and, in a loose way of speaking, almost any outlying possession, if the idea of permanency is united, would receive the name of a colony. If we use the term with so much latitude as to embrace the predominating idea both of ancients and moderns, we shall say that a colony means an outlying part of the population of the mother country, or an outlying territory belonging to it; either both in conjunction, or any one of the two by itself.

We shall first treat of that class of them in the conception of which the idea of the people is the predominating idea. Of this sort were the Roman and the Grecian colonies, and of this sort are some of the British colonies.

The Roman colonies arose out of a peculiarity in the situation of the Roman people. In that, as in other countries, the lands were originally regarded as belonging to the state; and as belonging to the people, when the people took the powers of government to themselves. A sense of convenience, there, as everywhere else, rendered the land private property by degrees; and, under a form of government so very defective as the Roman, the influence of the leading men enabled them, in a short time, to engross it. The people, when reduced to misery, did not altogether forget, that the land had once been regarded as theirs; and every now and then, asserted their claims in so formidable a manner, that, when aided by circumstances, they compelled the ruling few to make something of a sacrifice. They did not, indeed, compel them to give up the lands which they had themselves appropriated, but it always happened, that in the countries conquered by the Romans, a portion of the lands was public property, and continued to be cultivated for the benefit of the Roman state. When the importunity of the people for a division of lands began to be troublesome or formidable, a portion of these lands was generally resorted to, enough to take off the most fiery of the spirits, and contenting the leaders, to quiet the populace for a time. The portion of land set apart for the purpose was divided, at the rate of so much for every man; and a sufficient number of persons to occupy it, and to form a community, were sent out, more

Roman Colonies.

or less provided with the various supplies which were necessary for commencing the settlement.

In the nature of an establishment of this description there is no mystery, and hardly anything which requires explanation. The colonists lived in a Roman province, under Roman laws, and differed not materially from the people of any other local jurisdiction. Being once got rid of, no farther advantage was expected from them than from the other inhabitants of the country, in paying taxes for example, and furnishing men for the army. In some few instances, some benefit in the way of defence was looked to in the planting of colonies, when they were established in newly conquered countries, the people of which were not yet patient under the yoke, or when they were placed in the way of invading enemies. But not much advantage of this sort can be derived from a colony, which in general has more need to receive than ability to yield protection.

These colonies were planted wholly for the benefit of the Roman aristocracy. They were expedients for preserving to them the extraordinary advantages and powers they had been enabled to assume, by allaying that impatience of the people under which the retention of them became difficult and doubtful. The wonder is, that the people were so easily contented, and having certain means of intimidating the aristocracy to so great a degree, they did not insist upon greater advantages. And the pity is, that they understood so little what was for their advantage. If, instead of demanding a portion of land, the benefit of which, at best, was only temporary, they had demanded good laws, and had obtained efficient securities for good government, securities against that prevalence of the interests of the few over the interests of the many which existed to so great an extent in the Roman government, as it has existed and still does exist in almost all other governments, they would have done themselves, and they would have done the human race, the greatest of all possible services. But the progress of the human mind was then too small to enable it to see distinctly what was the real object of good government, or what the means which would be effectual in attaining it.

We next come to the class of colonies which are exemplified in the case of those sent out by the Greeks; and we take them in order posterior to the Roman, because there is something in them for which rather more of explanation is required. Of those early migrations, which carried a Greek population into Asia Minor, and at a later period into Italy and Sicily, we have not a sufficient number of historical facts, to know very accurately the cause. And it may be, that internal commotions, as often as a superabounding population, were the source from

Grecian Colonies.

which they were derived. When, of two contending parties, one acquired the ascendancy, they frequently made the situation of their opponents so painful to them, and sometimes also the shame of defeat was so great, that the vanquished party chose rather to live anywhere, than subject to the power and contempt of those over whom they had hoped to domineer. The leaders proposed emigration, and a great part of those who contended under their banners were ready to depart along with them. In this way they might remove in large bodies, and, carrying with them all their moveable effects, would be in circumstances, when they established themselves on a fertile soil, to attain, in a little time, a great degree of prosperity. All this seems necessary to account for so great a degree of prosperity as was attained very early by the Greeks in Asia Minor, where arts and sciences flourished sooner, and civilization made still more rapid strides, till checked by Persian domination, than in the mother country itself, where a more dense population, and a less fertile soil, opposed obstructions to the happiness of the people, and the progress of the human mind.

There is nothing in modern times which so much resembles the colonization of Asia Minor by the Greeks, as the colonization of North America by the English. Of the first English planters of North America, a large proportion went out to escape the oppression of a predominating religion, as the Greeks to escape the oppression of a predominating political party. One difference there was, in that the English did not go off, at once, in any considerable bodies, under distinguished leaders, or with any great accompaniment of capital, the means of future prosperity. Accordingly, the prosperity of the British colonies in North America was much less rapid, and much less brilliant, than that of the Grecian colonies in Asia Minor. Another great difference there was, in that the English colonies, though they made a sort of subordinate government for themselves, were still held to be subject to the government of the mother country. The Grecian colonies became states, in all respects independent, owning no government but that which they established for themselves; though they still looked to the mother country for protection and assistance, and held themselves under a very strong obligation to befriend and assist her in all her difficulties.

In regard to those detachments of the population of the Grecian states which made themselves, either from political disgust, or political oppression, there is nothing which stands in need of explanation. The motive which gave rise to them is familiar and obvious; and the sort of relation in which they and the mother country stood to one another, importing mutual benevolence, but

no right in the one to command, or obligation on the other to obey, every body can immediately understand.

There were other occasions, however, on which the Greeks sent out colonies, and these are the colonies which are commonly meant, when the Grecian principle of colonization is spoken of by way of distinction. These colonies were sent out, when the population of the mother country became superabundant, and relief was demanded by a diminution of numbers. This is a ground of colonization, which, since the principle of population has been shown to exert so great an influence upon the condition of human beings, deserves profound regard. We shall not therefore pass it by, without a few observations.

A population is said to be redundant—When? Not when it is numerically of either great or small amount; but solely and exclusively when it is too great for the quantity of food. Any one country produces or procures a certain quantity of food in the year. If it has a population greater than such a quantity of food is sufficient to maintain, all that number which is over and above what it is capable of maintaining is a redundancy of population.

A curious phenomenon here presents itself. A redundancy of population, in the states of ancient Greece, made itself visible even to vulgar eyes. A redundancy of population in modern Europe never makes itself visible to any but the most enlightened eyes. Ask an ordinary man, ask almost any man, if the population of his country is too great,—if the population of any country in Europe is, or ever was too great?—so far, he will tell you, is it from being too great, that good policy would consist in making it, if possible, still greater; and he might quote, in his own support, the authority of almost all governments, which are commonly at pains to prevent the emigration of their people, and to give encouragement to marriage.

Effects of the Principle of Population in Greece.

The explanation of the phenomena is easy, but it is also of the highest importance. When the supply of food is too small for the population, the deficiency operates, in modern Europe, in a manner different from that in which it operated in ancient Greece. In modern Europe, the greatest portion of the food is bought by the great body of the people. What the great body of the people have to give for it is nothing but labour. When the quantity of food is not sufficient for all, and some are in danger of not getting any, each man is induced, in order to secure a portion to himself, to give better terms for it than any other man, that is more labour. In other words, that part of the population who have nothing to give for food but labour, take less wages. This is the primary effect, clear,



immediate, certain. It is only requisite, farther, to trace the secondary, or derivative effects.

When we say, that, in the case in which the supply of food has become too small for the population, the great body of the people take less wages, that is, less food for their labour, we mean that they take less than is necessary for comfortable subsistence; because they would only have what is necessary for comfortable subsistence in the case in which the supply of food is not too small for the whole.

The effect then of a disproportion between the food and the population, is not to feed to the full measure that portion of the population which it is sufficient to feed, and to leave the redundant portion destitute; it is to take, according to a certain rate, a portion of his due quantity from each individual of that great class who have nothing to give for it but ordinary labour.

What this state of things imports, is most easily seen. That great class, who have nothing to give for food but ordinary labour, is the great body of the people. When every individual in the great body of the people has less than the due quantity of food, less than would fall to his share if the quantity of food were not too small for the population, the state of the great body of the people is the state of sordid, painful, and degrading poverty. They are wretchedly fed, wretchedly clothed, have wretched houses, and neither time nor means to keep either their houses or their persons free from disgusting impurity. Those of them, who, either from bodily infirmities, have less than the ordinary quantity of labour to bestow, or from the state of their families need a greater than the ordinary quantity of food, are condemned to starve; either wholly, if they have not enough to keep them alive, or partially, if they have enough to yield them a lingering, diseased, and after all a shortened existence.

What the ignorant and vulgar spectator sees in all this, is not a redundant population, it is only a poor population. He sees nobody without food who has enough to give for it. To his eye, therefore, it is not food which is wanting, but that which is to be given for it. When events succeed in this train, and are viewed with these eyes, there never can appear to be a redundancy of population.

Events succeeded in a different train in the states of ancient Greece, and rendered a redundancy of population somewhat more visible even to vulgar and ignorant eyes.

In ancient Greece the greatest portion of the food was bought by the great body of the people; the state of whom, wretched or

comfortable, legislation has never yet been wise enough much to regard. All manual labour, or at least the far greatest portion of it, was performed, not by free labourers serving for wages, but by slaves, who were the property of the great men. The deficiency of food, therefore, was not distributed in the shape of general poverty and wretchedness over the great body of the population, by reduction of wages; a case which affects, with very slight sensations, those who regard themselves as in no degree liable to fall into that miserable situation. It was felt, first of all, by the great men, in the greater cost of maintaining their slaves. And what is felt as disagreeable by the great men is sure never to continue long without an effort, either wise or foolish, for the removal of it. This law of human nature was not less faithfully observed in the states of ancient Greece for their being called republics. Called republics, they were, in reality, aristocracies; and aristocracies of a very bad description. They were aristocracies in which the people were cheated, with an idea of power, merely because they were able, at certain distant intervals, when violently excited, to overpower the aristocracy, in some one particular point; but they were aristocracies in which there was not one efficient security to prevent the interests of the many from being sacrificed to the interests of the few; they were aristocracies, accordingly, in which the interests of the many were habitually sacrificed to the interests of the few; meaning by the many, not the slaves merely, but the great body of the free citizens. This was the case in all the states of Greece, and not least in Athens. This is not seen in reading the French and English histories of Greece. It is not seen in reading Mitford, who has written a *History of Greece* for no other purpose, but that of showing that the interests of the many always *ought* to be sacrificed to the interests of the few; and of abasing the people of Greece, because every now and then, the many in those countries showed, that they were by no means patient under the habitual sacrifice of their interests to the interests of the few. But it is very distinctly seen among other places, in reading the Greek orators, in reading Demosthenes for example, in reading the *Oration* against Midias, the *Oration on Leptines*, and others, in which the licence of the rich and powerful, and their power of oppressing the body of the people, is shown to have been excessive, and to have been exercised with a shameless atrocity, of which the gentleness and modesty of the manners of modern Europe, even in the most aristocratically despotic countries, do not admit.

In Greece, then, anything which so intimately affected the great men, as a growing cost of maintaining their slaves, would not long remain without serious attempts to find a remedy.

It was not, however, in this way alone, that a redundant population showed itself in Greece. As not many of the few citizens maintained

themselves by manual labour, there were but two resources more, the land, and profits of stock. Those who lived on the profits of stock, commonly did so by employing slaves in some of the known arts and manufactures; and of course were affected by the growing cost of maintaining their slaves. Those who lived on the produce of a certain portion of the land could not fail to exhibit very distinctly the redundancy of their numbers, when by the multiplication of families, portions came to be so far subdivided, that what belonged to each was insufficient for his maintenance.

In this manner, then, it is very distinctly seen, why to vulgar eyes there never appears in modern Europe to be any redundancy of population, any demand for relieving the country by carrying away a portion of the people; and why, in ancient Greece, that redundancy made itself be very sensibly perceived; and created, at various times, a perfectly efficient demand for removing to distant places a great proportion of the people.

But what if that redundancy of population which shows itself in modern Europe, in the effects of reduced wages, and a poor and starving people, should suggest to rulers the policy of ancient Greece, and some time or other recommend colonization? A few reflections may be well bestowed upon a supposition of this kind.

In the first place, it should be very distinctly understood what it is we mean, when we say, in regard to such a country as Great Britain, for example, that the supply of food is too small for the population. Because it may be said immediately, that the quantity of food may be increased in Great Britain; a proposition which no man will think of denying.

General Remarks  
on the Principle  
of Population.

On this proposition, let us suppose that in any given year, this year for example, the food in Great Britain is too small for the people, by 10,000 individuals. It is no doubt true, that additional food sufficient to supply 10,000 individuals, might be raised next year; but where would be the amelioration, if 10,000 individuals were at the same time added to the numbers to be fed? Now, the tendency of population is such as to make, in almost all cases, the real state of the facts correspond with this supposition. Population not only rises to the level of the present supply of food; but, if you go on every year increasing the quantity of food, population goes on increasing at the same time, and so fast, that the food is commonly still too small for the people. This is the grand proposition of Mr Malthus's book; it is not only quite original, but it is that point of the subject from which all the more important consequences flow,—consequences which, till that point was made known, could not be understood.

When we say that the quantity of food in any country is too small for the quantity of the people, and that, though we may increase the quantity of food, the population will at the same time increase so fast, that the food will still be too small for the people; we may be encountered with another proposition. It may be said, that we may increase food still faster than it is possible to increase population. And there are situations in which we must allow that the proposition is true.

In countries newly inhabited, or in which there is a small number of people, there is commonly a quantity of land yielding a large produce for a given portion of labour. So long as the land continues to yield in this liberal manner, how fast soever population increases, food may increase with equal rapidity, and plenty remain. When population, however, has increased to a certain extent, all the best land is occupied; if it increases any farther, land of a worse quality must be taken in hand; when land of the next best quality is all exhausted, land of a still inferior quality must be employed, till at last you come to that which is exceedingly barren. In this progression, it is very evident that it is always gradually becoming more and more difficult to make food increase with any given degree of rapidity, and that you must come at last to a point where it is altogether impossible.

It may, however, be said, and has been said in substance, though not very clearly, by some of Mr Malthus's opponents, that it is improper to speak of food as too small for the population, so long as food can be made to increase at an equal pace with population; and though it is no doubt true, that, in the states of modern Europe, food does not actually increase so fast as the population endeavours to increase, and hence the poverty and wretchedness of that population; yet it would be very possible to make food increase as fast as the tendency in population, and hence to make the people happy without diminishing their numbers by colonization; and that it is owing wholly to unfavourable, to ill-contrived institutions, that such is not the effect universally experienced.

As this observation has in it a remarkable combination of truth and error, it is worthy of a little pains to make the separation.

There can be no doubt that, by employing next year a greater proportion of the people upon the land than this year, we should raise a greater quantity of food; by employing a still greater proportion the year following, we should produce a still greater quantity of food; and, in this way, it would be possible to go on for some time, increasing food as fast as it would be possible for the population to increase. But observe at what cost this would be. As

the land, in this course, yields gradually less and less, to every new portion of labour bestowed upon it, it would be necessary to employ gradually not only a greater and greater *number*, but a greater and greater *proportion* of the people in raising food. But the greater the proportion of the people which is employed in raising food, the smaller is the proportion which can be employed in producing anything else. You can only, therefore, increase the quantity of food to meet the demand of an increasing population, by diminishing the supply of those other things which minister to human desires.

There can be no doubt, that, by increasing every year the proportion of the population which you employ in raising food, and diminishing every year the proportion employed in every thing else, you may go on increasing food as fast as population increases, till the labour of a man, added upon the land, is just sufficient to add as much to the produce, as will maintain himself and raise a family. Suppose, where the principle of population is free from all restriction, the average number of children reared in a family is five; in that case, so long as the man's labour, added to the labour already employed upon the land, can produce food sufficient for himself and the rearing of five children, food may be made to keep pace with population. But if things were made to go on in such an order, till they arrived at that pass, men would have food, but they would have nothing else. They would have neither clothes, nor houses, nor furniture. There would be nothing for elegance, nothing for ease, nothing for pleasure. There would be no class exempt from the necessity of perpetual labour, by whom knowledge might be cultivated, and discoveries useful to mankind might be made. There would be no physicians, no legislators. The human race would become a mere multitude of animals of a very low description, having just two functions, that of raising, and that of consuming food.

To shorten this analysis, let us, then, assume, what will hardly be disputed, that it is by no means desirable for human nature to be brought into a situation in which it would be necessary for every human being to be employed, and fully employed, in the raising of food; that it never can be desirable that more than a certain portion should be employed in the raising of food; that it must for ever be desirable that a certain proportion should be employed in producing other things which minister to human desires; and that there should be a class possessed of leisure, among whom the desire of knowledge may be fostered, and those individuals reared who are qualified to advance the boundaries of knowledge, and add to the powers and enjoyments of man.

It is no use, then, to tell us that we have the physical power of increasing food as fast as population. As soon as we have arrived at

that point at which the due distribution of the population is made between those who raise food, and those who are in other ways employed in contributing to the well-being of the members of the community, any increase of the food, faster than is consistent with that distribution, can only be made at the expence of those other things, by the enjoyment of which the life of man is preferable to that of the brutes. At this point the progress of population ought undoubtedly to be restrained. Population may still increase, because the quantity of food may still be capable of being increased, though not beyond a certain slowness of rate, without requiring, to the production of it, a greater than the due proportion of the population.

Suppose, then, when the due proportion of the population is allotted to the raising of food, and the due proportion to other desirable occupations, that the institutions of society were such as to prevent a greater proportion from being withdrawn from those occupations to the raising of food. This it would, surely, be very desirable that they should effect. What, now, would be the consequence, should population, in that case, go on at its full rate of increase,—in other words, faster than with that distribution of the population, it would be possible for food to be increased? The answer is abundantly plain: All those effects would take place which have already been described as following upon the existence of a redundant population, in modern Europe, and in all countries in which the great body of those who have nothing to give for food but labour, are free labourers:—that is to say, wages would fall; poverty would overspread the population; and all those horrid phenomena would exhibit themselves, which are the never failing attendants on a poor population.

It is of no great importance, though the institutions of society may be such, as to make the proportion of the population, kept back from the providing of food, rather greater than it might be. All that happens is, that the redundancy of population begins a little earlier. The unrestrained progress of population would soon have added the deficient number to the proportion employed in the raising of food; and, at whatever point the redundancy begins, the effects are always the same.

What are the best means of checking the progress of population, when it cannot go on unrestrained, without producing one or other of two most undesirable effects,—either drawing an undue proportion of the population to the mere raising of food, or producing poverty and wretchedness, it is not now the place to inquire. It is, indeed, the most important practical problem to which the wisdom of the politician and moralist can be applied. It has, till this time, been miserably evaded by all those who have

meddled with the subject, as well as by all those who were called upon by their situation to find a remedy for the evils to which it relates. And yet, if the superstitions of the nursery were discarded, and the principle of utility kept steadily in view, a solution might not be very difficult to be found; and the means of drying up one of the most copious sources of human evil; a source which, if all other sources of evil were taken away, would alone suffice to retain the great mass of human beings in misery, might be seen to be neither doubtful nor difficult to be applied.

The only question for which we are here required to find an answer, is that of colonization. When the population of a country is full, and its increase cannot go on, at its most rapid pace, without producing one of the two evils of redundancy, a portion of the people, sent off to another country, may create a void, which, till population fills up, it may go on as rapidly as before, and so on for any number of times.

Connection of this Principle with Colonization.

In certain circumstances, this is a more desirable resource, than any scheme for diminishing the rate of population. So long as the earth is not peopled to that state of fulness which is most conducive to human happiness, it contributes to that important effect. It is highly desirable, on many accounts, that every portion of the earth, the physical circumstances of which are not inconsistent with human well-being, should be inhabited, as fully as the conditions of human happiness admit. It is only, in certain circumstances, however, that a body of people can be advantageously removed from one country, for the purpose of colonizing another. In the first place, it is necessary, that the land which they are about to occupy should be capable of yielding a greater return to their labour than the land which they leave; otherwise, though relief is given to the population they leave behind, their own circumstances are not better than they would have been had they remained.

Another condition is, that the expence of removal from the mother country to the colonized country, should not be too great; and that expence is usually created by distance.

If the expence is too great, the population which remains behind in the mother country, may suffer more by the loss of capital, than it gains by the diminution of numbers.

It has been often enough, and clearly enough, explained, that it is only capital which gives employment to labour; we may, therefore, take it as a postulate. A certain quantity of capital, then, is necessary, to give employment to the population which any removal for the sake of colonization may leave behind. But if, to afford the

expende of that removal, so much is taken from the capital of the country, that the remainder is not sufficient for the employment of the remaining population, there is, in that case, a redundancy of population, and all the evils which it brings. For the well-being of the remaining population, a certain quantity of food is required, and a certain quantity of all those other things which minister to human happiness. But to raise this quantity of food, and this quantity of other things, a certain quantity of capital is indispensably necessary. If that quantity of capital is wanting, the food, and other things, cannot be obtained.

Of that class of colonies, in the conception of which the idea of the people is the predominating idea, we have now explained the principle which is exemplified in the case of the Roman, and that which is exemplified in the case of the Grecian colonies. Belonging to the same class, there are British colonies, in which another, and a very remarkable principle is exemplified. The Greeks planted colonies for the sake of getting rid of a redundant population,—the British, for the sake of getting rid of a delinquent population.

The bright idea of a colony for the sake of getting rid of a delinquent population, if not peculiar to English policy, is, at any rate, a much more remarkable part of the policy of England, than of that of any other country. We have not time here to trace the history of this very singular part of English policy, nor is it of much importance. Every body knows, that this mode of disposing of delinquents was carried to a considerable height, before this country lost her dominion over the North American colonies, to which she annually transported a considerable portion of her convicts. It will suffice for the present occasion, to offer a few observations on the nature of such an establishment as that of New South Wales.

Expediency of a Colony for Delinquents examined.

Considered in the light of its utility as a territory, the colony of New South Wales will be included in the investigation of that class of colonies, in the conception of which the idea of territory is the predominating idea. At present it is to be considered in its capacity of a place for receiving the delinquent part of the British population.

In dealing with a delinquent population, the end to be aimed at,—the security of the non-delinquent,—is considered as double; security from the crimes of this or that individual delinquent himself, and security from those of other men who may be tempted to follow his example. The first object is comparatively easy. It is not difficult to prevent an individual from doing any mischief. What is chiefly desirable is, that the individual who is proved to be a



delinquent, should be so dealt with, that the mode of dealing with him may be as effectual as possible in deterring others from the commission of similar offences.

In regard to the first object,—securing society from the crimes of the convicted individual,—there is a good mode, and a bad mode. The best of all modes, unquestionably, is, the reformation of the offender. Wherever this can be accomplished, every other mode, it is evident, is a bad mode. Now, in regard to the reformation of the offender, there is but one testimony,—that New South Wales, of all places on the face of the earth, except, perhaps, a British prison, is the place where there is the least chance for the reformation of an offender,—the greatest chance of his being improved and perfected in every species of wickedness.

If it be said, that taking a man to New South Wales, at any rate affords to the British community security against the crimes of that man; we may answer, that putting him to death would do so too. And we farther pronounce, that saving a man from death with the mind of a delinquent, and sending him to New South Wales to all the effects of his vicious propensities, is seldom doing even him any good.

It is, however, not true, that sending a delinquent to New South Wales secures the British community from his future offences. A very great proportion of those who are sent to New South Wales find the means of returning; and those who do so are, in general, and may always be expected to be, the very worst.

We have a high authority for this affirmation. The committee of the House of Commons, who were appointed in the session of 1812 “to inquire into the manner in which sentences of transportation are executed, and the effects which have been produced by that mode of punishment,” stated solemnly in their *Report*, that “No difficulty appears to exist among the major part of the men who do not wish to remain in the colony, of finding means to return to this country. All but the aged and infirm easily find employment on board the ships visiting New South Wales, and are allowed to work their passage home. But such facility is not afforded to the women. They have no possible method of leaving the colony but by prostituting themselves on board the ships whose masters may choose to receive them. They who are sent to New South Wales, that their former habits may be relinquished, cannot obtain a return to this country, but by relapsing into that mode of life which, with many, has been the first cause of all their crimes and misfortunes. To those who shrink from these means, or are unable, even thus, to obtain a passage for themselves, transportation for seven years is converted into a banishment for life, and the just and humane

provisions of the law, by which different periods of transportation are apportioned to different degrees of crime, are rendered entirely null.”

So much then with regard to the reformation of the individual, and security from his crimes, neither of which is attained. But, even on the supposition that both were ever so completely attained, there would still be a question of great importance; viz. whether the same effects could not be attained at a smaller expence. It never ought to be forgotten, that society is injured by every particle of unnecessary expence; that one of the most remarkable of all the points of bad government is, that of rendering the services of government at a greater than the smallest possible expence; and that one of the most remarkable of all the points of good government is, that of rendering every service which it is called upon to render at the smallest possible expence.

In this respect also, the policy of the New South Wales establishment is faulty beyond all endurance. The cost of disposing in this way of a delinquent population is prodigious. We have no room for details, and there is no occasion for proof; the fact is notorious. Whereas, it is now well known, that, in houses of industry and reformation upon the best possible plan, that, for example, of Mr Bentham’s *Panopticon*, which has no parallel, there is little or no expence, there is perfect security against the future crimes of the delinquent, and that to a great degree, by the best of all possible modes,—his reformation.

Thus wretched is the mode of dealing with a delinquent according to such an institution as that of New South Wales, as far as regards the securing of the community from the future crimes of the convicted delinquent. It remains, that we consider it in what regards the deterring of all other men from following similar courses to those of the delinquent.

It is very evident, that this last is by far the most important of the two objects. It is now agreed that this is the end, the only good end, of all punishment, properly so called; for mere safe custody, against the chance of future crimes, and satisfaction to the injured party, are not, in the proper sense of the word, punishments; they are for other ends than punishment, in any point of view in which it is ever contemplated.

The great importance of this above the previous case, consists in this, that when you take security against the crimes of the convicted delinquent, you take security against the crimes of only one man, and that a man in your hands, with whom you can deal as you please. When, by means of the mode of dealing with him, you

deter all other men from following similar courses, you provide security, not against one man alone, but many men, any number of men, of men undetected, and not in your power, each of whom may be guilty of many crimes before he can be stopt.

On this point it is only necessary, for form's sake, to write down what is the fact; for every human being of common reflection, must anticipate the observation before it is made. If an assembly of ingenious men, in the character of legislators, had sitten down to devise a method of dealing with delinquents, which, while it had some appearance of securing society from the crimes of the detected individual, should be, to the greatest possible degree, devoid, both of the reality and even the appearance of any efficacy, by its example, of deterring other men from the pursuit of similar courses, they could not have devised any thing better calculated for that preposterous end than the colony of New South Wales. Nothing can operate where it does not exist. The men to be operated upon are in England; the example which should operate is in New South Wales. Much more might be said, but it is unnecessary. In the great majority of cases, a voyage to New South Wales, has not even the appearance of a punishment. Men of that description have neither friends nor affections. They leave nobody or thing whom they like, and nobody who likes them. What is it to such men that they are for a while, or for ever, taken away from England, along, very frequently, with the only sort of persons with whom they have any connection, the companions of their debaucheries and of their crimes?

We now come to the second grand division of colonies, those, in the conception of which, the idea of territory is the predominating idea. Of this sort are most of the colonies of the states of modern Europe; the British possessions, for example, in the East and West Indies.

Examination of the supposed Advantages of Colonies.

The question is, in what way, or ways, abstracting from the questions of population, an outlying territory, considered merely as territory, is calculated to be advantageous; or, in other words, what reasons can any country have for desiring to possess the government of such territories.

There are two ways, which will easily present themselves to every mind, as ways in which advantage may accrue to the governing country. First, these outlying dominions may yield a tribute to the mother country; secondly, they may yield an advantageous trade.

1. We shall consider the first supposition; that of their yielding a tribute to the mother country. This will not require many words, as it is a supposition which few will be found to entertain. In regard to the West Indies, no such idea as that of a tribute has ever been formed. Even in regard to those taxes, which a vain and unprofitable attempt was made to impose upon the formerly existing colonies in North America, they were never dreamt of as a tribute, and never spoken of but in a sense contrary to the very idea of a tribute, that of reimbursing to the mother country a part, and no more than a part, of that which they cost her in governing and defending them.

No Advantage to be got in the shape of Tribute.

With regard to the East Indies, we believe, there exists more or less of prejudice. Under the ignorance in which the country has remained of East India affairs, it floats in the minds of a great many persons, that, some how or other, a tribute, or what is equivalent to a tribute, does come from the East Indies. Never did an opinion exist more completely, not merely without evidence, but contrary to evidence, evidence notorious, and well known to the persons themselves by whom the belief is entertained. India, instead of yielding a tribute to England, has never yielded enough for the expence of its own government. What is the proof? That its government has always been in debt; and has been under the necessity of continually augmenting its debt, till it has arrived at a magnitude which is frightful to contemplate.

So far is India from yielding a tribute to Great Britain, that, in loans and aids, and the expence of fleets and armies, it has cost this country enormous sums. It is no doubt true, that some acts of Parliament have assumed the existence of a tribute from India, or what has been called a surplus revenue, for the use of the nation. But Parliament, we have pretty good experience, cannot make things just by affirming them. *Things* are a little more stubborn than the credulity of Englishmen. That is, in general, obedient enough to the affirmation of these who lead the Parliament, and who have sometimes an interest in leading it wrong. *Facts* take their own course, without regard to the affirmations of Parliament, or the plastic faith of those who follow them.

A general proposition, on this subject, may be safely advanced. We may affirm it, as a deduction from the experienced laws of human society, that there is, if not an absolute, at least, a moral impossibility, that a colony should ever benefit the mother country, by yielding it a permanent tribute.

Let any body but consider what is included in the word government. And, when he has done that, let him then tell himself

that the colonies must be governed. If he has the sufficient quantity of knowledge and reflection, no further proof will be necessary.

No proposition in regard to government is more universal, more free from all exception than this, that a government always spends as much as it finds it possible or safe to extract from the people. It would not suit the limits of the present design to run over the different governments of the world for the experimental proof of this proposition. We must invite every reader to do it for himself. Of one thing we are perfectly sure, that the more profoundly he is read in history, the more thoroughly will he be convinced of the universality of the fact.

Now, then, consider whether this universal fact be not inconsistent with the idea of benefit to the mother country by receiving a tribute from the colony. The government of the mother country itself cannot keep its expences within bounds. It takes from the people all it can possibly take, and is still going beyond its resources. But if such is the course of government at home, things must be worse in the colonies. The farther servants are removed from the eye of the master, the worse, generally speaking, their conduct will be. The government of the colonies, managed by delegates from home, is sure to be worse, in all respects, than the government at home; and, as expence is one of the shapes in which the badness of government is most prone to manifest itself, it is sure, above all things, to be in proportion to its resources more expensive. Whatever springs operate at home to restrain the badness of government, cannot fail to operate with diminished force at the distance of a colony. The conclusion is irresistible. If the government of the mother country is sure to spend up to the resources of the country; and a still stronger necessity operates upon the government of the colony to produce this effect, how can it possibly afford any tribute?

If it be objected to this conclusion, that this propensity of governments to spend may be corrected, we answer, that this is not the present question. Take governments as, with hardly any exception, they have always been (this is a pretty wide experience); and the effect is certain. There is one way, to be sure, of preventing the great evil, and preventing it thoroughly. But there is only one. In the constitution of the government, make the interest of the many to have the ascendancy over the interest of the few, and the expence of government will not be large. The services expected from government may, generally speaking, be all rendered in the best possible manner at very little expence. Whenever the interests of the many are made, in the framing of governments, to have the ascendancy over the interests of the few, the services of government will always be rendered at the smallest possible

expendence. So long as the interests of the few are made in governments to have the ascendancy over the interests of the many, the services of government are all sure to be rendered, at the greatest possible expence. In almost all governments that ever yet existed, the interest of the few has had an ascendancy over the interest of the many. In all, the expence of government has, accordingly, been always as great, as, in existing circumstances, the people could be made, or could be made with safety, to give the means of making it.

One other supposition may be urged in favour of the tribute. The expence, it may be said, of governing the colony by a deputation from the mother country, may be escaped, by allowing the colony to govern itself. In that case, the colony will not choose to pay a tribute. If the tribute rests upon the ground of friendship, it will not be lasting. If the mother country extorts it by force, the colony is, in fact, governed by the mother country; and all the expence of that mode of government is ensured. If it be urged that the colony may continue to pay a tribute to the mother country, and that voluntarily, because the mother country may be of use to it; that, we may answer, is a bargain, not a tribute. The mother country, for example, may yield a certain portion of defence. But the colony is saved from the expence of providing for itself that defence which it receives from the mother country, and makes a good bargain if it gets it from the mother country cheaper than it would be provided by itself. In this case, too, the expence incurred by the mother country is apt to be a very full equivalent for the tribute received. It is evident, that this sort of bargain may subsist between any two states whose circumstances it may suit, and is not confined to a mother and daughter country. It is therefore no part of the question relating to colonies.

2. We have now investigated the first of the modes in which a colony, considered as territory merely, may be expected to benefit the mother country; and we have seen the chances of good which it affords. We shall now proceed to investigate the second; the trade, by means of which it is supposed that colonies may benefit the mother country.

Inquiry as to the Advantages to be got by Trade.

This is a topic of some importance; for it is on account of the trade that colonies have remained an object of affection to Englishmen. It is on account of trade solely that the colonies in the West Indies are valued. It is indeed true, that some idea of something like a tribute from the East Indies has till this time maintained a place in the minds of the unthinking part of the community. But still it is the trade which has been supposed to be the principal source of the

advantage which has been ascribed to what we call “the British Empire in the East.”

Dr Adam Smith produces a long train of reasoning to prove, that it never can be advantageous to a country to maintain colonies merely for the sake of their trade.

In the idea of deriving a peculiar advantage from the trade of the colonies, is necessarily included the idea of monopoly. If the trade of the colony were to be free, other nations would derive as much advantage from it as the mother country; and the mother country would derive as much advantage from it, if the colony were not a colony.

View of Dr  
Smith's  
Reasonings.

Dr Smith affirms that this monopoly can never be of any advantage; must always, on the contrary, be a source of great disadvantage to the mother country.

He argues thus:—To make the monopoly advantageous to the mother country, it must enable the mother country to buy cheaper, or sell dearer, in the colony, than it would otherwise have done. In other words, it must enable the mother country to obtain the goods of the colony for a smaller quantity of her own goods than she could without the monopoly. This, in the opinion of Dr Smith, it does not belong to the monopoly to accomplish. The monopoly, he says, may enable the mother country to make other nations pay dearer for the goods of the colony, but it cannot enable her to buy them cheaper. This he seems to take as a postulate, without attempting much to support it by reasoning. The extension of the market, he says, by which he must mean, the competition of capital, would, in a state of freedom, reduce the profits of stock in the colonies to their lowest terms. Under a monopoly he seems to think that profit of stock in the colonies is apt to remain above that level. And he assumes, that the terms on which the mother country deals with the colony must depend upon the rate of profits in the colony.

Having, on these grounds, assumed the impossibility of deriving any advantage from the monopoly of the colonial trade, Dr Smith proceeds to represent a variety of disadvantages which he thinks it has a necessary tendency to produce.

His argument is, that the monopoly of the colonial trade necessarily raises the profits of stock in the mother country; and that “whatever,” to use his own expression, “raises in any country the ordinary rate of profit higher than it otherwise would be, necessarily subjects that country both to an absolute and to a

relative disadvantage, in every branch of trade of which she has not the monopoly.”

To prove the first of these propositions, he says, that by the monopoly of the trade of any colony, foreign capital is driven from it; the capital of the trade is thus made deficient; the profit of the capital is, for that reason, increased; the increase of profit in the colony draws capital from the mother country; the departure of capital from the mother country makes the portion of capital in the mother country deficient; and hence raises in the mother country the profits of stock.

To prove the second of the propositions, he says, that high profits produce high prices; and that high prices diminish produce. To afford her merchants the high profits in question, the country must pay dearer for the goods she imports; and must sell dearer those which she exports. She must therefore, he infers, “both buy less and sell less; must both enjoy less and produce less, than she otherwise would do.” Nor is this all; other nations, who do not subject themselves to this disadvantage, to this diminution of produce, may advance faster, and thus attain a superiority which they would not otherwise have enjoyed. And there is still a worse evil; “by raising the price of her produce above what it would otherwise be, it enables the merchants of other countries to undersell her in foreign markets, and thereby to jostle her out of almost all those branches of trade of which she has not the monopoly.”

To this reasoning, Dr Smith anticipates an objection. It may be affirmed, that the colony trade is more advantageous than any other trade; and though it may be true, according to the reasonings of Smith, that the monopoly of the colony trade has diminished the amount of trade which the mother country,—which England, for example, has been able to carry on in other channels; England has lost nothing, because she has exchanged a less profitable for a more profitable employment of her capital.

In answer to this objection, Dr Smith endeavours to prove, that the employment into which the capital of England is forced by the monopoly, is less advantageous to the country than that into which it would have gone of its own accord. As the foundation of his reasoning, he assumes, that “the most advantageous employment of any capital to the country to which it belongs, is that which maintains there the greatest quantity of productive labour, and increases the most the annual produce of the land and labour of that country.” Upon this principle, he maintains, that the home trade is more advantageous than any trade of export and import, because the same capital puts in motion two portions of industry,



that of the buyer and that of the seller. That the trade of export and import, in which the returns of capital take place at short intervals, is more advantageous than a trade in which they take place at distant intervals; as a capital which returns, for example, twice in the year, puts in motion twice as much industry in the mother country, as one which returns only once in the year: And that a carrying trade is the least advantageous of all trades, because it serves to put in motion, not the industry of the country to which it belongs, but the industry of the two countries, the communication between which its employed to maintain. The colony is, therefore, less advantageous than the home trade; it is less advantageous than the trade with the neighbouring countries of Europe; and a great proportion of it is less advantageous than any trade of export and import, because it is a mere carrying trade. The employment into which the capital of Great Britain is forced by the monopoly of the colony trade, is, therefore, a less advantageous employment than that into which it would have gone of its own accord.

We have stated this train of reasoning, which hitherto has passed with political economists as conclusive, the more carefully, because there are several positions in it, which the late profound work of Mr Ricardo (*Principles of Political Economy and Taxation*), who has thrown so much light upon the science of Political Economy, has taught us to control.

First, as to the position, that the monopoly of the trade of a colony cannot enable the mother country to buy cheaper or sell dearer in the colony; in other words, to obtain a given quantity of the goods of the colony for a less quantity of her own goods, than she would otherwise do, Mr Ricardo would reason as follows: If the trade of the colony is left open to all the merchants of the mother country, it will no doubt happen, that the competition of these merchants, one with another, will make them sell as cheap in the colony as they can afford to sell, that is, buy as dear as they can afford to buy. The produce of the colony will, in that case, go as cheap to the foreign as to the home consumer.

Remarks on Dr Smith's Reasonings.

But there is another case; namely, that in which the trade of the colony is placed in the hands of an exclusive company. In that case it is, on the other hand, true, that the mother country may obtain a given quantity of the goods of the colony for a less quantity of her own goods than otherwise she would do. In this case, the goods of the mother country are placed, with regard to the goods of the colony, in the situation in which those commodities which can only be produced in a limited quantity, particular wines, for example, which can only be produced on one particular spot, are placed with regard to all the rest of the goods in the world. It is evident that

any quantity of the rest of the goods in the world may be given for those wines, if people are sufficiently desirous to possess them; that there is no limit, in short, to the quantity, but the unwillingness of people to part with more of the things which they possess to obtain the commodities which are thus in request. The same would be the case with a colony, the trade of which was entirely in the hands of an exclusive company. The exclusive company, by limiting the quantity of the goods of the mother country which they chose to send to the colony, might compel the colony to give for that limited quantity any quantity of the produce of their own land and labour, which their desire to obtain the goods of the mother country would admit. If the goods of the mother country were goods which excited a very strong desire, if they were goods of the first necessity, the necessary materials of food or the instruments of their industry, there would be no limit but one to the greatness of the quantity of their own produce which they might be compelled to pay for a given quantity of the produce of the mother country. When nothing was left to the colony of the whole produce of its labour but just enough to keep the labourers alive, it could not go any farther. Up to that point, if dependent for articles of the first necessity, it might, by an exclusive company, undoubtedly be stript.

Even in the other case of the monopoly, that in which the trade with the colony is not placed in the hands of an exclusive company, but open to all the merchants of the mother country, one situation of the mother country may be supposed, in which she might still draw an extraordinary advantage from the forced trade of the colony.

The facts would be these. Whatever foreign goods the colony bought, she would be still obliged to purchase from the mother country. No doubt, the competition of the merchants of the mother country would, in this case, compel them to sell as cheap to the colony as to any other country. Wherein, then, would consist the advantage? In this, that England might thus sell in the colony, with the usual profits of stock, certain kinds of goods, which not being able to manufacture so cheaply as some other countries, she would cease to manufacture, except for the monopoly. But still a very natural question arises,—What advantage does she derive from forcing this manufacture, since she makes by it no more than the ordinary profits of stock, and might make the ordinary profits of stock by the same capital in some other employment? The answer is, that she might by this means obtain a greater quantity of the goods of the colony, by a given quantity of the produce of her own labour, or, what comes to the same thing, an equal quantity of the goods of the colony, by a less quantity of the produce of her own labour, than she could in a case of freedom.

It may be seen to be so in this manner. England desires to purchase, say 10,000 hogsheads of sugar. This is her consumption. For this she will give, of the produce of her own labour, whatever quantity it is necessary to give. She wishes, however, to give as little as possible; and the question is, in what way she may give the least. The sugar is worth, say L. 500,000. England sends goods to the colony which sell for L.500,000. Now, apply the supposition introduced above. Suppose that, if trade were free, these goods from England, which the manufacturers and merchants of England cannot afford to sell for less than L. 500,000, could be had for L. 400,000 from some other country. In that case, it is evident that the same quantity of these same goods with which England, under the monopoly, purchased 10,000 hogsheads of sugar, would now purchase only 8000; for that is the ratio of the L. 400,000 to the L. 500,000. What then would happen, supposing England still to resolve upon having 10,000 hogsheads of sugar? One of two things must of necessity happen. Either she will purchase the sugar with the same goods, or she will not. If she purchases it with the same goods, it is evident that she must give a greater quantity of goods; she must give one fifth more of the produce of her labour; one fifth more of her industrious people must be withdrawn from administering to other productions, and employed in enabling her to obtain the same quantity of sugar. This quantity of produce, in that case, the mother country saves by means of the monopolized trade of the colony. This quantity she loses by losing such a colony. But, undoubtedly, the mother country would, in such a case, endeavour to purchase the sugar, not with such goods as she purchased it with before, but other goods. She would endeavour to purchase it with goods which she could manufacture as cheaply as any other country. But supposing the colony had no demand for any goods which the mother country could afford as cheap as any other country, even in that case the mother country would still have a resource. If there was any country in which she could sell such goods for money, she could purchase the same quantity of sugar for the same quantity of the produce of her own labour as before.

It is not then true, according to Dr Smith, that in no case can the mother country derive any peculiar advantage in the way of trade, from the possession of colonies. We see that there are two cases, in which she may derive an advantage in that way. It remains to inquire what that advantage is ultimately worth; not only what it is in itself independently, but what it is, after compensation is made for all the disadvantages with which the attainment of it is naturally attended.

We are first to inquire, What is the value of that advantage, all deductions made, which the mother country may derive, through an exclusive company, from the trade of a colony?

It is very evident, in the first place, that, whatever the mother country gains, the colony loses. Now, if the colony were part of the dominions of a foreign state, there is a certain way of viewing such questions, in which that result would appear to be perfectly desirable. But, suppose that the colony, which is the fact, is not part of the dominions of a foreign state, but of the same state; that it is, in truth, not part of a different country, but of the same country; its subjects, not part of a different community, but of the same community; its poverty or riches, not the poverty or riches of another country, but of the same country; How is the result to be viewed in that case? Is it not exactly, the same sort of policy, as if Yorkshire were to be drained and oppressed for the benefit of Middlesex? What difference does it make, that one of the portions of the same empire is somewhat farther off than another? Would it, for that reason, be more rational to pillage Caithness, than to pillage Yorkshire, for the sake of Middlesex? Does the wealth of a state consist in the wealth of one part, effected by the poverty of another part? Does the happiness of a state consist in the happiness of one part, effected by the misery of another? What sort of a rule for guiding the policy of any state would this be supposed? Assuredly this would be a contrivance, not for increasing her wealth and happiness, upon the whole. It would be a contrivance for diminishing it. In the first place, when of two parties equally provided with the means of enjoyment, you take a portion from the one, to give it to the other, the fact is,—a fact too well established, and too consonant with the experience of every man, to need illustration here,—that you do not add to the happiness of the one, so much as you take from the happiness of the other; and that you diminish the sum of their happiness taken together. This, in truth, is the foundation, upon which the laws for the protection of property rest. As the happiness of one man is, or ought to be, of no more value to the state, than the happiness of another man, if the man who takes from another man a piece of property, added to his own happiness, as much as he took from the happiness of the other, there would be no loss of happiness upon the whole, and the state would have no ground, in utility, on which to interfere.

No ultimate Advantage derived from the exclusive Trade of Colonies.

But this is not all. Not only is the quantity of happiness of the community diminished upon the whole, but by that operation which gives the mother country an advantage by the trade of the colony, the quantity of produce of the community is diminished upon the whole. The subjects of the state, taken as a whole, not only enjoy less than they would otherwise enjoy, but they produce less than they would otherwise produce. The state is not a richer state; it is, on the contrary, a poorer state, by means of such a colonial policy.

By means of such a policy, a portion of the capital of the state is employed in a channel in which it is less productive than it would have been in the channel into which it would have gone of its own accord. It is a point established in the science of Political Economy, that it is not good policy to confine consumption to any sort of home manufacture, when it can be purchased more cheaply abroad. It is upon this ground that we have laughed at the late and present outcries of the Germans, because the English sell their goods cheaper than they can make them. The reason is, because when a country continues to consume an article made at home, which it could get cheaper from another country, it does neither more nor less than insist, that it shall employ a certain number of men's labour in providing it with that article, more than it would be necessary to employ if it imported the article; and, of course, it loses completely the benefit of these men's labour, who would be employed in producing for it something else, if they were not employed in producing that article. The country is, therefore, the poorer, by the whole value of these men's labour. The case is exactly the same, where the colonies are confined to the manufactures of the mother country. When the colony is obliged to employ, for the purpose of obtaining a certain quantity of goods from the mother country, the labour of a greater number of men than she would be obliged to employ to get the same quantity of goods from another country, she loses the labours of all that additional number of men. At the same time, the mother country does not gain it; for, if the mother country did not manufacture for the colony, her capital would be liberated to another employment, and would yield the same profits in that as it did in the former employment.

We have still, however, to examine that extraordinary case which we before supposed, in which the mother country cannot produce any sort of commodity whatsoever as cheap as other countries; and, if trade were free, of course would sell nothing in a foreign market. The case here is somewhat altered. In liberating the colony from the monopoly of the mother country, there would be no change of capital from a less to a more productive employment; because, by the supposition, the mother country has not a more productive employment to which her liberated capital can be sent. Events would succeed in the following order: The colony would obtain the goods which it demanded, with a smaller portion of its own labour,—would hence be more amply supplied with goods. But it is not supposed that this event would give to its industry a more beneficial direction. In the case of a sugar colony, at any rate, its industry would remain in the same channels as before. Such would be the effects in regard to the colony. What would they be in regard to the mother country? If her capital is no longer employed in manufacturing for the colony, she can always, indeed, employ it

with the same profit as before. But she still desires the same quantity of sugar; and her goods will not go so far as before in the purchase of it. Whatever fall would be necessary in the price of her goods to bring them upon a level with the goods of other countries, is equivalent, as far as she is concerned, to a rise of the same amount, in the price of sugar. In this case, the mother country would lose exactly as much as the colony would gain. The community, taken as a whole, would be neither the richer nor the poorer, for driving things out of the free into the compulsory channel. The people of the mother country would be so much the richer,—the people of the colony would be so much the poorer.

This, however, still remains to be said. There is only one case in which this sort of monopoly would not diminish the produce of the community, and render it positively poorer upon the whole. There is only that one case, supposed above, in which the mother country has not one commodity which she can sell as cheap as other countries. Now this may fairly be regarded as a case, if not altogether, at any rate very nearly impossible. It is not easy to conceive a country so situated, as not to have advantages in regard to the production of some sorts of commodities, which set her on a level with other countries. As long as this is the case, she can obtain money on as good terms as any other country; and if she can obtain money on as good terms, she can obtain sugar, and every thing else.

The question, then, as to the benefit capable of being derived from a colony through the medium of an exclusive trade, is now brought to a short issue. There is no benefit, except through the medium of a monopoly. There is only one case in which the monopoly does not make the whole community poorer than it would otherwise be. In that case, it does not make the community richer than it would otherwise be; and that case is one, which can either never be realized, or so rarely, as to be one of the rarest of all exceptions to one of the most constant of all general rules. The policy of holding a colony for the benefit of its trade, is, therefore, a bad policy.

To these conclusions, one or two of the doctrines of Dr Smith will be seen to be opposed, and, therefore, require a few words of elucidation.

Farther Remarks  
on Dr Smith.

If an advantage, in the two cases just explained, would arise from colonies, it would be counterbalanced, he says, by the disadvantage attending the rise in the profits of stock.

Both parts of this doctrine may be disputed. In the first place, it may be disputed, whether the monopoly of the colony trade has any tendency to raise the profits of stock in the mother country. In the

next place, it may be disputed, whether a high rate of profits in any country, has any tendency to lay it under any disadvantage in its traffic with other nations.

First, it may be disputed, whether the monopoly of the colony trade would increase profits. The expulsion of foreign capital would create a vacuum, whence, according to Smith, a rise of profit, and an absorption of capital from the mother country. The question is, whether capital would not flow into the colonies from the mother country, till it reduced the profits in the colony, to the level of the profits in the mother country, instead of raising those in the mother country, in any degree toward a level with those of the colony. That it would do so appears to be capable of demonstration. Mr Ricardo's argument would be very short. Nothing, he would say, can raise the profits of stock, but that which lowers the wages of labour. Nothing can lower the wages of labour, but that which lowers the necessaries of the labourer. But nobody will pretend to say that there is any thing in the monopoly of the colony trade, which has any tendency to lower the price of the necessaries of the labourer. It is, therefore, impossible that the monopoly of the colony trade can raise the profits of stock. By those who are acquainted with the profound reasonings of Mr Ricardo, in proof of the two premises, this argument will be seen to be complete. There is not a demonstration in Euclid, in which the links are more indissoluble. To those who are not acquainted with those reasonings, we are aware that the prepositions will appear mysterious; and yet, we are afraid that, in the few words to which we are confined, it will not be possible to give them much satisfaction.

With regard to the last of the two propositions, that nothing can lower the wages of labour, but that which lowers the necessaries of the labourer, we may confine ourselves to that combination of circumstances which marks the habitual state, without adverting to the modifications exemplified in those states of circumstances which are to be regarded as exceptions. The habitual state of population is such, that wages are at the lowest terms; and cannot be reduced lower without checking population, that is, reducing the number of labourers. In this case, it is self evident, that nothing can lower the wages of labour, but lowering the necessaries of the labourer. In all, then, except the extraordinary cases, which it would require too many words here to explain, in which a country is but partially peopled, and in which part of the best land is still unemployed, the proposition of Mr Ricardo is indisputable, that nothing can lower the wages of labour except a fall in the necessaries of the labourer.

Let us next consider the proposition, That nothing can raise the profits of stock but that which lowers the wages of labour.

One thing is perfectly clear, that if the whole of what is produced by the joint operations of capital and labour, were, whatever it is, divided, without deduction, between the owner of the stock, and the labourers whom it employs, in that case, whatever raised the wages of labour, would lower profits of stock, and profits of stock could never rise except in proportion as wages of labour fell. The whole being divided between the two parties, in whatever proportion the one received more, it is certain that the other would receive less.

But what is here put in the way of supposition, viz. that the whole of what is produced by the joint operations of capital and labour is divided between the capitalists and the labourers, is literally and rigidly the fact. It is, then, undeniable, that nothing can raise the profits of stock, but that which lowers the wages of labour.

The whole produce, without any exception, of every country, is divided into three portions, rent, wages, and profits. If there were no rent, and the whole were divided into profit and wages, the case would be clear; because nothing could be added to the one without being detracted from the other.

Rent, however, does, in reality, make no difference. Rent is no part of the joint produce of labour and capital. It is the produce, exclusively, of a particular degree of fertility in particular lands; and is yielded over and above a return to the whole of the labour and capital employed upon that land, over and above a return equal to the joint produce of an equal portion of labour and capital in any other employment.

So much, then, for Dr Smith's opinion, that the monopoly of the colonial trade raises the profits of stock. Let us next inquire if it be true, that a rise in the profits of stock, if it were produced by the monopoly, would occasion, as he supposes, any discouragement to the foreign trade of the mother country.

It would occasion this discouragement, he says, by raising prices. If, then, it can be shown, that it would certainly not raise prices, every reason for supposing that it would afford any discouragement to foreign trade is taken away. But that a high rate of profits does not and cannot raise prices, is evident from what has been deduced above. The whole produce of the joint operations of labour and capital being divided between profit and wages, in whatever degree profit rises, wages fall; the cost of production remains the same as before.



Not only does a variation in the state of wages and profit give no obstruction to foreign trade, a variation even in the cost of production gives no obstruction. A nation exports to another country, not because it can make cheaper than another country; for it may continue to export, though it can make nothing cheaper. It exports, because it can by that means get something cheaper from another country than it can make it at home. But how can it, in that case, get it cheaper, than it can make it at home? By exchanging for it something which costs it less labour than making it at home would cost it. No matter how much of that commodity it is necessary to give in exchange. So long as what it does give is produced by less labour, than the commodity which it gets for it could be produced by at home, it is the interest of the country to export. Suppose that the same quantity of corn which is produced in England by the labour of 100 men, England can purchase in Poland with a quantity of cotton goods which she has produced with the labour of 90 men; it is evident that England is benefited by importing the corn and exporting the cotton goods, whatever may be the price of the cotton goods in Poland, or the cost of producing them. Suppose that the cotton goods could be produced in Poland with the labour of 85 men, that is, less than they are supposed to be produced with in England. Even that would not hinder the trade between them. Suppose that the same quantity of corn, which is raised in England with the labour of 100 men, is raised in Poland with the labour of 80; in that case, it is plain, that Poland can get with 80 men's labour, through the medium of her corn, the same quantity of cotton goods which would cost her the labour of 85 men, if she was to make them at home. Both nations, therefore, profit by this transaction; England, to the extent of 10 men's labour, Poland to the extent of 5 men's labour; and the transaction, in a state of freedom, will be sure to take place between them, though England is less favourably situated than Poland with regard to both articles of production.

In what manner this class of transactions are affected by the intervention of the precious metals; in what manner the precious metals distribute themselves, so as to leave the motives to this barter exactly the same as they would be, if no precious metal intervened, it would require too many words here to explain. The reader who recurs for that explanation to Mr Ricardo, the first author of it, will not lose his time or his pains.

One other disadvantage of the colony trade is adduced by Dr Smith. It turns the capital of the country out of a more into a less profitable employment, by turning it from the home to a foreign trade, from a foreign of quick to a foreign of slow returns, and from a foreign to a carrying trade. This doctrine, too, requires some explanation, and more, to be sufficiently clear, than can here be

bestowed upon it. The home trade is not necessarily more advantageous than the foreign, nor the foreign of quick than the foreign of slow returns, nor any of them all than the carrying trade. These trades, it may be allowed, increase the gross produce of a country, in the order in which Dr Smith has arranged them. But a country is happy and powerful, not in proportion to its gross, but in proportion to its net revenue, not in proportion to what it consumes for the sake of production, but to what it has over and above the cost of production. This is an important fact, which, in almost all his reasonings, Dr Smith has overlooked. It will hardly, however, be denied, that in various circumstances, any one of these trades, the carrying trade itself, may be more conducive to a net revenue than any of the rest; and in a state of freedom will be sure to be so, as often as the interest of individuals draws into that channel any portion of the national stock.

We have now, therefore, considered all those cases which, in the study of colonial policy, can be regarded in the light of *species* or classes. There are one or two singular cases, which are of sufficient importance to require a separate mention.

That English law, which establishes the monopoly of the colonies, at least of the transatlantic ones, professes to have in view, not trade so much as defence. The reason of that round-about policy is, in this manner, deduced. The defence of England stands very much upon her navy; her navy depends altogether upon her sailors; the colony trade and its monopoly breeds sailors; therefore, colonies ought to be cultivated, and their trade monopolized.

Value of Colonies in reference to the Navy examined.

Upon the strength of this reasoning, in which, for a long time, it would have appeared to be little less than impiety to have discovered a flaw, the navigation laws, as they are called, were embraced, with a passionate fondness, by Englishmen.

Nothing is worthy of more attention, in tracing the causes of political evil, than the facility with which mankind are governed by their fears; and the degree of constancy with which, under the influence of that passion, they are governed wrong. The fear of Englishmen to see an enemy in their country has made them do an infinite number of things, which had a much greater tendency to bring enemies into their country than to keep them away.

In nothing, perhaps, have the fears of communities done them so much mischief, as in the taking of securities against enemies. When sufficiently frightened, bad governments found little difficulty in persuading them, that they never could have securities enough.

Hence come large standing armies; enormous military establishments; and all the evils which follow in their train. Such are the effects of taking too much security against enemies!

A small share of reflection might teach mankind, that in nothing is the rigid exercise of a sound temperance more indispensable to the well-being of the community than in this. It is clear to reason (alas, that reason should so rarely be the guide in these matters!) that the provision for defence should always be kept down to the lowest possible, rather than always raised to the highest possible, terms! At the highest possible terms, the provision for defence really does all the mischief to a community which a foreign enemy *could* do; often does a great deal more than it *would*. A moderate provision against evils of frequent and sudden occurrence, a provision strictly proportioned to the occasion, and not allowed to go beyond it, will save more evil than it produces. All beyond this infallibly produces more evil than it prevents. It enfeebles by impoverishing the nation, and degrading by poverty and slavery the minds of those from whom its defence must ultimately proceed; and it makes it, in this manner, a much easier prey to a powerful enemy, than if it had been allowed to gather strength by the accumulation of its wealth, and by that energy in the defence of their country, which the people of a well-governed country alone can evince.

A navy is useful for the defence of Great Britain. But a navy of what extent? One would not, for example, wish the whole people of Great Britain engaged in the navy. The reason, we suppose, would be; because this would not contribute to strength, but weakness. This is an important admission. There is, then, a line to be drawn; a line between that extent of navy which contributes to strength, and that extent which, instead of contributing to strength, is sure to produce weakness. Surely it is a matter of first rate importance to draw that line correctly. What attempt has ever been made to draw it at all? Can any body point out any land-marks which have been set up by the proper authority? Or, has the matter been always managed without measure or rule? And has it not thus always been an easy task to keep the navy in a state of excess; always beyond the line which separates the degree that would contribute to strength from the degree that infallibly contributes to weakness?

As the passion of England has always been to have too great a navy; a navy, which, by its undue expence, contributed to weakness; so it has been its passion to have too many sailors for the supply of that navy. The sailors of a navy are drawn from the sailors of the maritime trade. But a navy of a certain extent requires, for its supply, a maritime trade of only a certain extent. If it goes beyond that extent, all the excess is useless, with regard to the supply of the navy. Now, what reason has ever been assigned to

prove, that the maritime traffic of Great Britain would not, without the monopoly of the colonies, afford a sufficient supply of sailors to a sufficient navy? None, whatsoever: none, that will bear to be looked at. But till a reason of that sort, and a reason of indubitable strength, is adduced, the policy of the navigation laws remains totally without a foundation. In that case, it deserves nothing but rejection, as all the world must allow. It is a violent interference with the free and natural course of things; the course into which the interests of the community would otherwise lead them; without any case being made to appear which requires that violent disturbance.

The discussion of this supposed benefit of colonies, we shall not pursue any farther; for, as a signal proof of the diffusion of liberal ideas, the policy of the navigation laws has become an object of ridicule, with hardly any defenders, in the British Parliament, as the debates of the last session happily evince.

There is another singular case, created by mines of the precious metals. A colony may be formed and retained for the sake of the gold and silver it may produce. Of this species of colony we have something of a specimen in the Spanish colonies of Mexico and Peru. The question is, whether any advantage can ever be derived from a colony of this description? The answer to this question is not doubtful; but it is not very easy, within the limits to which we are confined, to make the evidence of it perfectly clear to every body. In one case, and in one case alone, an advantage may be derived. That is the case, in which the colony contains the richest mines in the world. The richest mines in the world always, in the case of the precious metals, supply the whole world; because, from those mines, the metals can be afforded cheaper, than the expence of working will allow them to be afforded from any other mines; and the principle of competition soon excludes the produce of all other mines from the market.

Case of Mining Colonies examined.

Now, the country, which contains the richest mines, may so order matters, as to gain from foreign countries, on all the precious metals which she sells to them, nearly the whole of that difference which exists between what the metal in working costs to her, and what, in working, it costs at the mines, which, next to hers, are the most fertile in the world.

She must always sell the metal so cheap, as to exclude the metal of those other mines from the market; that is, a trifle cheaper than they can afford to sell it. But, if her mines are sufficiently fertile, the metal may cost her much less in working than the price at which she may thus dispose of it. All the difference she may put in

her exchequer. In three ways this might be done. The government might work the mines wholly itself: It might let them to an exclusive company: It might impose a tax upon the produce at the mine. In any one of these ways it might derive a sort of tribute from the rest of the world, on account of the gold and silver with which it supplied them. This could not be done, if the mines, without being taxed, were allowed to be worked by the people at large; because, in that case, the competition of the different adventurers would make them undersell one another, till they reduced the price as low as the cost of working would allow. Could the tax at the mine be duly regulated, that would be the most profitable mode; because the private adventurers would work the mines far more economically, than either the government or an exclusive company.

It is evident that this is a mode of deriving advantage from the possession of the richest mines of the precious metals, very different from that which was pursued by the Spanish government, and which has been so beautifully exposed by Dr Smith. That government endeavoured to derive advantage from its mines, by preventing other countries from getting any part of their produce, and by accumulating the whole at home. By accumulating at home the whole of the produce of its mines, it believed (such was the state of its mind) that Spain would become exceedingly rich. By preventing other countries from receiving any part of that produce, it believed that it would compel them to continue poor. And, if all countries continued poor, and Spain became exceedingly rich, Spain would be the master of all countries.

In this specimen of political logic, which it would not be difficult to match nearer home, there are two assumptions, and both of them false: In the first place, that a country can accumulate, to any considerable extent, the precious metals; that is, any other way than by locking them up and guarding them in strong-holds: In the next place, that, if it could accumulate them, it would be richer by that means.

The first of these assumptions, that a country can keep in circulation a greater proportion than other countries of the precious metals, "by hedging in the cuckoo," as it is humourously described by Dr Smith, has been finely exposed by that illustrious philosopher, and requires no explanation here.

On the second assumption, that a country, if it could hedge in the precious metals, would become richer by that process, a few reflections appear to be required.

It is now sufficiently understood, that money, in any country, supposing other things to remain the same, is valuable just in

proportion to its quantity. Take Mr Hume's supposition; that England were walled round by a wall of brass twenty miles high; and that the quantity of her money were, in one night, by a miracle, either raised to double, or reduced to one half. In the first case, every piece would be reduced to one half of its former value; in the second case, it would be raised to double its former value, and the value of the whole would remain exactly the same. The country would, therefore, be neither the richer nor the poorer; she would neither produce more nor enjoy more on that account.

It is never then by *keeping* the precious metals, that a country can derive any advantage from them; it is by the very opposite, by *parting with* them. If it has been foolish enough to hoard up a quantity of the produce of its capital and labour in the shape of gold and silver, it may, when it pleases, make a better use of it. It may exchange it with other countries for something that is useful. Gold and silver, so long as they are hoarded up, are of no use whatsoever. They contribute neither to enjoyment nor production. You may, however, purchase with them something that is useful. You may exchange them either for some article of luxury, and then they contribute to enjoyment; or you may exchange them for the materials of some manufacture, or the necessaries of the labourer, and then they contribute to production; then the effect of them is to augment the riches, augment the active capital, augment the annual produce of the country. So long as any country hoards up gold and silver, so long as it abstains from parting with them to other countries for other things, so long it deprives itself of a great advantage.

If colonies are so little calculated to yield any advantage to the countries that hold them, a very important question suggests itself. What is the reason that nations, the nations of modern Europe at least, discover so great an affection for them? Is this affection to be *wholly* ascribed to mistaken views of their utility, or partly to other causes?

Cause of the desire to possess Colonies.

It never ought to be forgotten, that, in every country, there is "a Few," and there is "a Many;" that in all countries in which the government is not very good, the interest of "the Few" prevails over the interest of "the Many," and is promoted at their expence. "The Few" is the part that governs; "the Many" the part that is governed. It is according to the interest of "the Few" that colonies should be cultivated. This, if it is true, accounts for the attachment which most of the countries, that is, of the governments of modern Europe, have displayed to colonies. In what way it is true, a short explanation will sufficiently disclose.

Sancho Panza had a scheme for deriving advantage from the government of an island. He would sell the people for slaves, and put the money in his pocket. "The Few," in some countries, find in colonies, a thing which is very dear to them; they find, the one part of them, the precious matter with which to influence; the other, the precious matter with which *to be* influenced;—the one, the precious matter with which to make political dependents; the other, the precious matter with which they are made political dependents;—the one, the precious matter by which they augment their power; the other, the precious matter by which they augment their riches. Both portions of the "ruling Few," therefore, find their account in the possession of colonies. There is not one of the colonies but what augments the number of places. There are governorships and judgeships, and a long train of *et ceteras*; and above all, there is not one of them but what requires an additional number of troops, and an additional portion of navy,—that is of great importance. In every additional portion of army and navy, beside the glory of the thing, there are generalships, and colonelships, and captainships, and lieutenantships, and in the equipping and supplying of additional portions of army and navy, there are always gains, which may be thrown in the way of a friend. All this is enough to account for a very considerable quantity of affection maintained towards colonies.

But beside all this, there is another thing of still greater importance; a thing, indeed, to which, in whatever point of view we regard it, hardly any thing else can be esteemed of equal importance. The colonies are a grand source of wars. Now wars, even in countries completely arbitrary and despotical, have so many things agreeable to the ruling few, that the ruling few hardly ever seem to be happy except when engaged in them. There is nothing to which history bears so invariable a testimony as this. Nothing is more remarkable than the frivolous causes which almost always suffice for going to war, even when there is little or no prospect of gaining, often when there is the greatest prospect of losing by it, and that, even in their own sense of losing. But if the motives for being as much as possible in war are so very strong, even to governments which are already perfectly despotical, they are much stronger in the case of governments, which are not yet perfectly despotical, and of governments of which the power is still, in any considerable degree, limited and restrained.

There is nothing in the world, where a government is, in any degree, limited and restrained, so useful for getting rid of all limit and restraint, as wars. The power of almost all governments is greater during war than during peace. But in the case of limited governments, it is so, in a very remarkable degree.

In the first place, there is the physical force of the army, and the terror and awe which it impresses upon the minds of men. In the next place, there is the splendour and parade, which captivate and subdue the imagination, and make men contented; one would almost say happy, to be slaves. All this surely is not of small importance. Then there is an additional power with which the government is entrusted during war. And, far above all, when the government is only limited by the will of a certain portion of the people, as under the British government; by the will of those who supply with members the two houses of Parliament, war affords the greatest portion of the precious matter with which that will may be guided and secured. Nothing augments so much the quantity of that portion of the national wealth which is placed at the command of the government, as war. Of course, nothing puts it in the power of government to create so great a number of dependents, so great a number of persons, bound by their hopes and fears, to do and say whatever it wishes them to do and say.

Of the proposition, that colonies are a grand source of wars, and of additional expence in wars; that expence, by which the ruling few always profit at the cost of the subject many; it is not probable that much of proof will be required.

With regard to additional expence, it can hardly appear to be less than self-evident. Whenever a war breaks out, additional troops, and an additional portion of navy, are always required for the protection of the colonies. Even during peace, the colonies afford the pretext for a large portion of the peace establishment, as it is called,—that is, a mass of war-like apparatus and expence, which would be burdensome even in a season of war. How much the cost amounts to, of a small additional portion, not to speak of a large additional portion, of army and navy, Englishmen have had experience to instruct them; and how great the mischief which is done by every particle of unnecessary expence, they are daily becoming more and more capable of seeing and understanding.

That the colonies multiply exceedingly the causes and pretexts of war, is matter of history; and might have been foreseen, before reaping the fruits of a bitter experience. Whatever brings you in contact with a greater number of states, increases, in the same proportion, those clashings of interest and pride out of which the pretexts for war are frequently created. It would exhibit a result, which probably would surprise a good many readers, if any body would examine all the wars which have afflicted this country, from the time when she first began to have colonies, and show how very great a proportion of them have grown out of colony disputes.

(f. f.)



[\[Back to Table of Contents\]](#)

## ECONOMISTS.

The philosophers, who are known to the world by this title, would deserve a longer article than we are able to bestow upon them. It is not, indeed, in general known, how much the Science of Politics, that master science, the late offspring of the improved reason of modern times, is really indebted to the Economists. They were, it is true, preceded in this country by Hobbes and by Locke, and in France by Montesquieu; but in analysing the frame of civil society, they added considerable lights to those which had been communicated by their predecessors; and they attempted to point out the mode of combining the various springs of social action in a more liberal and beneficent system than had yet been recommended to the world.

It is worthy of remark, that the merits of this sect, in the secondary department of *Political Economy*, have so much obscured their important speculations on the great questions respecting the best possible order capable of being given to society, that they are, in this country at least, wholly unknown, except in the character of political economists; though their political economy formed only a small and subordinate branch of their entire system; and, what is indeed extraordinary, we know not a book in the English language, in which an account of that system is to be found.

This article is intended to contain, *1<sup>st</sup>*, the history of the sect; *2<sup>dly</sup>*, an account of their system; and, *3<sup>dly</sup>*, some observations, pointing out the principal errors into which they have fallen.

I. M. de Gournay appears to have been the first man in France who had formed any systematic notions on the real principles of trade. It is true, indeed, that Fenelon had recommended, on the direct suggestion of good sense, detached from theory, the practice of freedom of trade. The Marquis d'Argenson was celebrated for the sound and important maxim, *pas trop gouverner*; and the memorable advice of the merchants to the meddling Colbert was well known, *Laissez nous faire*. Another of the more peculiar doctrines of the Economists was expressed in the famous maxim of the great Duc de Sully, *Que le labourage et le paturage sont les mammelles de l'Etat*; and Montesquieu had brightly, but superficially, run over several of the questions relative to trade.

For such lights as M. de Gournay did not derive from his own reflections, he seems to have been chiefly indebted to the writers of England; but there appears some reason to conclude, that the best of these had not fallen in his way. We do not perceive, for example,

any sign of acquaintance with the writings of Locke.—It is worth mentioning here, as an historical fact, not very generally known, that there were some few minds in England, which, at a comparatively early period, had attained to wonderfully correct notions on the principles of commerce. Among the most remarkable of those ingenious minds were the Lord-Keeper Guilford and his brother, Sir Dudley North, an eminent merchant, in the reign of Charles II. There is a passage on this subject in the *Life of the Lord Keeper*, written by his brother, the Honourable Roger North, so interesting, that we deem it worthy of a place in the *History of Political Economy*.

“These brothers lived with extreme satisfaction in each other’s society; for both had the skill and knowledge of the world, as to all affairs relating to their several professions, in perfection; and each was an Indies to the other, producing always the richest novelties, of which the best understandings are the greediest.

And it must be thought, trade and traffic in the world at large, as well as in particular countries, and more especially relating to England, was often the subject. And Dudley North, besides what must be gathered from the practice of his life, had a speculative—extended idea; and withal, a faculty of expressing himself (however, without show of art or formality of words) so clear and convincingly, and all in a style of ordinary conversation, witty and free, that his lordship became almost intoxicated with his discourses. And these new notions did so possess his thoughts, and continually assume shapes and forms in his mind, that he could not be easy till he had laid them aside (as it were) upon paper, to which he might recur, when occasion was, to reconsider or apply them. But here having mentioned some new lights struck about trade, more than were common, it may be thought a *jejune* discourse, if I should pass on without giving some specimens of them; therefore, I add a note or two that I could not but observe. One is, that trade is not distributed, as government, by nations and kingdoms, but is one throughout the whole world, as the main sea, which cannot be emptied or replenished in one part, but the whole, more or less, will be affected. So when a nation thinks, by rescinding the trade of any other country, which was the case of our prohibiting all commerce with France, they do not lop off that country, but so much of their trade of the whole world, as what that which was prohibited bore in proportion with all the rest; and so it recoiled a dead loss of so much general trade upon them. And as to the pretending a loss by any commerce, the merchant chooses in some respects to lose, if by that he acquires an accommodation of a profitable trade in other respects; as when they send silk home from Turkey, by which they gain a great deal, because they have no other commodity wherewith to make returns; so without trade into

France, whereby the English may have effects in that kingdom, they would not so well drive the Italian, Spanish, and Holland trades, for want of remittances and returns that way.

“Another curiosity was concerning money—that no nation could want money; and that they would not abound in it; which is meant of specie, for the use of ordinary commerce and commutation by bargains. For, if a people want money, they will give a price for it; and then, merchants for gain bring it and lay it down before them. And it is so where money is not coined; as in Turkey, where the government coins only pence or halfpence, which they call purraws, for the use of the poor in their markets; and yet vast sums are paid and received in trade, and dispensed by the government, but all in foreign money, as dollars, chequeens, pieces of eight, and the like, which foreigners bring to them for profit. And, on the other side, money will not superabound: for who is it that hath great sums and doth not thrust it from them, into trade, usury, purchases, or cashiers, where the melting-pot carries it off, if no use, to better profit, can be made of it? People may indeed be poor, and want money, because they have not wherewithal to pay for it; which is not want of money, but want of wealth, or money’s worth; for where the one is, the other will be supplied to content.”  
(North’s *Life of the Lord-Keeper Guilford*, Vol. II. 13.)

Economists.



Though the quotation is rather a long one, there is another passage in the *Life of Sir Dudley North* himself, also written by the same brother,—a passage so full of instruction, with regard to *practical politics*, as well as *speculative politics*, and with regard to the mode in which *practical politics* mends the blunders of *speculative*, that the present opportunity ought not to be lost of pointing it out to the attention of the world.

“There was a law passed, or rather was continued, this Parliament, called the coinage. This was a certain tax laid to pay for coining money, whereby any man who brought into the mint bullion, took out coined money, weight for weight. Sir Dudley North was infinitely scandalised at this law, which made bullion and coined money par, so that any man might gain by melting: as, when the price of bullion riseth, a crown shall melt into five shillings and sixpence; but, on the other side, nothing would ever be lost by coining; for, upon a glut of bullion, he might get that way too, and upon a scarcity, melt again; and no kind of advantage by increase of money, as was pretended, like to come out. The Lord Treasurer gave some of the banker goldsmiths and Sir Dudley North a meeting. Charles Duncomb, a great advancer, had whispered somewhat in his lordship’s ear, that made him inclinable to the bill; Sir Dudley North reasoned with them against it, beyond reply; and

then the answer was, *Let there be money, my Lord; by God, let there be money.* The reasons why this scheme prevailed were, first, that the crown got by the coinage duty; next, that the goldsmiths, who gained by the melting trade, were advancers to the Treasury, and favourites. The country gentlemen are commonly full of one profound mistake; which is, that if a great deal of money be made, *they* must, of course, have a share of it; such being the supposed consequence of what they call plenty of money; so little do assemblies of men follow the truth of things, in their deliberations; but shallow unthought prejudices carry them away by shoals!

Another thing which gave him great offence was the currency of clipt money. He looked upon coined money as merchandise; only, for better proof and convenience, used as a scale, having its supposed weight signed upon it, to weigh all other things by; or as a denomination apt for accounts. But if the weight of it differed from its stamp, it was not a scale, but a cheat; like a piece of goods with a 'content' stamped, and diverse yards cut off. And, as to the fancy that common currency might reconcile the matter, he thought, that when a man takes a thing called a shilling, putting it off, it is also called a shilling, *nominally*: true, but, as to the deficiency, it is no other than a token, or leather money, of no intrinsic value, by what name soever it be called; and that all markets will be regulated accordingly; for, as money is debased, prices rise, and so it all comes to a reckoning. This was seen by guineas, which, in the currency of clipt money, rose to be worth thirty (clipt) shillings. Sir Dudley North was resolved, that if ever he sat in another Session of Parliament, he would bid battle to the public illusion. He knew, indeed, that he stood alone; and except some, and not many, of his fellow-merchants, scarce any person appeared to join with him. Corruption, self-interest, and authority, he knew, were winds that would blow in his face; but yet, he believed that his reasons were no less impetuous, and that he should be able to impress them; and that the business, being once understood, would make its own way. But the Parliament in which he served was dissolved, and he came no more within that pale. But, afterwards, finding that the grievance of clipt money became unsupportable, and with design that, since he could not, some other persons might push for a regulation, as well of this, as of some other grievances, relating to trade in general; and, to incite them to it, he put his sense in the form of a pamphlet, and, sitting the convention, or some time after it was turned into a Parliament, in 1691, printed it for J. Basset, and 'titled *Discourses upon Trade, principally directed to the cases of Interest, Coinage, Clipping, and Increase of Money.*'

After mentioning that a reformation of the coin did subsequently take place, but not in the best manner, nor till many evils were

sustained, he adds, "The honour had been much greater, if it had been carried by strength of reason, upon new discoveries, against the strongest prejudices, and interest mistaken, as Sir Dudley North intended to have done. And whether any use was made of his pamphlet or not, . . . . . it is certain the pamphlet is, and hath been ever since, utterly sunk, and a copy not to be had for money; and, if it was designedly done, it was very prudent; for the proceeding is so much reflected on there for the worse, and a better showed, though not so favourable to abuses, as doth not consist with that honour and eclat held forth upon the occasion."\*  
The complete extinction of this pamphlet is but too probable; for though the writer of this article has made search for it in every possible way, for several years, he has never seen it, nor met with an individual who had.

Jean-Claude-Maria Vincent, Seigneur de Gournay, was an extraordinary man for the age and country in which he was produced. He was born at St Malo in the month of May 1712, the son of Claude Vincent, one of the most considerable merchants of the place. Destined to commerce by his parents, he was sent to Cadiz when scarcely seventeen years of age. His vigilant attention to business did not hinder him from finding time, well husbanded, and diligently applied, not only for storing his mind with general knowledge, but for unravelling the combinations of commerce, and ascertaining its elementary principles. After he had raised himself to great eminence as a merchant, and to a high reputation for knowledge of the principles of commerce, the ministers of France conceived the design of turning his knowledge to advantage in the office of Intendant of Commerce, as they call it, to which he was raised in 1751.

No sooner was M. de Gournay invested with his office, than he began to wage war with the established system of regulations and restrictions; which the experience of twenty years of mercantile practice, the most varied and the most extensive—discussions with the most intelligent merchants of Holland and of England—the perusal of the best writers on the subject, and the impartial application of his own philosophical thoughts, had all conspired to make him regard as a source, not of national advantage, but of continual vexation and hardship to individuals, and of poverty to the state. "He was astonished," says M. Turgot, "to find that a citizen could neither make nor sell a commodity, without having purchased a privilege, by getting himself made, at a great expence, a member of some corporation; that if he made a piece of cloth, for example, of any quantity and quality different from those commanded in certain regulations, instead of being allowed to sell it to those purchasers whom such quantity and quality suited the best, he should be condemned to see it cut in pieces, and to pay a

fine heavy enough to reduce a whole family to beggary. He could not conceive how, in a country where the succession to titles, to estates, and even to the crown itself, rested upon custom, and where the application of even the punishment of death was rarely guided by any written definitions, the government should have thought proper to fix by written laws, the length and breadth of each piece of cloth, and the number of threads which it ought to contain.—He was not less astonished to see the government take in hand to regulate the supply of commodities; proscribe one sort of industry, in order to make another flourish; shackle with peculiar restrictions the sale of the most necessary articles of subsistence; prohibit the storing of commodities, of which the quantity produced varies greatly from year to year, while the quantity required for consumption is pretty nearly the same; restrain the export and import of a commodity, subject to the greatest fluctuation of price; and dream of ensuring the plentiful supply of corn, by rendering the condition of the labourer more uncertain and more wretched than that of any other part of the community.” (*Œuvres de M. Turgot*, III. 333.)

It may easily be imagined, that M. de Gournay would find himself encountered by opposition the moment he endeavoured to introduce his beneficial views into practice. The grand instruments of this opposition were certain words and phrases, which have been used to screen misrule, in every country in which the voice of reform has begun to be raised. M. de Gournay, says Turgot, was opposed, under the names of an “innovator,” and a “theorist,” for endeavouring to develop the principles which experience had taught him, and which he found universally recognised by the most enlightened merchants, of every part of the world, among whom he had lived. The principles, marked out for reprobation, under the title of the “New System,” appeared to him to be exactly the principles of plain good sense. The whole of this system was founded upon the certain maxim, that, in general, each man is a better judge of his own interest, than another man to whom it is a matter of indifference. From this M. de Gournay concluded, that, when the interest of individuals is precisely the same with the general interest, the best thing to be done is, to leave every man at liberty to do what he likes. Now, he held it as impossible, that in commerce, fairly left to itself, the interest of the individual should not coincide with the interest of the community.” The proof which M. Turgot gives of the fundamental proposition, that the interest of the individual and of the community in a free commerce are the same, we need not repeat; because it can neither be rendered more clear nor more cogent than it is already in works with which every person is familiar, who is at all conversant with political science.

“From this principle M. de Gournay concluded, that the sole duties of government with regard to commerce are: 1. To render to all the branches of industry that precious liberty, of which the prejudices of barbarous times, the proneness of governments to lend themselves to the gratification of individual interests, and the pursuit of a mistaken good, have conspired to deprive them: 2. To facilitate the exercise of industry and ingenuity to every member of the community, exciting thereby the greatest competition among sellers, and ensuring the greatest perfection and cheapness of the commodities sold: 3. To admit the greatest competition among buyers, by opening to the seller every possible market,—the sole means of encouraging reproduction, which hence derives its only reward: 4. To remove every obstacle by which the progress of industry is retarded, by depriving it of its natural reward.”

It is to M. de Gournay, therefore, that Turgot ascribes the origin of political economy in France. “It is to the ardour,” says he, “with which M. de Gournay endeavoured to direct to the study of commerce and of political economy, all the talent which he was able to discover, and to the facility with which he communicated the lights which he himself had acquired, that we ought to ascribe the happy fermentation which for some years has been excited on these important subjects; a fermentation which arose two or three years after M. de Gournay was Intendant of Commerce, and has since that time procured us several works calculated to wipe off from our nation that reproach of frivolity, which, by its indifference for the more useful studies, it had but too justly incurred.”

Francis Quesnay was born in the village of Ecquevilli, in the year 1694. According to the *Nouveau Dictionnaire Biographique*, he was the son of a labourer, and confined till he was 16 years of age to the business of the field. According to M. Dupont de Nemours, the editor and commentator of the works of Turgot, and a zealous Economist, he was the son of a small proprietor, who cultivated his own little property; and he was eminently indebted to his mother for the fashion of his mind. Though he was educated as a physician, and rose to such eminence in his profession as to be first physician to the King, the early occupation of his mind on the business of agriculture, had given the current of his thoughts a permanent direction; and, when he was summoned to reflect on the sources of wealth by the discussions probably to which the speculations of M. de Gournay had given birth, agriculture was the object on which his attention was more particularly fixed. He produced several works on different points of the science and practice of medicine; and it was only at a late period of life, that his works on political economy appeared. His chief production on this subject, *Physiocratie, ou du Gouvernement le plus avantageux au genre humans*, was first published in 1768. Not only had the speculations

which he broached, and which he propagated with much fervour and diligence, considerable success in the world, but he had the fortune to gain a considerable number of proselytes, who exerted themselves with an ardour for the diffusion of his doctrine, and with a devotion to the opinions of their master, which more resembled the enthusiasm of the votaries of a new religion, or that of the followers of some of the ancient philosophers, than the indifference with which new speculations in philosophy have on all other occasions been received in modern Europe; and which gave to the Economists more of the character of a sect or a school, than has appeared to belong to those who have in recent times concurred in any other system of philosophical opinion.

There was, in truth, in the system of M. Quesnay and the other Economists, many things well calculated to attract attention and excite enthusiasm. From a few simple principles, they deduced, as they imagined, by a chain of very close and imposing arguments, a system of changes which would easily be introduced, without the smallest interruption to the tranquillity and happiness of the existing generation, calculated to remove from society all the deformities by which it was overspread, and to communicate to the mass of human beings a fulness of happiness hitherto altogether unknown. At this point, therefore, we may close the historical part of this article; for the success of the great work of Dr Adam Smith, in a short time, superseded the *political economy* of the sect; and after the political economy was discredited, the rest of their doctrines met with little regard. The memory of them, however, is well worthy of being preserved; and this task we shall now, in as few words as possible, endeavour to perform.

II. The Economists proceeded upon no Utopian plan, which supposes society to be composed of beings different from those with whom we are already acquainted. They took man as he is—a being having wants, and governed by the desire of avoiding pain, and obtaining pleasure.

Man must have subsistence. Upon this ground they first took their stand. This being allowed, it followed, of course, that whatever was the best means of obtaining subsistence, would command the operations of men, as soon as ever it was sufficiently known.

Of these means, the first and fundamental is the establishment of property. This they proved by convincing arguments. We cannot exist without consuming. The nature of man leads to a rapid multiplication of human beings, and the earth yields a spontaneous nourishment for only a few. To make food keep pace with population, labour must be employed upon the ground. Men would be born for no other purpose than that of destroying one another, if



there were not means of increasing the quantity of food in proportion to those that were born. Labour, then, is one of the physical necessities of nature. But if labour be necessary, so is property, because, without property, there can be no labour.

The proof of this proposition is short and irresistible. Nobody would labour under an assurance, that he would derive no advantage from his labour. Nobody would labour without a certain probability that he should enjoy the fruits of his labour. Now, this is property. The only question, then, which remains is, what is the degree of assurance with respect to the fruits of a man's labour? In other words, what are the laws of property, which tend most to secure the benefits which human beings derive from their labour? This, said the Economists, is the object, and the end of our researches.

They proceeded in their inquiry by the following steps. As a means to this labour, on which every thing depends, a man must be free to use his natural faculties of labour—his muscular powers. This freedom they called *the property of his person*. As another means to the same end, he must be free to use exclusively, and to preserve, what he acquires by his labour. This they called his *moveable property*.

Here we see the origin of that to which men have assigned the names of *rights* and *duties*. The exclusive powers assigned to the man over his person, and over the fruits of his labour, are called his *rights*. To allow these exclusive powers, by abstaining from every act which would impair them, is called the *duties* of all other men. Here we see, also, that *rights* and *duties* are reciprocal; that they imply one another; that they are created together; and that the one cannot exist without the other. Destroy the *rights* of property in the man, you destroy, by the same act, the *duties* of other men to exclude themselves from what was called his property. Destroy, in the same manner, the *duties* of other men to exclude themselves from what was called his property, and you destroy, at the same time, his *right* to that exclusion. *Rights* and *duties* are, in fact, but different names given to the same thing, according as it is regarded under one or another of two points of view.

Another important concatenation is here also to be seen. *Rights* are advantages; things to be enjoyed. *Duties* are burthens, abstracted from things to be enjoyed. Why should men accept these burthens, submit to these duties? Why? but because they find their advantage in doing so. It is plain how they find their advantage in doing so, and there is, there can be, no other reason. Men submit to the *duties* of respecting other men's *rights*, that they may have *rights* themselves. It is good for them to have *rights*; there can be no rights without *duties*. It is better to have the *rights* submitting to

the *duties*, than by renouncing the *duties* to have no *rights*. The *duties* are then the price which is paid for the *rights*. The *duties* which one man yields to other men, are the price which he pays for having *rights* of his own. *Duties*, then, are in themselves *evils*; and they never ought to exist, except when they are compensated by a greater good. Nobody ought to be subjected to a burthen, which is not either to himself, or to the community in which he has clubbed his private interests, attended with a good, sufficiently great, to overbalance the evil which he is made to endure. *Utility*, then, is the exclusive foundation of *duty*.

Having laid this foundation, the Economists proceed.

On the necessity of subsistence rests the necessity of property, and on the necessity of property rests the necessity of a certain inequality in the conditions of men. This inequality exists, because a good is obtained through it, which can in no other way be obtained; and that good, the parent of every thing else to which the name of good is applied. "Those who complain of it," says Mercier de la Riviere, one of the chief expositors of the doctrines of the sect, "see not that it is a link in the chain by which the human species must drag from the abyss of non-production every thing which they enjoy. As soon as I have acquired the *exclusive* property of a thing, another man cannot have the property of it at the same time. The law of property is the same for all men; each man, however, acquires in proportion to his faculties of acquiring: but the measure of these is different in different men. And besides this fundamental law, there is, in the whirlpool of accidents, a continual succession of combinations, some more, some less fortunate, which increase the causes of that inequality of acquisition, without which the motives to acquisition cannot exist. . . . . "I admit, however," he in conclusion adds, "that in any given community, these differences in the possessions of different men, may become the source of great disorders, and which augment again these same differences beyond their natural and necessary degree. But what follows from this? That men ought to establish an equality of conditions? Certainly not; for to that end, it would be necessary to destroy all property, and, by consequence, all society; it only follows that they should correct those disorders which make that which is an instrument of good, become an instrument of evil; which alters in such a manner the distribution of things, that *force* places all the rights on one side, and all the duties on the other."

We have seen that the necessity of labour to procure the means of life, and the means of enjoyment, produced a necessity of *property personal*, and *property moveable*, as the two sorts were named by the Economists. The necessity of raising food, as well as the first material of most of the other articles of human enjoyment, by

labour upon the *land*, produces a like necessity of creating a *property in the soil*. The proof of this proposition is not less short and convincing, than that which regards the other species of property. To make the land yield a produce useful to man, it must be cleared of many incumbrances, and prepared with much labour and expence. No adequate return can be obtained for this labour, to the man who would bestow it, without a perpetuity of possession. It is essential for the well-being of the species, that the labour should be yielded, and in the greatest degree of perfection. It cannot be yielded, perhaps, at all, certainly in no tolerable degree of perfection, without that exclusive possession which constitutes property. Property in land is, therefore, essential to the well-being of the human species.

We see in this manner what are the *rights*, and what are the *duties*, which the supply of the first wants of human nature renders it necessary to constitute. But as all mankind are not disposed to respect *rights* and *duties*, it is necessary, in order to obtain the advantages which they are destined to produce, that measures should be taken to protect them.

The measures taken to protect them are generally comprehended under one name, that is, *government*. The protection of the rights, or, which means the same thing, the insuring of the duties, is the *end*, the government is the *means*; and the question is, what combination of means is best adapted to the purpose?

This assuredly is the most important question to which the human faculties can be directed. And the Economists have never yet received the credit, which is their due, for the ability and success with which they laboured to resolve it. No speculations can be conceived of more importance than those in which they engaged, nor has it yet become easy to throw upon them a greater portion of light.

The grand classes of means by the skilful combination of which they conceived that the end might be obtained, were either more direct, or more indirect. The more indirect were liberty and evidence; the more direct—laws exactly adapted to the end, magistrates exactly adapted to the execution of these laws, and a Supreme, or, as they called it, "*Tutelary Power*." We shall endeavour, in a few words, to communicate their leading ideas on each of these particulars.

1. *Liberty*. We have seen that the end which is aimed at through property, as a means, is the greatest possible abundance of the things adapted for human enjoyment; and that property is a means altogether indispensable for that end. It is now to be proved, that

liberty is absolutely necessary to enable property to answer the purpose of a means to that end; and that, without liberty, the existence of property is deprived of almost all its advantages. In fact, the right which a man has not the liberty to enjoy, is not a right. The right of property in a man's person, in his moveables, in his land, is the right of enjoying; but the *right* of enjoying, and the *liberty* of enjoying, are the same thing. Liberty, therefore, cannot be hurt without damaging the right of property; and the right of property cannot be hurt without damaging liberty. "It is," says Mercier de la Riviere, "so inseparably connected with the right of property, that it is confounded with it, and that the one cannot exist without the other. Deprive a man," he cries, "of all the rights of property, and I defy you to find in him a vestige of liberty. On the other hand, suppose him deprived of every portion of liberty, and I defy you to show that he truly retains every right of property."

It is now pretty clear that liberty is necessary to produce that abundance of production which is the end aimed at by the constitution of all *rights* and *duties*. Man is excited to labour, only in proportion as he is stimulated by the desire of enjoying; but the desire of enjoying can only be a motive of action in so far as it is not disjoined from the liberty of enjoying. You cannot have productions in abundance, without the greatest possible inducement to labour;—you cannot have the greatest possible inducement to labour, without the greatest possible liberty of enjoyment. The chain of evidence is, therefore, complete.

"Let us not," say the Economists, "seek in men, beings which are not men. Nature has destined them to know only two springs of action, or moving powers; the appetite of pleasure, and the aversion to pain. It is in the purpose of nature, therefore, that they should not be deprived of the liberty of enjoying, since, without that liberty, the first of those two powers would lose the whole of its force. *Desire of enjoying, Liberty of enjoying*; these are the soul of the social movements; these are the fruitful seed of abundance, because that precious combination is the principle of all the efforts made by human beings to procure it."

2. *Evidence*. Property, and by consequence liberty and security of enjoying, being proved to constitute the essence of what they called the natural and essential order of society, it was seen to be in reality a chain of *physical* consequences, involving nothing arbitrary, nothing changeable; evident, on the other hand, simple, and resting on no other ground than that of being the most advantageous possible to the whole body of the community, and to every one of its members.

“The best possible order of society, however,” they observed, “cannot be established where it is not sufficiently known; but for that very reason, that it is the best order, the establishment of it, as soon as it is known, must become the common ambition of men; it must then introduce itself by *necessity*; and, once established, it must, by *necessity*, continue for ever.” These were bold promises; but the proof was correspondent. “The best possible order of society must introduce itself, as soon as known, and preserve itself for ever, as soon as introduced; because the appetite of pleasure, and the aversion to pain, the only moving powers within us, lead naturally and constantly toward the greatest possible augmentation of enjoyments; and the desire of enjoying implies, by necessity, that of the means by which enjoyment is procured. It is, then,” said the Economists, “impossible that men should know their best possible condition, without a consequent union of all wills, and all power to procure and to preserve it. Imagine not,” they cried, “that for the establishment of this essential order, it is necessary to change the nature of men, and divest them of their passions; their passions, on the other hand, become auxiliaries in this establishment; and, for the most complete success, it is only necessary to place them in a condition to see with *evidence* that it is in this order alone they can find the greatest possible sum of enjoyments and of happiness.”

These philosophers made some admirable observations upon the nature of evidence, and the important purposes to which it is subservient. They made a distinction between those propositions which a man receives without evidence, and those which he only receives upon the strength of evidence. The first they denoted by the word *opinion*; the second they marked by the names of *knowledge* and *certainty*. “As error,” they said, “is every thing which is not truth; in like manner, what is not *evidence* is only *opinion*: and whatsoever is only opinion is arbitrary, and liable to change. It is evident, therefore, that these opinions are not a sufficient foundation for the natural and essential order of societies. A solid edifice cannot be erected on a basis of sand; and that into which nothing arbitrary can enter, which is and must be unchangeable as the ends to which it is directed, can never be founded on a principle so arbitrary and various as opinion; opinion, which, however just and true it may accidentally be, so long as it is not founded on evidence, is but opinion still, and liable every moment to be subverted and expelled by any other opinion, however extravagant and absurd.”

Evidence is the knowledge, clearly attained and possessed by ourselves, of all that is necessary to see the truth or falsehood of an object of belief. This excludes all doubt, all uncertainty, every thing arbitrary, all exercise of will. A man can no more help believing that

which he actually holds in his mind evidence sufficient to prove, than he can help seeing the object which is painted on his retina.

From this irresistible power of evidence the Economists deduced the most important consequences. "Not only is it," they said, "the essential characteristic of evidence, to stand the test of the most severe examination, but the most severe examination can have no other effect than that of displaying it to more advantage; that of giving to it a power more predominating and supreme: while, on the other hand, sufficient examination destroys prepossession and prejudice, and establishes in their place, either evidence, or at least suspension of judgment, where evidence, on which to found a judgment, is out of our reach."

On the first of these propositions, that "evidence can stand the test of the most severe examination," they said, "that all attempt at proof was surely unnecessary; it was self-evident. And hence," they said, "was evidently deduced this most important consequence, 'that the liberty of examining, of criticising, and of contradicting evidence, is always, and necessarily, without inconvenience.'

"That a sufficient examination destroys prepossession and prejudice," they regarded as a proposition equally indisputable: and from this it followed, as an irresistible consequence, "that the most unbounded liberty of examination and contradiction is of primary and essential importance; for no examination can be *sufficient*, till all the reasons of doubt are exhausted."

That a sufficient examination establishes evidence in the place of error in the case of all questions where evidence is within our reach," was a truth, they said, resting on the same immovable basis; and from this it followed, as an evident consequence, "that liberty of inquiry will lead by necessity to the clear and public knowledge of what is the best possible order of human society; for on this subject, evidence is undeniably within our reach."

We may thus regard evidence as a sort of beneficent divinity, whose pleasure consists in spreading peace on earth. Never do you behold mathematicians at war with mathematicians on account of the truths which they have established on evidence; if they give into a momentary dispute, it is only while they are yet in the avenue of inquiry, and have investigation solely in view; but as soon as evidence has pronounced, either on the one side or the other, every man lays down his arms, and only thinks of enjoying in peace the good which is thus acquired in common."

Pass now," say the Economists, "from the evidence of *mathematical* to that of *social* truths; to the evidence of that order of human

affairs in society which would produce to men the greatest possible amount of happiness. From the known effects of evidence in the first of these cases, try to conceive what would be the effects of it in the second; what would of *necessity* be the internal condition of a society governed by that evidence; what would of *necessity* be the political and respective situation of all nations, if they were illuminated by its divine effulgence; consider, if men, rallied under the standard of that evidence, would have any division among them; if any motive for war would be sufficiently powerful to make them sacrifice to it their best, and to themselves *evidently* best possible condition: penetrate still deeper, and see if the pictures which that medium presents to you do not excite in you sensations, or rather transports, which elevate you above yourself, and appear to indicate, that, by means of evidence, we communicate with the divinity.

But, to increase your sensibility to the impressions which those pictures will make upon your understanding and your heart, place in opposition all the inconveniences which, in a state of ignorance, arise from the force of *opinion*.

A certain thing is forbidden under the sanction of punishments capable of inspiring the greatest terror. What power can such prohibition and punishments have against an opinion which tends to despise them? None; we have too many examples to prove it.

A man is placed by his birth in a situation in which he might effect the happiness of a great number of other men, if he made a beneficent use of his advantages; What is it the man performs when his *opinion* is wrong? He sacrifices his advantages to the disorder of his opinion; lives and dies unhappy.

One man, unarmed, commands an hundred thousand with arms in their hands, of whom the weakest is stronger than he. What constitutes his power? Their opinion; they obey him in obeying it; they follow their leader because they have an opinion that they ought to follow him.

Do you wish to see other effects which characterize the force of opinion? Consider the effects of honour; of that sort of enthusiasm which prefers toil and fatigue to repose, poverty and privation to riches, and death to life, on which it finds the secret of shedding a lustre.

*Opinion*, of one sort or another, governs the world. Even when it is but a prejudice, an error, there is no power in the moral world comparable to its power. Fruitful in phantoms, it borrows all the colours of reality, in order to deceive. Source inexhaustible of good

and of evil, it is through it alone that we see, by it alone that we will, and we act. According as it borders upon truth or falsehood, it produces virtues or vices, the great man or the villain. No danger stops it; difficulties render it more intense; at one time it founds empires, at another destroys them.

“Every man is therefore a little kingdom upon the earth, governed despotically by opinion. He will burn the temple of Ephesus, if it is his opinion that he should burn it; in the midst of the flames he will brave his enemies, if his opinion is that he ought to brave them. Our physical powers themselves are so completely subordinate to the power of opinion, that, to have the command of our physical powers, it is necessary to begin by having the command of our opinion; but how is it possible to have the command of opinion, while it is the sport of ignorance, and its nature arbitrary? How is it possible to fix and to unite the opinions of men, but by the agency of evidence? Is it not visible, that the Author of nature has appointed no other means for chaining our arbitrary will?

We ought to look, therefore, upon ignorance, as the necessary principle of all the evils which have afflicted society; and upon the knowledge, that is, the evidence of the best possible order of society, as the natural source of all the good which is destined for the inhabitants of the earth.

But, as all the physical forces in the world cannot render that evident which is not so; and as evidence can spring from nothing but *adequate examination*, from the necessity of that evidence clearly follows the *necessity of examination*; from the necessity of examination clearly follows the necessity of the *greatest possible liberty of contradiction*; and in addition to that liberty, the existence of all those political institutions which are required to give to evidence its greatest possible *publicity*.”

The *publicity of evidence* was a subject on which the Economists dwelt with peculiar emphasis; and which they branched out into a number of the most important consequences. “The necessity of it,” they said, “was apparent from this, that the proper order of society cannot be solidly established, but in proportion as it is sufficiently known. In any society, if some men only had knowledge and evidence of this order, while the multitude rested in other opinions, it would be impossible for this order to govern; it would in vain command; it would not be obeyed. This state would be that of a perpetual intestine war of one part of the nation with another. By *intestine war* they did not, however, mean,” they said, “only that which is performed with arms in the hands, and by open force; they more peculiarly referred to those disguised and clandestine ravages and oppressions, exercised under forms of law; to those



dark and predatory practices, which sacrifice all the victims which artifice is able to bring within their power; to all those disorders, in a word, which tend to make all particular interests enemies of one another, and thus to uphold, among the members of the same political body, an habitual war of clashing interests, the contending effects of which tear in sunder all the bonds of society. This situation is so much the more dreadful, in as much as, excepting the superior and governing force of evidence, there is no power in nature equal to that of opinion; as, in its aberrations opinion is tremendous, and as no means exist, by which we can make sure of retaining it always within proper limits, when it is once given up to its own inconstancy, and to seduction.

“From the *publicity*, which is an indispensable condition to possession of evidence respecting what is best in the social order, we are conducted to the necessity of *public instruction*. Though faith,” said the Economists, “be the gift of God, a peculiar grace, which cannot be the work of men alone: nevertheless it is held that the preaching of the gospel is peculiarly necessary to the propagation of the faith. Why, then, should not every one have the same opinion with regard to the publication of the social order, more especially as that publication has no need of being aided by grace and supernatural light? This order is instituted for men, and all men are born to live under it; it is then required by this order that men should know it, and accordingly they have all a sufficient portion of natural faculties, to be able to elevate themselves to that knowledge. For the same reasons that knowledge is required, instruction is required, by which alone certain kinds of knowledge can be attained.”

The Economists did not enter into details respecting establishments necessary for instruction. They, however, affirmed, that such establishments “constituted a part of the essential form of a society, and that they could hardly be too numerous, because instruction can never be too common.” They affirmed, also, that “verbal instructions did not suffice; that it was necessary to have doctrinal books, suited to the purpose, and in every body’s hand. This help,” they said, “was so much the more important, as it was clear of all inconvenience, for error cannot stand the presence of evidence; and contradiction is not less advantageous to evidence, than it is fatal to error, which has nothing to fear so much as examination.”

What they affirmed with respect to the necessity of those which they called doctrinal books, and of the liberty which ought to reign with regard to them, “was founded,” they said, “upon the very nature of that order which is due to society, and of the evidence which belongs to it. That order,” they observed, “is either perfectly

and evidently known, or it is not. In the first case, its evidence and simplicity render the formation of heresies on the subject of it altogether impossible. In the second case, men cannot arrive at knowledge or evidence, but through the conflict of opinions. It is certain that an opinion can be established only upon the ruins of those which are opposed to it; it is further certain, that every opinion which is not founded upon evidence will be contradicted, until it is either destroyed, or recognised on evidence for a truth, in which case it ceases to be a bare opinion, and becomes an evident principle. And thus, in the pursuit of truths, capable of being established on evidence, the conflict of opinions leads, of necessity, to evidence, because it is by evidence alone it is capable of being terminated.”

This doctrine is of such infinite importance, that we are willing to prolong it, by adding the illustration which the Economists were accustomed to adduce. “If a man should be actuated by any motives to write a book, endeavouring to persuade his countrymen that they might live without subsistence,—that they ought to make commodities without the materials,—that they multiply themselves by change of place, or any other extravagant opinion; it would be highly useless for the public authority to give itself any concern or labour to prevent such a book from making an impression upon the public mind. And, far from feeling any alarm, every body would rest securely upon the evidence of the contrary truths; assured that this evidence would always be sufficient for itself, and would quietly triumph over all the ridiculous efforts which would be made to oppose it.

“So absolutely necessary is it to leave to the whole body of society the greatest possible freedom of examination and contradiction; so absolutely necessary is it to abandon evidence to its own strength, that there is no other power which can supply its place; physical power, of what magnitude soever, can command actions alone, never opinions. The experience of every day affords to this truth the evidence of the senses. So little have our physical powers any influence over our opinions, that our opinions, on the contrary, exercise an uncontrollable dominion over our physical powers. Our physical powers are put in motion, and guided by our opinions alone. The common or social, called the *public force*, is formed by the union of the physical powers of many individuals. This supposes, necessarily and invariably, a correspondent union of evils; and this can never exist but in consequence of an union of opinions, good or bad. It is, therefore, to reverse the order of things, and take the effect for the cause; to desire to give the public force a power over opinion, while it is from the union of opinions that public force holds its own existence; and while, by consequence, it can have no stability but in proportion to that

which reigns in the opinion on which it is founded; that is to say, in proportion as bare opinions, stripped of evidence, are replaced by opinions fixed and invariable, because founded upon evidence which cannot deceive.”

3. *Laws*. Having established as incontrovertible truths, that property is necessary to the production of the means of human life and enjoyment; that the system of human rights and duties spring from it as natural consequences, and that the natural and essential order of societies is nothing in reality but the chain or connected order of these same rights and duties, the Economists laid down the following definition: “That the Essential Form of a Society is the continuation of all those social institutions which are necessary to consolidate the right of property, and secure to it all the liberty which essentially belongs to it.”

Among these instrumental establishments, an important place is held by laws, of which they communicated the following very striking and original idea:

“A multitude of men assembled without acknowledging any respective rights, any reciprocal duties, would not form a society. That does not consist in the meeting of a number of men in a particular place. It may subsist among men very remote in respect of place, and not subsist among men very near in respect of place. *That which really constitutes the union, are the conditions of the union.* These conditions are the systems of rights and duties, in other words, the conventions entered into for their common interest by the members of the associated body. The laws, then, are precisely those conventions; by operation of which, the reciprocal rights and duties are established in such a manner that the members of the society are no longer permitted, arbitrarily, to depart from them.

Of these conventions, some are of such a nature as cannot be defined very exactly, or at least cannot be enforced by artificial sanction, but must be left to the natural coercion of the approbation and disapprobation of mankind. Such are the common duties of morality; gratitude, veracity, charity, and the like. But the next class of these conventions are those which are capable of being defined exactly, and enforced by artificial sanctions; as, that murder shall not be committed; property shall not be stolen. This last class of conventions are those which are properly called *laws*.

The first property necessary to give those laws their best possible *form* (for, in regard to their substance, it is always supposed that they are strictly conformed to that utility, from which the whole system of rights and duties takes its origin), is, that they be

definitive: to distinguish, by an incontrovertible line, what each of them does, from what it does not comprehend. This is implied in the very notion of a law; which is to render something *positive*, which would otherwise be *arbitrary*.

The second property necessary to give laws their best possible form, is, that they be written, This is, indeed, implied in the first property; because no combination of ideas can be rendered *positive* and *unvarying*, of which the *expression* is not *positive* and *unvarying*. But nothing can render an expression positive and unvarying, but a permanent sign; and of permanent signs, none is equal to writing.

The third property necessary to give to laws their best possible form, is, that the reason of each be annexed to it. The distinction is very important between the *letter* of the law, and the *reason* of the law. The *letter* of the law is its textical composition; the *reason* of the law is the motive by which it was dictated. *The man who is guilty of murder shall receive a certain punishment.* This is the *letter* of the law. The *reason* is, that, *if murder were common, and not restrained by adequate motives, the happiness of human beings, if not the species, would soon be destroyed.* Having thus acquired a knowledge of the reason of the law, I possess the *evidence* of its *utility*. And of this I should not have been possessed, had I seen in the law nothing more than the *letter*. Let us suppose two laws, which equally assign the punishment of death; the one for homicide, the other for walking at certain hours in the day. Is it not clear that they would be viewed with different eyes; that the one would appear to be just, the other tyrannical? That we should feel within ourselves a natural disposition to submit to the one, a disposition to avail ourselves of every thing which might serve as a means to deliver us from the hateful yoke of the other. This difference arises from the different judgment we form of the *reason* of these bad laws. The first carries with it the *evidence* of its *utility*; and that *evidence* overcomes and binds without resistance the understanding and the will. The other carries with it, instead of the evidence of utility, the evidence of nothing but a disproportional rigour, of a manifest evil, to which our understanding, and consequently our will, can never submit.

It is not, therefore, in the *letter*, but in the *reason* of the laws, that we must seek for the first principle of a constant submission and obedience to the laws; for that principle can be nothing but the dominion exercised over our minds by the *evidence* of the justice of necessity, that is, the *utility* of the laws; now this evidence is not in the *letter* of the laws; to establish that submission, therefore, generally and invariably, two conditions are requisite; one is, that the reason of the laws contain conclusive *evidence* of their *utility*,

commonly called their justice and necessity; the other is, that the publication of this evidence be so complete, in respect both of clearness and diffusion, as to lodge it in the mind of a majority of all classes of the people. Men, persuaded that their laws were bad laws, might, indeed, for a time be constrained to observe them; but such a submission, contrary as it is to nature, could not be durable, nor escape daily breaches on the part of those who regarded themselves as suffering by the injustice of the laws. *Submission to the laws is always, and necessarily, proportional to the idea which we hold of their justice and necessity*; that is, their indispensable use in procuring good and eschewing evil.

If laws," said the Economists, "are any thing but the results of the natural order of society, or of that system of duties and rights which are rigidly founded upon the interest of all; if the legislature of any country sets up rights and duties of another sort, these new rights and duties are contrary to the first; and hence, of necessity, the laws which prescribe them are in a state of perpetual opposition with our understandings and wills." This contrariety they proved in the following manner. "All the rights which a reasonable being can desire, are summed up in that of property; because from the right of property results the liberty of enjoying; a liberty which ought to have no bounds but those which are assigned to it by the similar rights of property belonging to other men. As the essential order of society thus determines the measure of liberty belonging to each of its members, and as that measure is the greatest which can be, without disturbing that essential order itself, it is impossible that any thing should be added to the liberty, that is, to the rights of one set of men, without taking from the liberty, and by consequence from the property, of other men; and this is an injustice, and disorder, the tendency of which is destructive to the society."

It is destructive to the society, because it throws it into a state of violence. "My neighbour," says Mercier de la Riviere, "will be content that he is not allowed to reap or to injure my crop; but for the same reason he will not be content that I should be allowed to reap or to injure his. On the view of such an injury permitted, in regard to any other man, he will take the alarm, his fears will be excited for himself, and this anxiety will be a state of torment, from which his reason will perpetually urge him to seek relief. A law which violates the principle of utility, is a law therefore resisted by that evidence which governs beyond control the human will. To make such a law, is to put the society into a state of violence; because it is to put the minds of men into a state hostile to one another, and more or less hostile to the laws.

4. *Magistrates*. By this term the Economists understood judges, and, in a word, all the leading functionaries employed in giving execution to the laws. Agreeably to the doctrines already exhibited, they conceived that the first service of the magistrates, is that of shedding the light of *evidence* upon the particular cases, which have been too obscure for the parties. But as there are some minds with which you cannot be sure of being able in every case to bring evidence, as it were, in contact, the magistrate needs to be armed with a coercive power; and all that is necessary is, that he affords to the rest of the community *evidence* that in such cases, the power has been used agreeably to the principle of general good.

From these premises, the chief consequence which they deduced was, that the legislative and judicial powers are never to be united in the same hand, without destroying among the people all certainty of the justice and necessity of their laws, that is, the very essence of the laws themselves.

“The essential form of positive laws,” they said, “in that which makes them to be what they ought to be, is, that they consist of certain visible signs which show that, in the institution of them, that order has been followed, which is necessary, *1<sup>st</sup>*, to ensure their justice and necessity, that is, their adaptation to the ends of obtaining good and avoiding evil; *2<sup>dly</sup>*, to render their adaptation to those ends evident or certain to the individuals whom they concern. Now it is clear, that these conditions could not be fulfilled, if the legislative power was to engross the judicial functions. The legislator and judge, being the same person, neither could the legislator find any resource against his own mistakes in the close review and experience of the judge; nor, on the other side, could the arbitrary will of the judge find any bridle or chain in the authority of the legislator; but the laws, however good in themselves, would be rendered evil by a variable and corrupt administration.

If the legislator were judge also, his business would be to consummate and to crown all the mistakes which he incurred, or the abuses which he committed in the formation of the laws. If the judge were legislator also, the laws existing only in conformity to his will, he would be under no necessity to consult the laws in passing his judgment; and would always ordain as law-maker, what he should have to determine as law-interpreter. Thus, the *reason* of the positive laws would be found to consist in nothing but the will of the legislator, as he would be guided in making them by nothing but its arbitrary impulses; and in the same manner the *reason* of the judicial decisions would be found to consist in nothing but the mere will of the judge, whose independence would enable him to make them whatever he pleased. This double malady abundantly

proves, that those laws would be stript of the essential characteristics of law, the evidence of their justice and necessity, and an absolute exemption from every thing arbitrary.”

The duties of the judge they deduced in the following order: As the laws are in themselves mute, and the magistrate is the organ through which they speak, he is particularly charged with the *guardianship* of the laws. It is of importance to know what is implied in the term guardianship of the laws. It relates either to the laws which *are* made, or to those which are *to be* made. The natural strength of the laws consists in the evidence of their goodness. Their weakness consists in the strength of the hands which dispose of the physical power. As the laws are mute in themselves, they cannot wield that evidence in which their strength consists. The magistrates, who are the mouth of the laws, ought, therefore, to wield it for them, and to resist the hands in which the physical power is deposited, when they attempt the infringement of the laws, with all the force which evidence can be made to exercise over the minds of the community.

The same principles demonstrate what are the duties incumbent on the depositaries of the judicial power with regard to laws *to be* made. As laws ought all to be founded on that concatenation of the causes of human good which the Economists denominated “the primary and essential reason of all laws; the *evidence* of that primary and essential reason was,” they said, “a deposit, so to speak, in the hands of the judicial instruments, of which they owed an account, to the legislature, to the nation, and to God himself, of whose supreme will that evidence is the decisive token. It was their first duty, therefore, to have a perfect *knowledge* of that primary and essential reason.” Their next duty was, on all occasions, as far as their utmost efforts could extend, to impart that evidence to the governing power; and to make it as clear as it can be made, what laws, not yet proposed, that evidence shows that the society requires.

The Economists farther affirmed, “that no man can, without rendering himself criminal towards earth and heaven, undertake to perform the office of judge, according to laws that are *evidently* unjust. He would, in that case, cease to be a minister of justice, in order to become a minister of iniquity. If any law, for example, ordained that a man should be condemned to the ultimate punishment, on the mere denunciation of another man, and without any inquiry into the truth of the allegation, is it not evident, that such a law would be a law of murder? And is it not equally evident, that the barbarian, who should pronounce a judgment agreeably to that law, would be the voluntary instrument of murder? It is necessary, however, either to go the full length of saying, that a

man can, without guilt, become the instrument of such a law, or allow that no minister of the law ought to lend his ministry to the execution of a law evidently unjust; for if he may, for one such law, so be may for all, however atrocious; no outrage to humanity, no excess of evil, presents any limiting point.”

5. The *tutelary authority*. “The union of wills to form that of individual powers; the union of individual powers to form a common or public force; the deposit of that force in the hands of a chief, by whose ministry it may command, and make itself obeyed,—these,” said the Economists, “are the component parts of the tutelary authority. The tutelary authority is nothing more than a physical force resulting from an union of wills; and, by necessary consequence, it is impossible for it to be either powerful or secure, unless the intuitive and determining force of evidence be the principle of that union.

“In one sense, it may be affirmed, that the right of commanding belongs to evidence alone; for, in the order of nature, evidence is the only rule of conduct bestowed upon us by the Author of nature. But all men are not equally capable of seizing evidence; and even if they were, the interest of the moment often operates upon them with such vehemence, that the appetite of enjoyment will not, in a state of disorder, be restrained by the evidence of duty. Among human beings, therefore, it is necessary, that the natural authority of evidence be armed with a physical force; and that the legislative power, though it commands in the name of evidence, have the disposal of the public force, to ensure obedience to its injunctions.”

From the analysis of what is necessary to constitute the tutelary authority, the key-stone, as it were, of the arch of human society, that which gives to the whole its binding force, and retains the parts in their order, the Economists deduced a variety of most important conclusions, of which we can only present the more striking as a sample.

The first is, That the legislative and executive powers are essentially inseparable; and that all the fine-looking theories, which have solicited and obtained so much of the admiration of a superficial world about the virtues of their separation, are phantoms in the air, the mere visions of imagination. “To dictate laws is to command; and as our passions render it impossible, that commands should be more than useless sounds, without the physical power of making them obeyed, the right of prescribing laws can have no existence without the physical power of enforcing them. The depositary of the power is, therefore, and necessarily, the master of the right; and the executive power is always and certainly the legislative power. Let the enemies of this conclusion



turn and torture the subject which way they please, they never can escape from it. Suppose, in order to form two powers, that the legislative right is confided to one organ, the public force to another, when opposition arises, which of the two is to be obeyed? As it is impossible that two contradictory commands can be obeyed at the same time, it must be absolutely decided which of the two is in preference to be obeyed. Now, this decision is, by the very fact, the destruction of the other power, and the establishment of that one. These two powers, therefore, unavoidably run into one; the legislative power necessarily becomes the executive power, or the executive becomes the legislative.

The second is, That the legislative never has, never can have, a right to make *bad* laws. A right to make bad laws, they said, is a contradiction in terms. A right supposes a *compact*; it is the offspring of an agreement, tacit or express; the idea of it can no more exist without that of a mutual convention, than a debt without the contract of debtor or creditor. The compact upon which all rights are founded is that of mutual advantage; it is the union of all wills, freely determined by a great interest, of which the *evidence* is visible to all. How can that union, which only exists for the sake of a good, continue to exist, if it is seen to produce evil? The hope cannot be framed, of maintaining it by force; because force is its effect; force can exist only subsequent to union, and in consequence of union. The horrid prerogative of being able to make bad laws, supposes necessarily a state of ignorance; a state in which the vices of the laws are not illuminated by evidence; for it is impossible that a community should consent to uphold that which visibly hurts them. The power exists in this hateful situation, but the right as little there, as any where else.

The Economists come next to the important question, What is *the security for the right use of the legislative power*? On this subject, their anxiety to secure to their opinions the benefit of publicity, and the favour of those in whose hands the governing powers were actually deposited, led them to use the veil of expressions too general, and into some positive mistakes. "The security," they said, "for the right use of the legislative power, is the interest of that same power, which can, in the general order alone, find its own best possible state. The irresistible force which evidence acquires by publicity is also that security. This evidence exists in its greatest force in the body of the magistrates, who cannot, without ceasing to be ministers of justice, lend their ministry to the execution of laws evidently unjust; or forbear, without being criminal, their utmost endeavours to make the *evidence* of that injustice as clear as possible, both to the legislature and to the nation.

The grand question followed, *What are the hands in which the legislative power ought to be deposited?* Having demonstrated that the legislative and executive powers cannot by possibility exist in any but the same hands, and that they form together what they denominated the *tutelary authority*, they proceeded to inquire what was implied in the idea of authority. "Unite," said they, "upon one object a multitude of opinions and of wills; from that union will arise naturally and necessarily an union of physical forces for the accomplishment of those wills; and from the whole together will result an authority, or, in other words, *a right of commanding, founded upon a physical power of procuring obedience to what is thus commanded*. If these opinions and wills should disunite, and form, for example, two parties; the forces will for that reason be divided; there will be two forces, two authorities, and, by consequence, two societies. That two authorities cannot exist in the same society, they maintained by the following proof. Such authorities must be either equal or not equal. If equal, each of them taken separately is null. If unequal, the superior is the real and only authority. That, in the first case, each taken separately would be strictly and literally null, arose, they said, from the very nature of equality, which rendered it absolutely impossible that the one could do any thing without the other. Neither of them, therefore, could procure a single act of obedience, except by their union; but, at the very moment of their union, they cease to be two authorities, and form both together only one authority made out of the union of both. Unity is, then, a part of the very essence of authority; to divide it, is to reduce it to an incapacity of acting, that is, to extinguish it, for authority is not authority but in so far as it can act to procure the execution of its will."

From the necessary unity of the tutelary authority it followed, they said, by necessary consequence, that the organ of that authority must be one man. That the physical force which is one of its component parts, can be directed only by one will, is above the need of proof. But it is said that one will may be formed out of the union of several wills; and that the public force is not subject to the separate wills till the union takes place.

To this the Economists made answer, that, if the opposition of one will can suspend the effect of all the others, it reduces authority to inaction, and for that reason destroys it. The reason why physical force is necessary is, that you cannot count upon the union of all wills. If, to avoid this objection, you have recourse, they said, to plurality of suffrage, you build no longer on the basis of evidence. That which divides opinions is not yet evident. As nothing in government ought to be arbitrary, and every thing that is not arbitrary is founded on reasons, that is, *evidence*; there cannot be diversity of opinions on matters of government, except from the

effect of ignorance, or of bad design on the part of the deliberants. But it cannot be determined by a few voices less or more, on which side the ground of evil lies: experience shows, that an accredited error may long unite partizans in much greater number than the truth by which it is opposed. The number of those who concur in an opinion cannot render that evident which is not evident; their opinion is only opinion still; which is, of course, subject to change, for nothing but evidence is unalterable. And with respect to bad design; as that results from particular interests, it can never be determined whether the number of those whom such interests command is the greatest or the least. On both accounts, then, plurality of suffrage is not security.

But the greatest evil, they said, of the mode of determining, by majority of votes, the question respecting the social order, was, that it set individual interest in opposition to public; in which case, the public interests are sure to be sacrificed. "How great soever the differences among men, they have within them, nevertheless, two grand moving powers common to all, and which are the source of all their actions; the appetite of pleasure, and the aversion to pain. To suppose that men can move in opposition to those powers, is to suppose that the cause can depend upon the effect. But the desire of enjoyment, and opinion by which it is modified, cannot act naturally and constantly in the direction of the public interest, when authority is divided among several persons who are liable to have interests opposite to one another. For it may be laid down as a truth, which will not admit of contestation, that the public interest cannot be considered as generally safe, when it is in opposition to the private interests of those who are entrusted with it. If one or more of the public administrators behold any great advantage to themselves in a sacrifice which has been made, or which may be made, of the public interest, we ask, said the Economists, What can prevent the sacrifice from being made? Not the two springs of action which nature has placed within us to be the cause of all we do; for they are, in this case, put in opposition to the public interest. Not any other authority in opposition to that of the public administrator; since, by the supposition, they themselves engross the whole of the governing power."

The remaining evil which the Economists ascribed to this expedient was, that it attached to the number of votes a despotical authority, which can safely and usefully belong to *evidence* alone. "Under this system, it is not evidence," they said, "which governs; it is opinion, or the will of a certain number of men actuated by the same opinion. The mischief apt to result cannot be estimated; it is without bounds. Suppose, in fact, that the vote of the majority is dictated by private interests, and that *evidence* is on the side of the minority; is it not monstrous that the former should command? and

that the form of the government should lend to bad design a title to triumph over evidence itself? This excess of disorder is nevertheless inevitable, under so defective a plan of government; and the nation remains absolutely without protection against the scourges with which, under private interest, set in opposition to public, it may be lacerated; especially if these private interests are the interests of men who, by their riches or otherwise, are in possession of power.

“We forget not,” they said, “that the mischievous tendency of private interest, would find a counterpoise in the *knowledge of the nation*. It is very true, that, in a nation really enlightened, a nation that had from *evidence* the knowledge of its own true interests, the body of rulers could not abuse their authority. But why? because the evidence of the abuse would, in that case, annihilate the authority. But the idea of a nation governed by plurality of suffrage, and by evidence at the same time, involves an absurdity. Again, a nation sufficiently instructed to know all the links in the chain of social good and evil, would never sanction a form of government which places the common interest in opposition to the private interests of those to whom it is entrusted. Besides, it would be ridiculous to suppose a nation sufficiently instructed to have the wills of all united under the evidence of what is best in the social order, and to suppose its rulers, at the very same time, so ignorant as to be divided on those subjects, and reduced for a ground of decision to plurality of suffrage.

So long, on the other hand, as a nation is not thus instructed, the people, properly so called, sunk in ignorance and prejudices, see no farther than the nearest objects by which they are surrounded; each canton thinks the interest of the state is all summed up in the interest of that canton; each profession in the interest of that profession; the knowledge of relations and dependencies is absolutely wanting: such men cannot ascend from effects to causes, much less enumerate the links in the chain of causes and effects. It becomes, therefore, morally impossible for them to act by principle and by rule. Ever credulous and prone to prepossession, they must be gained in order to be persuaded; the same artifices must be practised upon them which are used to seduce them. The resolutions of men, the sport of momentary impressions, must have all the inconstancy of these impressions. Divided into rich and poor; the rich look upon the poor as made for them; and upon every power which they wish to possess, as naturally their due. The poor, justly discontented with the treatment they receive, and mistaking the cause, are tempted to envy the condition of the rich, and to regard as injustice the inequality of the partition which is made between them. It is evidently, herefore, unsafe to choose the body of administration exclusively from either of these two classes. Nor

would much be gained, if one half were chosen from the one and the other from the other. If the separate portions continued to be governed by the prejudices and views of the classes to which they belonged, they would do nothing but contend; and there is only one way in which they could receive a motive to cease; *if collusion would enable them to serve their own private interests by sacrificing the interests with which they were entrusted.*"

The Economists come, then, to their grand conclusion with respect to the artificial or physical security of the social order. To the question, what is the best form of government? They answered, The government of a single individual uniting in his own person the whole of the legislative and executive powers, in other words absolute. "All men," they said, "would confess that the best form of government was that which was so perfectly conformable to the natural and essential order of societies, that no abuse could result from it; that form, in short, which renders it impossible to make gain out of misrule; which subjects him who governs to the absolute necessity of having no greater interest than that of governing well." This advantage would be found, they affirmed, in the government of an hereditary sovereign, and it would be found in no other.

The reason was, that in no other could the interests of governor and governed be rendered absolutely the same. As the hereditary sovereign is the hereditary proprietor of the sovereignty, the interest of the sovereignty is his interest. The interest of the sovereignty means, the most perfect possible state of the governing authority; that is, the most perfect possible assurance of obedience to its command. But obedience to command can only arise out of the union of wills. And there can be no perfect assurance of the union of wills to obey, but from one cause; the evidence that what is commanded is for the benefit of those who are to obey. The interest of the hereditary sovereign, therefore, and the interest of the community, is one and the same.

With regard to the famous idea of the *balance* of a constitution;—that fancied arrangement of things in which the power and will of one part of the instruments of government finds a counterpoise in the power and will of another;—this pretended counterpoise the Economists treated as a perfect chimera, a mere imposition of the imagination, a sort of a daydream.

The nation, they said, is either instructed or not instructed. Let us examine the supposition of the balance in both cases. If it is instructed, or, in other words, possesses the evidence of the causes of good and evil in society, there is no balance of forces; there is only one force, because force follows will, and here wills are united.

They carry the development of this idea to a great length, to which our limits will not permit us to follow them.

If the nation is not instructed, or, in other words, does not possess the evidence of the causes of good and evil in society, the establishment of counter-forces is impracticable. To ignorance there can be only one salutary counteracting force, and that is, evidence. The effect of ignorance in the sovereign is dreaded, and to remove the dread, another man's ignorance is provided. This is what people call making counter-forces: it must be confessed that they are not of the very best sort of materials. How could it ever be imagined that confidence for any thing stable, could be laid on any thing so unaccountable as the results of ignorance?

Let us adopt this chimera for a moment, and ask if it be possible to assure ourselves, that each force will be the same to-morrow which it appears to be to-day. It is evidently impossible; nay, what each appears to-day may be a *false* appearance; for resting only on opinion, detached from evidence, it rests on what can never be exactly known.

The idea of a balance is the idea of two powers, one tending by its own force in one direction, another urging it by an equal force in an opposite direction. The effect is rest. To balance the power of the sovereign, acting in one direction, you provide another power acting in an opposite direction. If the powers are equal, they destroy one another, and there is no action. If they are unequal, there are not two powers, but only one power; for the greater swallows up the less.

The theory of a constitutional balance is founded on a metaphor, a contrivance of language; and moral forces are supposed to be subject to the laws of material forces. Material forces acting on a body in different directions, make it assume a certain determinable duration between the two. But it has not been considered, that, in physics, the direction given does not depend upon the opinion of the things which act. In morals, on the other hand, the things which are depended upon for counteraction change their duration, according to their opinion. A theory which supposes that to be uniform and constant, which is known to be the reverse, is evidently absurd.

Suppose every thing which the theory needs to be supposed. Conceive an assembly, or assemblies, provided to counteract the sovereign, and so constituted, as to form the most perfect counteraction possible; that the sovereign can ordain nothing but with the consent of the assemblies, and the assemblies nothing but with the consent of the sovereign. In this case, it is not a

government of one, but a government of many; each member of the assemblies shares in the sovereignty; they are so many partners, therefore, with a particular partner at their head. The question is, what are the interests of the partnership? Those of the nation or not? The interests of the partnership doubtless are, to make it as profitable to the members as possible; for it would be absurd to suppose them not governed by their private interests. Suppose, then, that there is originally a tendency to counteraction between the sovereign and the assemblies. It is very obvious, that they will put an end to this counteraction, as far as they discover that the suspension of it is conducive to their private interests. This is a law of nature, and may be taken for granted. As far, then, as the serving of the private interests of the members is concerned, there is no balance of opposite forces; the forces combine instead of opposing, and so far the balance is lost. The loss of the balance to this extent may be a loss engrossing the whole of the protection to the common interest which it was expected to yield; or it may be a loss not extending so far. If it goes to the whole extent of that protection, there is to the purpose in question no balance at all. If it does not go to the whole extent, there will still be some balance, more or less. What then is the case? The case is, that the loss goes to the whole; and that the balance does not exist. The balance does not exist, as far as the private interests of those who share among them the governing powers are concerned. But it is only from the private interests of those who govern, that the nation has any thing to fear; it is only against these interests that the balance is provided. As far, however, as these private interests are concerned, the balance does not exist. As far, therefore, as the balance is even *supposed* to be of any service, the balance is excluded by the law of nature. It follows as a corollary, that in a country where the people depend upon what is called *a balance*, as the whole of their security for good government, they have no security at all.

Such is the analysis which the Economists present of the causes of good and evil in human society, and of that order of things, which best insures the presence of the one and the absence of the other. That part of their doctrine which alone is yet known to the mere English reader, their *political economy*, is introduced as only an auxiliary exposition. It is part of the development by which they endeavoured to prove the identity which they supposed, between the interests of the sovereign and the interests of the people. But, as a very distinct account of this part of their system has been given by Dr Adam Smith, and has been repeated in a variety of publications; and as our object rather was the exhibition of those doctrines of the sect, which nobody has yet presented to our countrymen in their own language, we shall content ourselves with only marking the place which their political economy held in their general system.

As the society has public expences, it is necessary that it also have a public revenue. To reconcile the formation of a public revenue with the idea of social order, it ought to be formed, if possible, without infringing the property of individuals, for the sake of which the order of society itself is established. It ought, therefore, if possible, to be formed without diminishing the revenue of individuals. When the real origin of revenue, the source from which it all is drawn, is sufficiently understood, the mode of forming a revenue for the sovereign, without diminishing that of individuals, would be immediately apparent. *The source of all riches is the land; because the land alone, of all the sources of production, yields a produce greater than the cost of the production.* The surplus produce of the land, therefore, constitutes a fund, which is over and above the remuneration to the agents of production, and out of which the revenue of the sovereign may be taken, without diminishing the motive to production; that is, without retarding the natural progress of the state in wealth, population, and felicity.

To lay the foundation for this plan of a public revenue, it was necessary to prove that the land is the only source of production; and that manufactures and commerce, though they alter the form of things, never add any thing to the amount or value of production. In the development of these views, one of the most remarkable results at which the Economists arrived, was the necessity of perfect freedom to all the proceedings which lead to production; as giving to produce that form which is most agreeable to those who are to make use of it. Till the time of the Economists, the necessity of holding those proceedings in chains, and binding them to the will of governments, was the universal doctrine of governments, and to a great degree of speculators themselves. The general principles of the Economists respecting the *freedom* of property necessary to constitute the foundation of social order, led them to infer the evil of those abridgments of freedom; but they examined the inference in detail, and showed that the meddling officiousness of governments to compel industry to one thing, and exclude it from another, not only failed to effect any good purposes, but of necessity created obstructions of the greatest magnitude to production in general; and tended powerfully to keep down the wealth, population, and prosperity of the state. The light which they diffused on this subject, and which soon produced a grand effect on the minds of men, was a good, the magnitude of which is beyond calculation.

Another of their conclusions is, that the revenue of the sovereign, taken, as they said it ought to be, wholly from the net produce of the land, ought to be a fixed and unalterable proportion of that produce. The reason appeared to them conclusive. If the proportion was variable, and depended upon the will of the owners of the land,



they might be induced to break upon the public revenue, and deprive the state of those benefits which the public revenue is necessary to produce. If it depended upon the sovereign, the property of the land might be detached from that of its produce; no body would have a motive to become a proprietor in land; and all the advantages which depend on the existence of that property would be lost; the production of subsistence would fail; and the community could not exist.

This proportion being once fixed, there is no longer any contrariety between the interest of the sovereign and the interest of any portion of his people. And the proprietors of land are as completely and securely exempt from contributing to the expence of the state, as any other class of the community. The sovereign derives no part of his revenue from the subject; and this deplorable source of the conflict of interests is wholly cut off. The proportion being settled for ever between the sovereign and the land-owners, that alone is the property of the land-owner which is the proportion remaining to him. The rest is, with regard to him, as if it did not exist. The sovereign they denominated, therefore, *co-proprietor* of the land. And between him and the land-owner, commonly so called, a perfect community of interests is fixed. It is the interest of the sovereign that the produce of the land should increase; because, with every increase in the produce of the land, his revenue increases. It is also the interest of the land-owner that the produce of the land should increase, because it is from the same cause that his revenue increases.

III. In the remarks which we have to offer on the doctrines of this sect, we must content ourselves with a few general strictures on one or two leading points.

The most important slips which the Economists made in tracing the laws of the social order, are found in their deductions respecting the *tutelary authority*. Many steps, nevertheless, in that doctrine they have established. That the legislative and executive power are essentially the same, and cannot be separated except in *appearance*, they seem to us to have placed beyond the reach of dispute. That no security for good government can be found in an organization of counter-forces, or a *balance* in the constitution, they have proved in a manner equally satisfactory. But we think they have not proved, that a security for good government can ever be found in the personal interests of a sovereign who unites in himself the whole of the legislative and executive power. And we think they have not proved that this security, if it cannot be found in the interests of such a sovereign, can be found in nothing else.

1. That the Economists do not reason correctly from their own principles, when they regard the interests of the sovereign as an adequate security for good government, may be made apparent, we should hope, by an argument of a very few steps.

In a perfect state of the social order, they say that the interest of the sovereign would be the same with that of the community; and the evidence of this identity would be so clear to the sovereign, that the effect of it would be irresistible on his mind. But in a perfect state of the social order, they say also, that the interest of *every* man would consist in the most exact conformity to all the rules of that order, and that the evidence of this truth would be so apparent as to be sure of its effect. In the only state, therefore, in which the interest of the individual entrusted with the tutelary authority could be relied on as a security, the tutelary authority itself would not be required; for in a state in which every man would, of his own accord, do what is best, an authority to compel him to do so would be worse than useless.

The moment when you suppose a tutelary authority to be necessary,—the moment at which you suppose there is any man in the community who can regard his private interest as consisting in any degree in what is hurtful to the community, how can you be sure that the depositary of the legislative and executive powers will not be that man? It can be easily shown that no man is acted upon by stronger forces to impel him in that direction.

In order to prove that the legislative power cannot be exercised by the community at large, the Economists declare expressly, “that if we study the nature of each man in particular, we shall find, in general, that he would, if possible, have nothing but rights on his own side, nothing but obligations on the side of other men. The legislative power can be exercised with safety only by those who possess in perfection the evidence of the justice and necessity of the original and pervading laws of social order. It cannot, therefore, be exercised in safety by a body of men, among whom unequal rights exist, and must exist; and who at the same time are all separately desirous that the inequality should be in their favour.”

Admit this,—admit that all men in general desire to have nothing but rights on their own side, obligation on the side of other men; to have the inequality all in their own favour; to possess advantages, in short, over their fellows in the community; and it is surely absurd to talk of security in the interest of the sovereign.

It is a part of their doctrine, that he who is entrusted with the legislative power cannot be entrusted with the judicial power; because in that case the same party, both legislators and judges,

would destroy law, by the exercise of arbitrary will. This is a direct admission, or rather an unlimited affirmation, that the interest of the sovereign is not a security such as good government requires. Again, it is said by the Economists, "that under a government conformable to the principles of order, the positive laws would be of a justice and necessity *publicly evident*; and that in order to apply these laws, the judges would unite two sorts of knowledge, both of its meaning and of its reason; and, secondly, a knowledge of the facts which constitute the case in which they are required to decide." No men, according to them, are more urgently called upon, none can be more reasonably expected to be in full possession of the evidence of that interest which every man has in the preservation of the social order. Yet so far are the Economists from saying that the interest of these men, and the evidence they could possess of that interest would be a sufficient security for the right administration of their trust; that they declare them liable to the greatest malversations, and that the ultimate security would lie in the sovereign, who would check them. It is surely matter of wonder, how the Economists could fail to perceive, that the very same motives which they rejected as security for the right use of authority in the judges, they trusted to as complete security in the sovereign; though likely to operate on the judges with greater force than upon him.

2. We think it may also be made apparent, that the Economists do not reason correctly from their own principles, when they conclude, that if security for good government cannot be found in the interests of one man entrusted with the whole of the legislative and executive powers, it can be found in nothing else.

They expressly state, that, "the first, the real depositary and general guardian of the laws is the nation itself, at the head of which is the sovereign. Accurately speaking, the deposit and guardianship of the laws *can* belong to those alone who are armed with the superiority of the physical force, to procure to that deposit its necessary superiority. This being evident, it is the nation as a body which naturally and necessarily is the depositary and guardian of its own laws; because there is in the nation no power comparable to that which results from the combination of its powers." Again:—

In contending that the legislative and executive powers must always be exercised by the same hands, they affirm that those powers could only be exercised by those who had in their hands the superiority of the physical force. Observe, now, the legitimate conclusion:—

The people alone have the physical force necessary to constitute them guardians of the laws. The same force is necessary for the makers and the executors of the laws. No body, therefore, but the people, ever can, accurately speaking, have either the legislative or the executive powers.—In a state of ignorance they may be led by fraud to lend their powers to their own destruction. But it is a part, also, of the doctrine of the Economists, that in a state of knowledge, in which they may be easily placed, it is not possible they should make any but a good use of their power.

“A nation,” they said, “governed according to the natural and essential order of society, has *necessarily* the perfect evidence and knowledge of it, and therefore sees with certainty that it enjoys its best possible situation. This perception, of necessity, unites all the wills and all the forces in the nation for the support of that order; and, by consequence, for the creation and preservation of all the institutions which are best adapted to that support.” The people, therefore, may be safely trusted.

In a nation governed badly, governed not according to “the natural and essential order,” but according to what the Economists called the “*political* order;” “it is always,” they said, “one part of the nation which governs the rest; the weaker which governs the stronger. In this case, too, the power of him who commands consists in nothing but the powers united of those who obey him. And this union of their forces supposes, of necessity, the union of their wills; which can be founded only upon the persuasion that this obedience procures them their best possible condition. The powers of the nation, in this vicious order, are less at the disposal of the sovereign, than at the disposal of those who hire to him their agency, and, by consequence, sell to him the means of procuring obedience from the nation; his situation is therefore at bottom a real dependence; his situation is precarious, uncertain, changeable; he is put in chains, which he dares not attempt to break.” In every situation, therefore, it is the will of the people, either of the whole of the people united, or of a part of the people united against the rest, which is, in reality, both the legislative and the executive power. Estimate, therefore, as high as you please, exaggerate to any excess the inconvenience of being governed by the people, you have that inconvenience still; you are bound to it by the inexorable law of nature; it is not within the range of possibility that you should escape from it.

We have already seen, that the Economists declare, that “every man wishes to have all the rights on his own side, all the duties on the side of other men; that every man likes inequality, in short, when the inequality is in his own power.” From this they infer, that the community cannot safely govern; but from this it may with

much more justness be retorted upon them, that nothing else can safely govern. The interest of the community, say the Economists, is easily known; the evidence of it is within the reach of all descriptions of the people, and so cogent as to be irresistible. The union of wills, according to their doctrine, follows as a matter of course. Here, therefore, it should seem, we have a much better security, than can be found in the interest of any *individual*, sovereign or subordinate.

It is remarkable enough, that the Economists have wholly overlooked, in their criticism on the plans opposed to their own, *the representative system*; and yet it is pretty evident, that it is by means of the representative system, that the grand problem of government must finally be resolved. The speculations connected with this subject will, however, find a more fitting place under the article Government.

For the exposition of the original errors of this sect in *political economy*, it is unnecessary to do any thing more than refer to the immortal work of Dr Adam Smith. A few years ago, these errors, under something of a new form, were revived in this country, with a success which shows how much the *opinions* of that great proportion of the community, whose opinions are not formed upon *evidence*, are liable to change by every fluctuation of circumstances. From an opinion, which had governed this nation for ages, that to its commerce alone it owed its being the richest nation upon earth, our countrymen, under the momentary threat of circumstances, which created an unreasonable fear of being deprived of commerce, embraced, with an avidity hardly conceivable before experience, the doctrine of Mr Spence, that commerce was no source of riches at all. What the author of this article thought necessary to be said in opposition to these doctrines at the time, he presented in a tract, entitled, *Commerce Defended, in Answer to Mr Spence*.<sup>\*</sup> And an able exposure of the same errors was published on the same occasion by Major Torrens, in a pamphlet, which he entitled the *Economists Refuted*.

(f. f.)

end of volume third.

[\[Back to Table of Contents\]](#)

## EDUCATION.

The end of education is to render the individual, as much as possible, an instrument of happiness, first to himself, and next to other beings.

The properties, by which he is fitted to become an instrument to this end, are, partly, those of the body, and, partly, those of the mind.

Happiness depends upon the condition of the Body, either immediately, as where the bodily powers are exerted for the attainment of some good; or mediately, through the mind, as where the condition of the body affects the qualities of the mind.

Education, in the sense in which it is usually taken, and in which it shall here be used, denotes the means which may be employed to render the *mind*, as far as possible, an operative cause of happiness. The mode in which the *body* may be rendered the most fit for operating as an instrument of happiness is generally considered as a different species of inquiry, and is thought to belong to physicians and others, who study the means of perfecting the bodily powers.

Education, then, in the sense in which we are now receiving it, may be defined, the best employment of all the means which can be made use of, by man, for rendering the human mind to the greatest possible degree the cause of human happiness. Every thing, therefore, which operates, from the first germ of existence, to the final extinction of life, in such a manner as to affect those qualities of the mind on which happiness in any degree depends, comes within the scope of the present inquiry. The grand question of education embraces nothing less than this—namely, What can be done by the human powers, by aid of all the means which are at human disposal, to render the human mind the instrument of the greatest degree of happiness? It is evident, therefore, that nothing, of any kind, which operates at any period of life, however early, or however late, ought to be left out of the account. Happiness is too precious an effect, to let any cause of it, however small, run to waste and be lost. The means of human happiness are not so numerous that any of them can be spared. Not to turn every thing to account, is here, if any where, bad economy, in the most emphatical sense of the phrase.

Definition.

The field, it will easily be seen, is exceedingly comprehensive. It is everywhere, among enlightened men, a subject of the deepest complaint, that the business of education is ill performed; and that, in this, which might have been supposed the most interesting of all human concerns, the practical proceedings remain far behind the actual state of the human mind. It may be remarked, that, notwithstanding all that has been written on the subject, even the *theory* of education has not kept pace with the progress of philosophy; and it is unhappily true, that the *practice* remains to a prodigious distance behind the theory. One reason why the theory, or the combination of ideas which the present state of knowledge might afford for improving the business of education, remains so imperfect, probably is, that the writers have taken but a partial view of the subject; in other words, the greater number have mistaken a part of it for the whole. And another reason of not less importance is, that they have generally contented themselves with vague ideas of the object or end to which education is only useful as means. One grand purpose of the present inquiry will be to obviate all these mistakes; and, if not to exhibit that comprehensive view, which we think is desirable, but to which our limits are wholly inadequate; at any rate, to conduct the reader into that train of thought which will lead him to observe for himself the ultimate boundaries of the field; and, conceiving more accurately the end, to form a better estimate of what is desirable as the means.

Objects of this Article.

1. It has been remarked, that every thing, from the first germ of existence to the final extinction of life, which operates in such a manner as to affect those qualities of the mind on which happiness in any degree depends, comes within the scope of the present inquiry. Those circumstances may be all, according to the hackneyed division, arranged under two heads: They are either Physical or Moral; meaning by Physical, those of a material nature, which operate more immediately upon the material part of the frame; by Moral, those of a mental nature, which operate more immediately upon the mental part of the frame. What are those physical and moral circumstances which may be made to operate upon the mind in such a manner as to render it a better instrument or cause of happiness, is, therefore, one object of the present inquiry.

Division of these objects.

2. In order to know in what manner things operate upon the mind, it is necessary to know how the mind is constructed. *Quicquid recipitur, recipitur ad modum recipientis*. This is the old aphorism, and no where more applicable than to the present case. If you attempt to act upon the mind, in ways not adapted to its nature, the least evil you incur is to lose your labour.

3. As happiness is the end, and the means ought to be nicely adapted to the end, it is necessary to inquire, What are the qualities of mind which chiefly conduce to happiness,—both the happiness of the individual himself, and the happiness of his fellow creatures?

It appears to us, that this distribution includes the whole of the subject. Each of these divisions branches itself out into a great number of inquiries.

And, it is manifest, that the complete developement of any one of them would require a greater space than we can allow for the whole. It is, therefore, necessary for us, if we aim at a comprehensive view, to confine ourselves to a skeleton; and this we think is both the most instructive course we can pursue, and the best adapted to the nature of the work for which it is designed.

Education.



The next question is, Which of these three divisions of the inquiry it will be most advantageous to the developement of the subject to begin with. The first, it is evident, is the most practical, and, therefore, likely to be the most interesting. Under the Physical Head, it includes inquiries into the mode in which the qualities of the mind are affected by the health, the aliment, the air, the labour, &c. to which the individual is subject. Under the Moral Head it includes inquiries into what may be called, 1. Domestic education, or the mode in which the mind of the individual is liable to be formed by the conduct of the individuals composing the family in which he is born and bred: 2. Technical or scholastic education, including all those exercises upon which the individual is put, as means to the acquisition of habits,—habits either conducive to intellectual and moral excellence, or even to the practice of the manual arts: 3. Social education, or the mode in which the mind of the individual is liable to be affected by the conduct of the men who form the society in which he moves: 4. Political education, or the mode in which the mind of the individual is acted upon by the nature of the political institutions under which he lives.

Order of inquiry.

The two latter divisions comprehend what is more purely theoretical; and the discussion of them will, therefore, have fewer attractions to that class of readers, unhappily numerous, to whom intellectual exercises have not by habit been rendered delightful. To the inquiries, however, which are included under the first division, it appears, that those included under the two last are required as a foundation. The fact is, that good practice can, in no case, have any solid foundation but in sound theory. This is not more important, than it is demonstrable and certain. For, What is theory? It is the putting the *whole* of the knowledge, which we



possess upon any subject, into that order and form in which it is most easy to draw from it good practical rules. Let any one examine this definition, article by article, and show us that it fails in a single particular. If it does not, let us no longer hear of the separation of theory from practice.

1. The first, then, of the inquiries, embraced by the great subject of education, is that which regards the nature of the human mind: and the business is, agreeably to the foregoing definition of theory, to put the knowledge which we possess respecting the human mind, into that order and form, which is most advantageous for drawing from it the practical rules of education. The question is, How the mind, with those properties which it possesses, can, through the operation of certain means, be rendered most conducive to a certain end? To answer this question, the whole of its properties must be known. The whole science of human nature is, therefore, but a branch of the science of education. Nor can education assume its most perfect form, till the science of the human mind has reached its highest point of improvement. Even an outline, however, of the philosophy of the human mind would exceed the proportion of the present article; we must, therefore, show what ought to be done, rather than attempt, in any degree, to execute so extensive a project.

Nature of the Mind, as connected with Education.

With respect to the human mind, as with respect to every thing else, all that passes with us, under the name of knowledge, is either matter of experience, or, to carry on the analogy of expression, matter of guess. The first is real knowledge: the properties of the object correspond to it. The latter is supposititious knowledge, and the properties of the object do or do not correspond to it; most likely not. The first thing desirable is, to make an exact separation of those two kinds of knowledge; and, as much as possible, to confine ourselves to the first.

What, then, is it which we experience with regard to the human mind? and what is it which we guess? We have experience of ourselves, when we *see*, when we *hear*; when we *taste*, when we *imagine*, when we *fear*; when we *love*, when we *desire*; and so on. And we give names, as above, to distinguish what we experience of ourselves, on one of those occasions, from what we experience on another. We have experience of other men exhibiting *signs* of having similar experiences of themselves, that is, of *seeing*, *hearing*, and so on. It is necessary to explain, shortly, what is here meant by a sign. When we ourselves *see*, *hear*, *imagine*, &c. certain actions of ours commonly follow. We know, accordingly, that if any one, observing those actions, were to infer that we had been *seeing*, *hearing*, &c., the inference would be just. As often then as

we observe similar actions in other men, we infer that they, too, have been seeing or hearing; and we thus regard the action as the sign.

Having got names to distinguish the state or experience of ourselves, when we say, *I see, I hear, I wish*, and so on; we find occasion for a name which will distinguish the having of any (be it what it may) of those experiences, from the being altogether without them; and, for this purpose, we say, *I feel*, which will apply, generally, to any of the cases in which we say, *I see*, or *hear*, or *remember*; or *fear*; and comprehends the meaning of them all. The term *I think*, is commonly used for a purpose nearly the same. But it is not quite so comprehensive. There are several things which we should undoubtedly include under the term *our experience of our mind*, to which we should not extend the term *I think*. But there is nothing whatsoever included under it to which we should not extend the term *I feel*; this is truly, therefore, the generic term.

All our experience, then, of the human mind, is confined to the several occasions on which the term *I feel* can be applied. And, now, What does all this experience amount to? What is the knowledge which it affords? It is, first, a knowledge of the *feelings* themselves; we can remember what, one by one, they were. It is, next, a knowledge of the order in which they follow one another; and this is all. But this description, though a just one, is so very general as to be little instructive. It is not easy, however, to speak about these feelings minutely and correctly; because the language which we must apply to them is ill adapted to the purpose.

Let us advert to the first branch of that knowledge, the knowledge of the feelings themselves. This, in the simple cases, may be regarded as easy; the feeling is distinct at the moment of experience, and is distinctly remembered afterwards. But the difficulty is great with the complex cases. It is found, that a great number of simple feelings are apt to become so closely united, as often to assume the appearance of only one feeling, and to render it extremely difficult to distinguish from one another the simple feelings of which it is composed. And one of the grand questions which divide the mental philosophers of the present day, is to determine which feelings are simple, and which are complex. There are two sorts which have, by all, been regarded as simple: Those which we have when we say, *I hear, I see, I feel, I taste, I smell*, corresponding to the five senses, and which Mr. Hume distinguished by the name of *impressions*; and the feelings corresponding to these impressions, which Mr. Hume calls *ideas* of them; the second taking place only in consequence of the first, and being, as it were, a revival of them; not the same feelings with the impressions, by any means; but feelings which bear a certain

resemblance to them. Thus, when a man sees the light of noon, the feeling he has is called an *impression*,—the impression of light; when he shuts his eyes and has a feeling,—the type or relict of the impression,—he is not said to *see* the light, or to have the *impression* of light, but to *conceive* the light, or have an *idea* of it.

These two,—*impressions*, and their correspondent *ideas*,—are simple feelings, in the opinion of all philosophers. But there is one set of philosophers who think that these are the only simple feelings, and that all the rest are merely combinations of them. There is another class of philosophers who think that there are original feelings beside impressions and ideas; as those which correspond to the words *remember, believe, judge, space, time, &c.* Of the first are Hartley and his followers in England, Condillac and his followers in France; of the second description are Dr. Reid and his followers in this country, Kant and the German school of metaphysicians in general on the Continent.

It is evident, that the determination of this question with regard to the first branch of knowledge, namely, what the feelings are? is of very great importance with regard to the second branch of knowledge, namely, what is the order in which those feelings succeed one another? For how can it be known how they succeed one another, if we are ignorant which of them enter into those several groups which form the component parts of the train? It is of vast importance, then, for the business of education, that the analysis of mind should be accurately performed; in other words, that all our complex feelings should be accurately resolved into the simple ones of which they are composed. This, too, is of absolute necessity for the accurate use of language; as the greater number of words are employed to denote those groups of simple feelings which we call complex ideas.

In regard to all the events in this world, of which feelings are a class, our knowledge extends not beyond two points. The first is, a knowledge of the events themselves; the second is, a knowledge of the order of their succession. The expression in words of the first kind of knowledge is history; the expression of the second is philosophy; and to render that expression short and clear is the ultimate aim of philosophy.

The first steps in ascertaining the order of succession among events are familiar and easy. One occurs, and then another, and after that a third, and so on; but at first it is uncertain whether this order is not merely accidental, and such as may never recur. After a time it is observed, that events, similar to those which have already occurred, are occurring again and again. It is next observed, that they are always followed, too, by the same sort of events by which

those events were followed to which they are similar; that these second events are followed, in the third place, by events exactly similar to those which followed the events which they resemble; and that there is, thus, an endless round of the same sequences.

If the order in which one event follows another were always different, we would know events only one by one, and they would be infinitely too numerous to receive names. If we could observe none but very short sequences, if, for example, we could ascertain that one event was, indeed, always followed by one other of the same description, but could not trace any constancy farther, we should thus know events by sequences of twos and twos. But those sequences would also be a great deal too numerous to receive names.

The history of the human mind informs us, that the sequences which men first observe are but short ones. They are still, therefore, too numerous to receive names. But men compound the matter. They give names to those sequences which they are most interested in observing, and leave the rest unnamed. They then, when they have occasion to speak of the unnamed successions, apply to them, the best way they can, the names which they have got; endeavouring to make a partial naming answer an universal purpose, and hence almost all the confusion of language and of thought arises.

The great object is, then, to ascertain sequences more and more extensive, till, at last, the succession of all events may be reduced to a number of sequences sufficiently small for each of them to receive a name; and then, and then only, shall we be able to speak wholly free from confusion.

Language affords an instructive example of this mode of ascertaining sequences. In language, the words are the events. When an ignorant man first hears another speak an unknown language, he hears the sounds one by one, but observes no sequence. At last he gathers a knowledge of the use of a few words, and then he has observed a few sequences; and so he goes on till he understands whatever he hears. The sequences, however, which he has observed, are of no greater extent than is necessary to understand the meaning of the speaker; they are, by consequence, very numerous and confusing.

Next comes the grammarian; and he, by dividing the words into different kinds, observes that these kinds follow one another in a certain order, and thus ascertains more enlarged sequences, which, by consequence, reduces their number.

Nor is this all; it is afterwards observed, that words consist, some of one syllable, and some of more than one; that all language may thus be resolved into syllables, and that syllables are much less in number than words; that, therefore, the number of sequences in which they can be formed are less in number, and, by consequence, are more extensive. This is another step in tracing to the most comprehensive sequences the order of succession in that class of events wherein language consists.

It is afterwards observed, that these syllables themselves are compounded; and it is at last found, that they may all be resolved into a small number of elementary sounds corresponding to the simple letters. All language is then found to consist of a limited number of sequences, made up of the different combinations of a few letters.

It is not pretended that the example of language is exactly parallel to the case which it is brought to illustrate. It is sufficient if it aids the reader in seizing the idea meant to be conveyed. It presents, at any rate, a striking analogy between the analysing of a complex sound, namely, a word, into the simple sounds of which it is composed, to wit, letters; and the analysing of a complex feeling, such as the idea of a rose, into the simple feelings of sight, of touch, of taste, of smell, of which the complex idea or feeling is made up. It affords, also, a brilliant proof of the commanding knowledge which is attained of a train of events, by observing the sequences which are formed of the simplest elements into which they can be resolved; and it thus illustrates the two grand operations, by successful perseverance in which the knowledge of the human mind is to be perfected.

It is upon a knowledge of the sequences which take place in the human feelings or thoughts, that the structure of education must be reared. And, though much undoubtedly remains to be cleared up, enough is already known of those sequences to disgrace the education with which our supineness, and love of things as they are, rest perfectly satisfied.

As the happiness, which is the end of education, depends upon the actions of the individual, and as all the actions of man are produced by his feelings or thoughts, the business of education is, to make certain feelings or thoughts take place instead of others. The business of education, then, is to work upon the mental successions. As the sequences among the letters or simple elements of speech, may be made to assume all the differences between nonsense and the most sublime philosophy, so the sequences, in the feelings which constitute human thought, may assume all the differences between the extremes of madness and of

wickedness, and the greatest attainable heights of wisdom and virtue; and almost the whole of this is the effect of education. That, at least, all the difference which exists between classes or bodies of men is the effect of education, without entering into the dispute about individual distinctions, we suppose, will be readily granted; that it is education wholly which constitutes the remarkable difference between the Turk and the Englishman, and even the still more remarkable difference between the most cultivated European and the wildest savage. Whatever is made of any *class* of men, we may then be sure is possible to be made of the whole human race. What a field for exertion! What a prize to be won!

Mr. Hobbes, who saw so much farther into the texture of human thought than all who had gone before him, was the first man, as far as we remember, who pointed out what is peculiarly *knowledge*, in this respect (namely, the order in which our feelings succeed one another)—as a distinct object of study. He marked, with sufficient clearness, the existence and cause of the sequences; but, after a very slight attempt to trace them, he diverged to other inquiries, which had this but indirectly for their object.

“The succession,” he says (*Human Nature*, ch. iv.), “of conceptions in the mind, series or consequence (by *consequence* he means *sequence*) of one after another, may be casual and incoherent, as in dreams, for the most part; and it may be orderly, as when the former thought introduceth the latter. The cause of the coherence or consequence (*sequence*) of one conception to another, is their first coherence or consequence at that time when they are produced by sense; as, for example, from St. Andrew the mind runneth to St. Peter, because their names are read together; from St. Peter to a stone, for the same cause; from stone to foundation, because we see them together; and, according to this example, the mind may run almost from any thing to any thing. But, as in the sense, the conception of cause and effect may succeed one another, so may they, *after* sense, in the imagination.” By the succession in the *imagination* it is evident he means the succession of *ideas*, as by the succession in *sense*, he means the succession of impressions.

Having said that the conceptions of *cause* and *effect* may succeed one another in the sense, and after sense in the imagination, he adds, “And, for the most part, they do so; the cause whereof is the appetite of them who, having a conception of the *end*, have next unto it a conception of the next *means* to that end; as when a man, from a thought of honour, to which he hath an appetite, cometh to the thought of wisdom, which is the next means thereunto; and from thence to the thought of study, which is the next means to wisdom.” (Ib.) Here is a declaration with respect to three grand

laws in the sequence of our thoughts. The first is, that the succession of ideas follows the same order which takes place in that of the impressions. The second is, that the order of cause and effect is the most common order in the successions in the imagination, that is, in the succession of ideas. And the third is, that the appetites of individuals have a great power over the successions of ideas; as the thought of the object which the individual desires leads him to the thought of that by which he may attain it.

Mr. Locke took notice of the sequence in the train of ideas, or the order in which they follow one another, only for a particular purpose,—to explain the intellectual singularities which distinguish particular men. “Some of our ideas,” he says, “have a natural correspondence and connection one with another. It is the office and excellence of our reason to trace these, and hold them together in that union and correspondence which is founded in their peculiar beings. Besides this, there is another connection of ideas, wholly owing to chance or custom; ideas that are not at all of kin come to be so united in some men’s minds, that it is very hard to separate them; they always keep in company, and the one no sooner at any time comes into the understanding, but its associate appears with it; and, if they are more than two which are thus united, the whole gang, always inseparable, show themselves together.” There is no attempt here to trace the order of sequence, or to ascertain which antecedents are followed by which consequents; and the accidental, rather than the more general phenomena, are those which seem particularly to have struck his attention. He gave, however, a name to the matter of fact. When one idea is regularly followed by another, he called this constancy of conjunction *the association of the ideas*; and this is the name by which, since the time of Locke, it has been commonly distinguished.

Mr. Hume perceived, much more distinctly than any of the philosophers who had gone before him, that to philosophize concerning the human mind was to trace the order of succession among the elementary feelings of the man. He pointed out three great laws or comprehensive sequences, which he thought included the whole. Ideas followed one another, he said, according to *resemblance*, *contiguity* in time or place, and *cause and effect*. The last of these, the sequence according to cause and effect, was very distinctly conceived, and even the cause of it explained, by Mr. Hobbes. That of contiguity in time and place, is thus satisfactorily explained by Mr. Hume. “It is evident,” he says, “that as the senses, in changing their objects, are necessitated to change them regularly, and take them as they lie contiguous to each other, the imagination must, by long custom, acquire the same method of thinking, and run along the parts of space and time in conceiving

its objects." (*Treatise of Human Nature*, P. 1. B. 1. sect. 4.) This is a reference to one of the laws pointed out by Hobbes, namely, that the order of succession among the ideas follows the order that took place among the impressions. Mr. Hume shows that the order of sense is much governed by contiguity, and why; and assigns this as a sufficient reason of the order which takes place in the imagination. Of the next sequence, that according to resemblance, he gives no account, and only appeals to the consciousness of his reader for the existence of the fact. Mr. Hume farther remarked, that what are called our complex ideas, are only a particular class of cases belonging to the same law, the law of the succession of ideas; every complex idea being only a certain number of simple ideas, which succeed each other so rapidly, as not to be separately distinguishable without an effort of thought. This was a great discovery; but it must at the same time be owned, that it was very imperfectly developed by Mr. Hume. That philosopher proceeded, by aid of these principles, to account for the various phenomena of the human mind. But though he made some brilliant developements, it is nevertheless true, that he did not advance very far in the general object. He was misled by the pursuit of a few surprising and paradoxical results, and when he had arrived at them he stopped.

After him, and at a short interval, appeared two philosophers, who were more sober-minded, and had better aims. These were Condillac and Hartley. The first work of Condillac appeared some years before the publication of that of Hartley; but the whole of Hartley's train of thought has so much the air of being his own, that there is abundant reason to believe the speculations of both philosophers equally original. They both began upon the ground that all simple ideas are copies of impressions; that all complex ideas are only simple ideas united by the principle of association. They proceeded to examine all the phenomena of the human mind, and were of opinion that the principle of association, or the succession of one simple idea after another, according to certain laws, accounts for the whole; that these laws might, by meditation, be ascertained and applied; and that then the human mind would be understood, as far as man has the means of knowing it.

The merit of Condillac is very great. It may yet, perhaps, be truer to say, that he wrote admirably upon philosophy, than that he was a great philosopher. His power consists in expression; he conveys metaphysical ideas with a union of brevity and clearness which never has been surpassed. But though he professed rather to deliver the opinions of others, than to aim at invention, it cannot be denied that he left the science of the human mind in a much better state than he found it; and this is equivalent to discovery. As a teacher, in giving in this field a right turn to the speculations of his



countrymen, his value is beyond all calculation; and perhaps there is no one human being, with the exception of Locke, who was his master, to whom, in this respect, the progress of the human mind is so largely indebted. It is also true, that to form the conception of tracing the sequences among our simple ideas, as the whole of the philosophy of the human mind—(even with the helps which Hume had afforded, and it is more than probable that neither Condillac nor Hartley had ever heard of a work which, according to its author, had fallen dead born from the press),—was philosophical and sagacious in the highest degree.

It must, however, be allowed, that, in expounding the various mental phenomena of man, Condillac does not display the same penetration and force of mind, nor the same comprehensiveness, as Dr. Hartley. He made great *progress* in showing how those phenomena might be resolved into the sequences of simple ideas; but Dr. Hartley made still greater. We do not mean to pronounce a positive opinion either for or against the grand undertaking of Dr. Hartley, to resolve the whole of the mental phenomena of man into sequences of impressions and of the simple ideas which copy them. But we have no hesitation in saying, that he philosophizes with extraordinary power and sagacity; and it is astonishing how many of the mental phenomena he has clearly resolved; how little, in truth, he has left about which any doubt can remain.

We cannot afford to pursue this subject any farther. This much is ascertained, that the character of the human mind consists in the sequences of its ideas; that the object of education, therefore, is, to provide for the constant production of certain sequences, rather than others; that we cannot be sure of adopting the best means to that end, unless we have the greatest knowledge of the sequences themselves.

In what has been already ascertained on this subject, we have seen that there are two things which have a wonderful power over those sequences. They are, custom, and pain or pleasure. Both of these powers were well remarked by Mr. Hobbes. These are the grand instruments or powers, by the use of which, the purposes of education are to be attained.

Where one idea has followed another a certain number of times, the appearance of the first in the mind is sure to be followed by that of the second, and so on. One of the grand points, then, in the study of education, is, to find the means of making, in the most perfect manner, those repetitions on which the beneficial sequences depend.

When we speak of making one idea follow another, and always that which makes part of a good train, instead of one that makes part of a bad train, there is one difficulty—in this—that each idea, taken singly by itself, is as fit to be a part of a bad train as of a good one; for bad trains and good trains are both made out of the same simple elements. Trains, however, take place by sequences of twos, or threes, or any greater number; and the nature of these sequences, as complex parts of a still greater whole, is that which renders the train either salutary or hurtful. Custom is, therefore, to be directed to two points; first, to form those sequences which make the component parts of a good train; and secondly, to join those sequences together, so as to constitute the train.

When we speak of making one idea follow another, there must always be a starting point; there must be some one idea from which the train begins to flow; and it is pretty evident that much will depend upon this idea. One grand question, then, is—what are the ideas which most frequently operate as the commencement of trains?—that we may by custom attach to them such as are the most beneficent. It has been observed that most, if not all, of our trains, start from a sensation, or some impression upon the external or internal nerves. The question then is, which are those sensations, or aggregates of sensations, which are of the most frequent recurrence? it being obviously of importance, that those which give occasion to the greatest number of trains, should be made, if possible, to give occasion only to the best trains. Now the sensations, or aggregates of sensations, which occur in the ordinary business of life, are those of most frequent recurrence; and from which it is of the greatest importance that beneficial trains should commence. Rising up in the morning, and going to bed at night, are aggregates of this description, common to all mankind; so are the commencement and termination of meals. The practical sagacity of priests, even in the rudest ages of the world, perceived the importance, for giving religious trains an ascendancy in the mind, of uniting them, by early and steady custom, with those perpetually recurring sensations. The morning and evening prayers, the grace before and after meals, have something correspondent to them in the religion of perhaps all nations.

It may appear, even from these few reflections and illustrations, that, if the sensations, which are most apt to give commencement to trains of ideas, are skilfully selected, and the trains which lead most surely to the happiness, first of the individual himself, and next of his fellow-creatures, are by custom effectually united with them, a provision of unspeakable importance is made for the happiness of the race.

Beside custom, it was remarked by Hobbes, that appetite had a great power over the mental trains. But appetite is the feeling toward pleasure or pain in prospect; that is, future pleasure or pain. To say that appetite, therefore, has power over the mental trains, is to say, that the prospect of pleasure or pain has. That this is true, every man knows by his own experience. The best means, then, of applying the prospect of pleasure and pain to render beneficent trains perpetual in the mind, is the thing to be found out, and made familiar to mankind.

The mode in which pleasure and pain affect the trains of the mind is, as ends. That is to say; as a train commences, we have supposed, in some present sensation, so it may be conceived as terminating in the idea of some future pleasure or pain. The intermediate ideas, between the commencement and the end, may be either of the beneficent description or the hurtful. Suppose the sight of a fine equipage to be the commencement; and the riches, which afford it, the appetite, or end, of a train in the mind of two individuals at the same time. The intermediate ideas in the mind of the one are beneficent, in the other hurtful. The mind of the one immediately runs over all the honourable and useful modes of acquiring riches—the acquisition of the most rare and useful qualities—the eager watch of all the best opportunities of bringing them into action—and the steady industry with which they may be applied. That of the other recurs to none but the vicious modes of acquiring riches—by lucky accidents—the arts of the adventurer and impostor—by rapine and plunder, perhaps on the largest scale, by all the honours and glories of war. Suppose the one of these trains to be habitual among individuals, the other not. What a difference for mankind!

It is unnecessary to adduce farther instances for the elucidation of this part of our mental constitution. What, in this portion of the field, requires to be done for the science of education, appears to be, to ascertain, first, what are the ends of human desire, the really ultimate objects at which it points; next, to ascertain what are the most beneficent means of attaining those objects; and lastly, to accustom the mind to fill up the intermediate space between the present sensation and the ultimate object, with nothing but the ideas of those beneficent means. We are perfectly aware that these instructions are far too general. But we hope it will be carried in mind how little, beyond the most general ideas, so confined a sketch as the present can possibly embrace; and we are still not without an expectation that these expositions, general as they are, will not be wholly without their use.

II. We come now to the second branch of the science of education, or the inquiry what are the qualities with which it is of most importance that the mind of the individual should be endowed. This inquiry we are in hopes the preceding exposition will enable us very materially to abridge. In one sense, it might undoubtedly be affirmed, that all the desirable qualities of the human mind are included in those beneficent sequences of which we have spoken above. But, as it would require, to make this sufficiently intelligible, a more extensive exposition than we are able to afford, we must content ourselves with the ordinary language, and with a more familiar mode of considering the subject.

Of the qualities conducive to Happiness.

As the object is happiness, that intelligence is one of the qualities in question will not be denied, and may speedily be made to appear. To attain happiness in the greatest possible degree, all the means to that end which the compass of nature affords must be employed in the most perfect possible mode. But all the means which the compass of nature, or the system in which we are placed, affords, can only be known by the most perfect knowledge of that system. The highest measure of knowledge is therefore required. But mere knowledge is not enough; a mere magazine of remembered facts is a useless treasure. Amid the vast variety of known things, there is needed a power of choosing; a power of discerning which of them are conducive, which not, to the ends we have in view. The ingredients of intelligence are two, knowledge and sagacity; the one affording the materials, upon which the other is to be exerted: the one showing what exists, the other converting it to the greatest use; the one bringing within our ken what is capable and what is not capable of being used as means, the other seizing and combining, at the proper moment, whatever is the fittest means to each particular end. This union, then, of copiousness and energy; this possession of numerous ideas, with the masterly command of them, is one of the more immediate ends to which the business of education is to be directed.

With a view to happiness as the end, another quality will easily present itself as indispensable. Conceive that a man knows the materials which can be employed as means, and is prompt and unerring in the mode of combining them; all this power is lost, if there is any thing in his nature which prevents him from using it. If he has any appetite in his nature which leads him to pursue certain things with which the most effectual pursuit of happiness is inconsistent, so far this evil is incurred. A perfect command, then, over a man's appetites and desires; the power of restraining them whenever they lead in a hurtful direction; that possession of himself which insures his judgment against the illusions of the passions, and enables him to pursue constantly what he

deliberately approves, is indispensably requisite to enable him to produce the greatest possible quantity of happiness. This is what the ancient philosophers called temperance; not exactly the same with what is called the virtue or grace of temperance, in theological morality, which includes a certain portion (in the doctrines of some theological instructors, a very large portion) of abstinence, and not only of abstinence, or the gratuitous renunciation of pleasure, but of the infliction of voluntary pain. This is done with a view to please the God, or object of worship, and to provide, through his favour, for the happiness of a second or future life. The temperance of the ancient philosophers had a view only to the happiness of the present life; and consisted in the power of resisting the immediate propensity, if yielding to it would lead to an overbalance of evil, or prevent the enjoyment of a superior good, in whatever the good or evil of the present life consists. This resisting power consists of two parts: the power of resisting the allurements of pleasure; and that of resisting the terrors of pain; the last of which has an appropriate name, and is called Fortitude.

These two qualities, the intelligence which can always choose the best possible means, and the strength which overcomes the misguiding propensities, appear to be sufficient for the happiness of the individual himself; to the pursuit of which it cannot be doubted that he has always sufficient motions. But education, we have said, should be an instrument to render the individual the best possible artificer of happiness, not to himself alone, but also to others. What, then, are the qualities with which he ought to be endowed, to make him produce the greatest possible quantity of happiness to others?

It is evident enough to see what is the first grand division. A man can effect the happiness of others either by abstaining from doing them harm, or by doing them positive good. To abstain from doing them harm, receives the name of Justice; to do positive good receives that of Generosity. Justice and generosity, then, are the two qualities by which man is fitted to promote the happiness of his fellow-creatures. And it thus appears, that the four Cardinal Virtues of the ancients do pretty completely include all the qualities, to the possession of which it is desirable that the human mind should be trained. The defect, however, of this description is, that it is far too general. It is evident that the train of mental events which conduct to the proposed results must be far more particularized to insure, in any considerable degree, the effects of instruction; and it must be confessed that the ethical instructions of the ancients failed by remaining too much in generals. What is wanting is, that the incidents of human life should be skilfully classified; both those on the occasion of which they who are the objects of the good acts are pointed out for the receipt of them, and those, on the occasion of

which they who are to be the instruments are called upon for the performance. It thus appears that the science of ethics, as well as the science of intellectuals, must be carried to perfection, before the best foundation is obtained for the science of education.

III. We have spoken of the qualities which are subservient to human happiness, as means to an end. But, before means can be skilfully adapted to an end, the end must be accurately known. To know how the human mind is to be trained to the promotion of happiness, another inquiry, then, is necessary, Wherein does human happiness consist? This is a controverted question; and we have introduced it rather with a view to show the place which it occupies in the theory of education, than that we have it in our power to elucidate a subject about which there is so much diversity of opinion, and which some of the disputants lead into very subtile and intricate inquiries. The importance of the question is sufficiently evident from this, that it is the grand central point, to which all other questions and inquiries converge; that point, by their bearing upon which the value of all other things is determined. That it should remain itself undetermined, implies, that this branch of philosophy is yet far from its highest point of perfection.

Of the Nature of Happiness.

The speculations on this subject, too, may be divided into two great classes; that of those who trace up all the elements of happiness, as they do all those of intellect, to the simple sensations which, by their transformation into ideas, and afterwards into various combinations, compose, they think, all the intellectual and moral phenomena of our nature; another, that of those who are not satisfied with this humble origin; who affirm that there is something in human happiness, and in the human intellect, which soars high above this corporeal level; that there are intellectual as well as moral forms, the resplendent objects of human desire, which can by no means be resolved into the grosser elements of sense. These philosophers speak of eternal and immutable truths; truths which are altogether independent of our limited experience; which are truly universal; which the mind recognizes without the aid of the senses; and which are the objects of pure intellect. They affirm, also, that there is a notion of right and of wrong wholly underived from human experience, and independent of the laws which regulate, in this world, the happiness and misery of human life; a right and wrong, the distinction between which is perceived, according to some, by a peculiar sense; according to others, by the faculty which discerns pure truth; according to others by common sense; it is the same, according to some, with the notion of the fitness and unfitness of things; according to others, with the law of nature; according to others, with truth; and there is one eminent philosopher who makes it depend upon sympathy, without

determining very clearly whether sympathy depends upon the senses or not.

We cannot too earnestly exhort philosophers to perfect this inquiry; that we may understand at last, not by vague abstract terms, but clearly and precisely, what are the simple ideas included under the term happiness; and what is the real object to which education is pointed; since it is utterly impossible, while there is any vagueness and uncertainty with respect to the end, that there should be the greatest precision and certainty in combining the means.

IV. We come at last to the consideration of the means which are at the disposal of man for endowing the human mind with the qualities on which the generation of happiness depends. It is under this head that the discussion of the practical expedients chiefly occurs. It embraces, also, however, some points of theory.

Of Education in reference to the Means of forming the Mind.

One of the most important of the remaining questions, of that sort, refers to the degree in which the useful qualities of human nature are, or are not, under the powers of education. This is the subject of a famous controversy, with names of the highest authority on both sides of the question. Helvetius, it is true, stands almost alone, on one side. But Helvetius, alone, is a host. No one man, perhaps, has done so much towards perfecting the *theory* of education as Mons. Helvetius; and his books are pregnant with information of the highest importance, Whoever wishes to understand the groundwork of education, can do nothing more conducive to his end, than to study profoundly the expositions of this philosophical inquirer, whether he adopts his conclusions, in all their latitude, or not. That Helvetius was not more admired, in his own country, is owing really to the value of his work. It was too solid, for the frivolous taste of the gay circles of Paris—assemblies of pampered noblesse, who wished for nothing but amusement. That he has been so little valued in this country, is, it must be confessed, owing a little to the same cause; but another has concurred. An opinion has prevailed, a false one, that Helvetius is a peculiarly dangerous enemy to religion; and this has deterred people from reading, or rather the old people, who do not read, have deterred the young who do. There is no book, the author of which does not disguise his unbelief, that can be read with more safety to religion. The author attacks nothing but priestcraft, and that in one of the worst of its forms, the popish priestcraft of the dark and middle ages, the idea of which we are well accustomed, in this country, to separate from that of religion in the abstract. When his phraseology at any time extends, and that is not often, to Christianity itself, or to religion in the abstract, there is nothing calculated to seduce. There is nothing

epigrammatic, and sparkling in the expression; nothing sophistical and artfully veiled in the reasoning; a plain proposition is stated, with a plain indication of its evidence; and if your judgment is not convinced, you are not deluded through the fancy.

M. Helvetius says, that if you take men who bring into the world with them the original constituents of their nature, their mental and bodily frame, in that ordinary state of goodness which is common to the great body of mankind,—leaving out of the account the comparatively small number of individuals who come into the world imperfect, and manifestly below the ordinary standard,—you may regard the whole of this great mass of mankind, as equally susceptible of mental excellence; and may trace the causes which make them to differ. If this be so, the power of education embraces every thing between the lowest stage of intellectual and moral rudeness, and the highest state, not only of actual, but of possible perfection. And if the power of education be so immense, the motive for perfecting it is great beyond expression.

The conclusions of Helvetius were controverted directly by Rousseau; and defended, against those strictures, by the author himself. We recollect few writers in this country who have embraced them.\* But our writers have contented themselves, rather with rejecting, than disproving; and, at best, have supported their rejection only by some incidental reflection, or the indication of a discrepancy between his conclusions and theirs.

One of the causes, why people have been so much startled, by the extent to which Helvetius has carried the dominion of education, seems to us to arise, from their not including in it nearly so much as he does. They include in it little more than what is expressed by the term schooling; commencing about six or seven years of age, and ending at latest with the arrival of manhood. If this alone is meant by education, it is no doubt true, that education is far indeed from being all-powerful. But if in education is included every thing, which acts upon the being as it comes from the hands of nature, in such a manner as to modify the mind, to render the train of feelings different from what it would otherwise have been; the question is worthy of the most profound consideration. It is probable, that people in general form a very inadequate conception of all the circumstances which act during the first months, perhaps the first moments, of existence, and of the power of those circumstances in giving permanent qualities to the mind. The works of Helvetius would have been invaluable, if they had done nothing more than prove their vast importance, and call to them the concentrated attention of mankind. Rousseau began this important branch of the study of education. He remarked a variety of important facts, which, till his time, had been almost universally neglected, in the



minds of infants, and how much might be done, by those who surround them, to give good or bad qualities to their minds, long before the time at which it had been supposed that education could commence. But Helvetius treated the subject much more profoundly and systematically. He traced the circumstances to the very moment of birth; and showed at how wonderfully early an age indelible characters might be impressed; nay, that of the circumstances over which man has a control (for he speaks not of others), some may be traced even beyond the birth, on which effects of the greatest importance depend.

It is evident how much it imports the science of education, that these circumstances should, by careful and continued observation, be all ascertained, and placed in the order best adapted for drawing from them the most efficient practical rules. This is of more importance than determining the question, whether the prodigious difference which exists among men, ordinarily well organized, is owing wholly to the circumstances which have operated upon them since the first moment of their sensitive existence, or is in part produced by original peculiarities. Enough is ascertained to prove, beyond a doubt, that if education does not perform every thing, there is hardly any thing which it does not perform: that nothing can be more fatal than the error of those who relax in the vigilance of education, because nature is powerful, and either renders it impossible for them to accomplish much, or accomplishes a great deal without them: that the feeling is much more conformable to experience, and much more conformable to utility, which ascribes every thing to education, and thus carries the motive for vigilance and industry, in that great concern, to its highest possible pitch. This much, at any rate, is ascertained, that all the difference which exists, or can ever be made to exist, between one body, or class of men, and another, is wholly owing to education. Those peculiarities, if any such there be, which sink a man below, or elevate him above the ordinary state of aptitude to profit by education, have no operation in the case of large numbers or bodies. But large numbers or bodies of men are raised to a high degree of mental excellence; and might, without doubt, be raised to still higher. Other large bodies, or whole nations, have been found in so very low a mental state, as to be raised but little above the brutes. All this vast distance is undeniably the effect of education. This much, therefore, may be affirmed on the side of Helvetius, that a prodigious difference is produced by education; while, on the other hand, it is rather assumed than proved, that any difference exists, but that which difference of education creates.

The circumstances which are included under the term Education, in the comprehensive sense in which we have defined it, may be divided, we have said, into Physical and Moral. We shall now consider the two classes in the order in which we have named them; and have here again to remind the reader, that we are limited to the task of pointing out what we should wish to be done, rather than permitted to attempt the performance.

Of the *Physical* circumstances which operate in forming the Mind.

1. Three things are desirable with regard to the physical circumstances, which operate in the way of education favourably or unfavourably; to collect them fully; to appreciate them duly; and to place them in the order which is most favourable for drawing from them practical rules.

This is a service (common to the sciences of education and mind) which has been very imperfectly rendered. It has been chiefly reserved to medical men to observe the physical circumstances which affect the body and mind of man; but of medical men few have been much skilled in the observation of mental phenomena, or have thought themselves called upon to mark the share which physical circumstances had in producing them. There are indeed some, and those remarkable exceptions. There is Dr. Darwin in our own country, and M. Cabanis in France. They have both of them taken the mind as a part at least of their study; and we are highly indebted to them for the number and value of their observations. They are both philosophers, in the most important sense of the word; they both observed nature for themselves, observed her attentively, and with their view steadily directed to the proper end. But still it was not safe to rely upon them implicitly as guides. They were in too great a haste to establish conclusions; and were apt to let their belief run before their evidence. They were not sufficiently careful to distinguish between the different degrees of evidence, and to mark what is required to constitute proof. To do this steadily seems, indeed, to be one of the rarest of all endowments; and was much less the characteristic of the two philosophers we have named, than a wide range of knowledge from which they collected the facts, and great ingenuity in combining and applying them. Dr. Darwin was the most remarkable, both for the strength and the weakness of which we speak. The work of Darwin, to which we chiefly allude, is the *Zoonomia*; though important remarks to the same effect are scattered in his other publications. Cabanis entitled his great work, *Rapports du Physique et du Moral de l'Homme*. And there are some works recently announced by German physiologists, the titles of which promise aids in the same endeavour. But though we expect from them new facts, and ingenious hints, we have less hope of any great number of sound conclusions.

There are certain general names, already in use, including the greater number of the physical circumstances which operate in the way of education upon the mind. It will be convenient, because of their commonness, to make use of them on the present occasion, though neither the enumeration which they make is complete, nor the distribution logical.

All the physical circumstances which operate upon the mind are either, 1. inherent in the body: or, 2. external to the body. Those which are external to the body operate upon the mind, by first operating upon the body.

Of the first kind, the more remarkable seem to be healthiness or sickliness, strength or weakness, beauty or deformity, the temperament, the age, the sex.

Of the second sort, the more remarkable seem to be the aliment, the labour, the air, temperature, action, rest.

Previous to the inquiry respecting the power which physical circumstances exert in the formation of the mind, it may seem that we ought to determine the speculative question respecting the nature of the mind: that is, whether the phenomena of mind may possibly result from a certain organization of the powers of matter; or whether something of a different kind, and which we call spiritual, must not be conceived, as the source and organ of thought. We do not mean to enter into this controversy, which would detain us too long. It is not, in the least degree, necessary that we should, for the end which we have in view. Whether the one hypothesis, with respect to the mind, be adopted, or the other, the distribution of the circumstances, which operate in the formation of human character, into those commonly called Physical, and those commonly called Moral, will be as convenient a distribution, as the present state of our knowledge enables us to make. And all that inquiry can do, in regard to those circumstances, is, to trace them accurately, and to observe their effects; that is, to ascertain what they are, and what the order of the mental events by which they are followed. This is simply matter of experience; and what we experience is what it is, whatever opinion we adopt with regard to the nature of that which thinks. It is in what we experience, all ascertained, and put into the best possible shape for ease of comprehension and ready application to practice, that all useful knowledge on this, as on all other subjects, consists.

1. First we are to consider the circumstances of the body which have an effect upon the mental sequences. The object is, to ascertain which have a tendency to introduce those sequences which are favourable, which to introduce those that are

unfavourable, to human happiness, and how to turn this knowledge to account.

Health and sickness, or the states of body which those names most peculiarly express, are the first of the circumstances which we have enumerated under this head. That these states have a tendency to introduce very different trains of thought is matter of vulgar experience; but very little has been done to examine such trains, and to ascertain what in each is favourable, and what is unfavourable to human happiness.

We have already seen, that the trains which are favourable to Intelligence, Temperance, Generosity, and Justice, are the trains favourable to human happiness. Now, with respect to Intelligence, it will be seen, that Health is partly favourable, and partly unfavourable; and the same is the case with sickness. Health is favourable, by allowing that time to be given to study, which many kinds of sickness withdraws; by admitting a more vigorous attention, which the pain and languor of sickness often divide. It is unfavourable, by introducing that flow of pleasurable ideas, which is called high spirits, in a degree unfavourable to the application of attention; and by leading to that passionate pursuit of pleasure, which diminishes, if it does not destroy, the time for study. The mode in which disease operates upon the mental sequences is a subject of great complexity, and in which little has yet been done to mark distinctly the events, and ascertain the order of their succession. Cabanis, in his seventh memoir, entitled, *De l'Influence des Maladies sur la Formation des Idées et des Affections Morales*, has made a useful beginning toward the elucidation of this subject; but here, as elsewhere, he is too often general and vague. Instruction may also be gleaned from Darwin; but the facts which bear upon this point rather drop from him incidentally, than are anywhere put together systematically for its elucidation. As they were both physicians, however, of great experience, and of unusual skill in the observation of mental phenomena, their opinions are entitled to the greatest respect. The result of the matter is, that an improved medicine is no trifling branch of the art and science of education. Cabanis, accordingly, concludes his memoir with the two following propositions:

*1<sup>mo</sup>*, L'état de maladie influe d'une manière directe sur la formation des idées et des affections morales: nous avons même pu montrer dans quelques observations particulières, comment cette influence s'exerce.

*2<sup>do</sup>*, L'observation et l'expérience nous ayant fait découvrir les moyens de combattre assez souvent avec succès l'état de maladie, l'art qui met en usage ces moyens, peut donc modifier et

perfectionner les operations de l'intelligence et les habitudes de la volonté."

As it is chiefly through the nervous system, and the centre of that system, the brain, that the mental sequences are affected, and as all the sensitive parts have not an action equally strong, nor equally direct, upon the nerves and brain, diseases affect the mental sequences differently, according to the parts which they invade. The system of the nerves and brain is itself subject to different states of disease. Classified, with regard to the functions which that system performs, as the organ of sensibility and of action, these states are thus described by M. Cabanis: "1. Excess of sensibility to all impressions on the one part; excessive action on the organs of motion on the other. 2. Unfitness to receive impressions, in sufficient number, or with the due degree of energy; and a diminution of the activity necessary for the production of the motions. 3. A general disturbance of the functions of the system, without any remarkable appearance of either excess or defect. 4. A bad distribution of the cerebral virtue, either when it exerts itself unequally in regard to time, having fits of extraordinary activity, followed by others of considerable remission; or when it is supplied in wrong proportion to the different organs, of which some are to a great degree abandoned, while there appears in others a concentration of sensibility, and of the excitations or powers by which the movements are affected."

The effects upon the mental sequences are represented in the following general sketch, which has the advantage of being tolerably comprehensive, though it is unhappily both vague and confused: "We may lay it down as a general fact, that, in all the marked affections of the nerves, irregularities, less or greater, take place, relative both to the mode in which impressions are received, and to the mode in which the determinations, automatic or voluntary, are formed. On one part, the sensations vary incessantly and rapidly with respect to their vivacity, their energy, and even their number; on another, the strength, the readiness, the facility of action exhibit the greatest inequalities. Hence perpetual fluctuation, from great excitement to languor, from elevation to dejection; a temper and passions variable in the highest degree. In this condition, the mind is always easily pushed to extremes. Either the man has many ideas, with great mental activity and acuteness; or he is, on the contrary, almost incapable of thinking. It has been well observed, that hypochondriacal persons are by turns both courageous and cowardly; and as the impressions are habitually faulty either by excess or defect, in regard to almost all objects, it is seldom that the images correspond to the reality of things; that the desires and the will obtain the proper force and direction. If, at the same time with these irregularities, which arise from the

nervous system, should be found a weakness of the muscular organs, or of some important viscus, as, for example, of the stomach,—the phenomena, though still analagous in the main, will be distinguished by remarkable peculiarities. During the interval of languor, the debility of the muscles will render the sense of weakness, the fainting and drooping, still more complete and oppressive; life will appear ready to escape at every instant. The passions are gloomy, excited by trifles, selfish; the ideas are petty, narrow, and bear only upon the objects of the slightest sensations. At the times of excitation, which arrive the more suddenly, the greater the weakness; the muscular determinations do not obey the impulses of the brain, unless by starts, which have neither energy nor duration. These impulses serve only to convince the patient more profoundly of his real imbecility; they give him only a feeling of impatience, of discontent, and anxiety. Desires, often sufficiently keen, but commonly repressed by the habitual feeling of weakness, still more increase the discouraging impression. As the peculiar organ of thought cannot act without the concurrence of several others, and as, at that moment, it partakes in some degree of the weakness which affects the organs of movement, the ideas present themselves in crowds; they spring up, but do not arrange themselves in order; the necessary attention is not enjoyed; the consequence is, that this activity of the imagination, which we might expect to afford some compensation for the absence of other faculties, becomes a new source of dejection and despair.”

In this passage, the mental sequences which particular states of disease introduce are clearly shown to have a prodigious influence upon human happiness; but the effects which are produced in respect to intelligence, temperance, generosity, and justice, are mixed up together; and the author rather shows how much this subject deserves to be studied, than gives us information from which any considerable degree of practical utility can be derived. The connection between particular states of body, and particular mental trains, must be carefully watched and recorded. When the events, one by one, are accurately distinguished, and made easy to be recognised, and when the order in which they follow one another is known, our power over the trains of those events; power to prevent such as are unfavourable, to produce such as are favourable, to human happiness, will then be at its height; and how to take care of his health will be one of the leading parts of the moral and intellectual education of man.

The state of the body, with regard to health and disease, is the inherent circumstance of the greatest importance, and we must pass over the rest with a cursory notice. The next we mentioned, are, strength and weakness, meaning chiefly muscular strength and weakness; and the natural, habitual, not the accidental, or

diseased, state. It is a common enough observation, that muscular strength is apt to withdraw the owner from mental pursuits, and engage him in such as are more of the animal kind; the acquisition and display of physical powers. Few men of great bodily powers have been much distinguished for mental excellence; some of the greatest ornaments of human nature have been remarkable for bodily weakness. Muscular strength is liable to operate unfavourably upon the moral, as well as the intellectual trains of thought. It diminishes that respect for other men, which is so necessary to resist the impulses of passion; it presents innumerable occasions for playing the tyrant with impunity; and fosters, therefore, all that train of ideas, in which the tyrannical vices are engendered. Cabanis remarks, and the fact is worthy of the greatest attention:—“*Presque tous les grands scélérats sont des hommes d’une structure organique vigoureuse, remarquables par la fermeté et la tenacité de leurs fibres musculaires.*” It is evident, therefore, how deeply it concerns the happiness of mankind, that the mental trains which this circumstance has a tendency to raise, should be accurately known, as thus alone the means can be known, how that which is hurtful can be avoided, that which is useful be introduced.

Of beauty and deformity, as inherent circumstances which have an effect upon the mental trains, much will not be necessary to be said. Illustrations will occur to every body, to prove, that their power is not inconsiderable; so little, however, has been done to ascertain the facts, and record them in the best possible order, that any thing which deserves the name of knowledge on the subject hardly exists; and the principal service we can render is to point it out for study; to exhort future inquirers, to observe diligently the trains which flow from beauty and deformity as their source, and to trace to the largest possible sequences, as above described, the connections which take place between them. Beauty and deformity, it may be observed, operate upon the mental trains in somewhat a different way from health and disease; rather mediately than immediately. It is the idea of their effect upon other people that is the more immediate cause of the trains to which they give occasion. The idea that beauty commands their favourable regards, is apt to introduce the well-known trains, denoted by the terms, vanity, pride, contemptuousness, trains not very favourable to the virtues. The idea that deformity is apt to excite their unfavourable regards, is often observed to lead to acuteness and vigour of intellect, employed as instruments of protection, but to moroseness, and even malignity of temper. The mode, however, in which beauty and deformity operate upon the mental trains, namely, through the idea of their effect upon other people, is common to them with a great many other advantages or disadvantages, which derive their value chiefly from their influence

upon other people; and materials for the illustration of this subject have been supplied by various writers upon the human mind.

To the word Temperament, no very precise idea has hitherto been annexed. It may be conceived in the following manner: The bodily structure, the composition of elements in the body of every individual, is different from that in the body of any other. It is observed, however, that the composition is more nearly resembling in some, than in others; that those who thus resemble may be arranged in groups; and that they may all be comprehended in four or five great classes. The circumstances, in which their bodily composition agrees, so as to constitute one of those large classes, have been called the Temperament; and each of those more remarkable characters of the body has been observed to be attended with a peculiar character in the train of ideas. But the illustration of the trains of ideas, and hence of the qualities of mind, which are apt to be introduced by temperament, and by the diversities of age and of sex, we are obliged, by the rapid absorption of the space allotted us, wholly to omit. The subject in itself is not very mysterious. Accurate observation, and masterly recordation alone are required. To be sure, the same may be said of every object of human inquiry. But in some cases, it is not so easy to conceive perfectly what observation and recordation mean. On these topics, also, we are happy to say, that Cabanis really affords very considerable helps.

We come now to the second sort of physical circumstances, which have the power of introducing habitually certain trains of ideas, and hence of impressing permanent tendencies on the mind,—the circumstances which are external to the body. Some of these are of very great importance. The first is Aliment.

Aliment is good or evil, by quality, and quantity. Hartley has remarked long ago, that though all the impressions from which ideas are copied, are made on the extremities of the nerves which are ramified on the surface of the body, and supply the several organs of sense, that other impressions are nevertheless made on the extremities of the nerves which are ramified on the internal parts of our bodies, and that many of those impressions are associated with trains of ideas; that the impressions made upon the extremities of the nerves which are ramified on the alimentary canal, are associated with the greatest number of those trains; and of such trains, that some are favourable to happiness, some altogether the reverse. If the quantity and quality of the aliment be the principal cause of those impressions, attended by such important effects, here is a physiological reason, of the greatest cogency, for an accurate observation and recordation of the events occurring in this part of the field; of what antecedents are attended



by what consequents, and what are the largest sequences which can be traced. Cabanis confirmed this doctrine with regard to the internal impressions, and added another class. He said that not only the extremities of the nerves which terminate internally, but the centre of the nervous influence, the brain itself, received impressions, and that thus there were no fewer than three sources of the mental and corporeal movements of man; one external, from which almost all our distinct ideas are copied; and two internal, which exert a very great influence upon the train of ideas, and hence upon the actions of which these trains are the antecedents or cause.

On this, too, as on most of the other topics, belonging to the physical branch of education, we must note, as still uncollected, the knowledge which the subject requires. It is understood in a general way, that deep impressions are by this means made upon the mind; but how they are made, is a knowledge which, in any such detail and accuracy as to afford useful practical rules, is nearly wanting. There is a passage in Hartley, which we esteem it important to quote: "The sense of feeling may be distinguished into that of the external surface of the body, and that of the cavities of the nose, mouth, fauces, alimentary duct, pelvis, of the kidneys, ureters, bladder of urine, gall-bladder, follicles, and ducts of the glands, &c. The sensibility is much greater in the last than in the first, because the impressions can more easily penetrate through the soft epithelium with which the internal cavities are invested. In the mouth and nose this sensibility is so great, and attended with such distinguishing circumstances, as to have the names of taste and smell assigned respectively to the sensations impressed upon the papillæ of these two organs." . . . . . "The taste may also be distinguished into two kinds; viz. the general one which extends itself to the insides of the lips and cheeks, to the palate, fauces, œsophagus, stomach, and whole alimentary duct, quite down to the anus. . . . . The pleasures of the taste, considered as extending itself from the mouth through the whole alimentary duct, are very considerable, and frequently repeated; they must, therefore, be one chief means, by which pleasurable states are introduced into the brain and nervous system. These pleasurable states must, after some time, leave miniatures of themselves, sufficiently strong to be called up upon slight occasions, viz. from a variety of associations with the common visible and audible objects, and to illuminate these and their ideas. When groups of these miniatures have been long and closely connected with particular objects, they coalesce into one complex idea, appearing, however, to be a simple one; and so begin to be transferred upon other objects, and even upon tastes back again, and so on without limits. And from this way of reasoning it may now appear, that a great part of our intellectual pleasures are ultimately deducible from those of taste; and that one

principal final cause of the greatness and constant recurrency of these pleasures, from our first infancy to the extremity of old age, is to introduce and keep up pleasurable states in the brain, and to connect them with foreign objects. The social pleasures seem, in a particular manner, to be derived from this source, since it has been customary in all ages and nations, and is in a manner necessary, that we should enjoy the pleasures of taste in conjunction with our relations, friends, and neighbours. In like manner, nauseous tastes, and painful impressions upon the alimentary duct, give rise and strength to mental pains. The most common of these painful impressions is that from excess, and the consequent indigestion. This excites and supports those uneasy states, which attend upon melancholy, fear, and sorrow. It appears also to me, that these states are introduced in a great degree during sleep, during the frightful dreams, agitations, and oppressions, that excess in diet occasions in the night. These dreams and disorders are often forgotten; but the uneasy states of body which then happen, leave vestiges of themselves, which increase in number and strength every day from the continuance of the cause, till at last they are ready to be called up in crowds upon slight occasions, and the unhappy person is unexpectedly, and at once, as it were, seized with a great degree of the hypochondriac distemper, the obvious cause appearing no ways proportionable to the effect. And thus it may appear that there ought to be a great reciprocal influence between the mind and alimentary duct, agreeably to common observation." Cabanis, in like manner, says, "Quoique les médecins aient dit plusieurs choses hasardées, touchant l'effet des substances alimentaires sur les organes de la pensée, ou sur les principes physiques de nos penchans, il n'en est pas moins certain que les différentes causes que nous appliquons journellement à nos corps, pour en renouveler les mouvemens, agissent avec une grande efficacité sur nos dispositions morales. On se rend plus propre aux travaux de l'esprit par certaines précautions de régime, par l'usage, ou la suppression, de certains alimens. Quelques personnes ont été guéries de violens accès de colère, auxquels elles étoient sujètes, par la seule diète pythagorique, et dans le cas même où des délires furieux troublent toutes les facultés de l'ame, l'emploi journalier de certaines nourritures ou de certaines boissons, l'impression d'une certaine température de l'air, l'aspect de certains objets; en un mot, un système diététique particulier suffit souvent pour y remener le calme, pour faire tout rentrer dans l'ordre primitif."

As it is impossible for us here to attempt a full account of the mode in which aliments operate to produce good or bad effects upon the train of ideas, we shall single out that case, which, as operating upon the greatest number of people, is of the greatest importance; we mean that, in which effects are produced by the *poverty* of the

diet; proposing, under the term poverty, to include both badness of quality, and defect of quantity. On badness of quality, we shall not spend many words. Aliments are bad in a variety of ways, and to such a degree as to impair the health of body. Of such, the injurious effect will not be disputed. Others, which have in them no hurtful ingredient, may contain so insignificant a portion of nourishment, that to afford it in the requisite degree, they must produce a hurtful distention of the organs. The saw-dust, which some northern nations use for bread, if depended upon for the whole of their nourishment, would doubtless have this effect. The potatoe, where solely depended upon, is not, perhaps, altogether free from it. Bad quality, however, is but seldom resorted to, except in consequence of deficient quantity. That is, therefore, the principal point of inquiry.

It is easy to see a great number of ways in which deficient quantity of food operates unfavourably upon the *moral* temper of the mind. As people are ready to sacrifice every thing to the obtaining of a sufficient quantity of food, the want of it implies the most dreadful poverty—that state, in which there is scarcely any source of pleasure, and in which almost every moment is subject to pain. It is found by a very general experience, that a human being, almost constantly in pain, hardly visited by a single pleasure, and almost shut out from hope, loses by degrees all sympathy with his fellow creatures; contracts even a jealousy of their pleasures, and at last a hatred; and would like to see all the rest of mankind as wretched as himself. If he is habitually wretched, and rarely permitted to taste a pleasure, he snatches it, with an avidity; and indulges, with an intemperance, almost unknown to any other man. The evil of insufficient food acts with an influence not less malignant upon the intellectual, than upon the moral, part of the human mind. The physiologists account for its influence in this manner. They say, that the signs, by which the living energy is manifested, may be included generally under the term *irritability*, or the power of being put in action by stimulants. It is not necessary for us to be very particular in explaining these terms; a general conception will for the present suffice. There is a certain degree of this irritability in the frame of man, upon which the proper state, or rather the very existence, of the animal functions seems necessarily to depend. A succession of stimulants, of a certain degree of frequency and strength, is necessary to preserve that irritability. The most important by far of all the useful stimulants applied to the living organs is food. If this stimulant is applied, in less than a sufficient degree, the irritability is diminished in proportion, and all those manifestations of the living energy which depend upon it, mental as well as corporeal, are impaired; the mind loses a corresponding part of its force. We must refer to the philosophical writers on medicine for illustrations and facts, which we have not room to

adduce, but which will not be difficult to collect. Dr. Crichton places *poor diet* at the head of a list of causes which “weaken attention, and consequently debilitate the whole faculties of the mind.”\* From this fact, about which there is no dispute, the most important consequences arise. It follows, that when we deliberate about the means of introducing intellectual and moral excellence into the minds of the principal portion of the people, one of the first things which we are bound to provide for, is, a generous and animating diet; the physical causes must go along with the moral; and nature herself denies, that you shall make a wise and virtuous people, out of a starving one. Men must be happy themselves, before they can rejoice in the happiness of others; they must have a certain vigour of mind, before they can, in the midst of habitual suffering, resist a presented pleasure; their own lives, and the causes of their well-being, must be worth something, before they can value, as to respect, the life, or well-being, of any other person. This or that individual may be an extraordinary individual, and exhibit mental excellence in the midst of wretchedness; but a wretched and excellent people never yet has been seen on the face of the earth. Though far from fond of paradoxical expressions, we are tempted to say, that a good diet is a necessary part of a good education; for in one very important sense it is emphatically true. In the great body of the people all education is impotent without it.

Labour is the next of the circumstances in our enumeration. We have distinguished labour from action, though action is the genus of which labour is one of the species; because of those species, labour is so much the most important. The muscular operations of the body, by which men generally earn their bread, are the chief part of the particulars which we include under that term. The same distinction is useful here as in the former case; labour is apt to be injurious by its *quality*, and by its *quantity*. That the quality of the labour, in which a man is employed, produces effects, favourable or unfavourable upon his mind, has long been confessed. Dr. Smith made the important remark, that the labour in which the great body of the people are employed, has a tendency to grow less and less favourable, as civilization and the arts proceed. The division and subdivision of labour is the principal cause. This confines the attention of the labourer to so small a number of objects, and so narrow a circle of ideas, that the mind receives not that varied exercise, and that portion of aliment, on which almost every degree of mental excellence depends. When the greater part of a man’s life is employed in the performance of a few simple operations, in one fixed invariable course, all exercise of ingenuity, all adaptation of means to ends, is wholly excluded and lost, as far as disuse can destroy the faculties of the mind. The minds, therefore, of the great body of the people are in danger of really degenerating, while the other elements of civilization are advancing, unless care is taken,

by means of the other instruments of education, to counteract those effects which the simplification of the manual processes has a tendency to produce.

The *quantity* of labour is another circumstance which deserves attention, in estimating the agents which concur in forming the mind. Labour may be to such a degree severe, as to confine the attention almost wholly to the painful ideas which it brings; and to operate upon the mind with nearly the same effects as an habitual deficiency of food. It operates perhaps still more rapidly; obliterating sympathy, inspiring cruelty and intemperance, rendering impossible the reception of ideas, and paralyzing the organs of the mind. The attentive examination, therefore, of the facts of this case, as a matter of first rate importance. Two things are absolutely certain:—that without the bodily labour of the great bulk of mankind, the well-being of the species cannot be obtained;—and that, with the bodily labour of the great bulk of mankind, carried beyond a certain extent, neither intellect, virtue, nor happiness can flourish upon the earth. What, then, is that precious middle point, at which the greatest quantity of good is obtained with the smallest quantity of evil, is, in this part of the subject, the problem to be solved.

The state of defective food and excessive labour, is the state in which we find the great bulk of mankind; the state in which they are either constantly existing, or into which they are every moment threatening to fall. These are two, therefore, in settling the rank among the circumstances which concur in determining the degree of intellect and morality capable of being exhibited in the societies of men, which ought to stand in a very eminent place: the mode of increasing to the utmost, the quantity of intellect, morality, and happiness, in human society, will be very imperfectly understood, till they obtain a new degree of consideration.

We named, still farther, among the physical circumstances which contribute to give permanent characters to the mind, air, temperature, action, and rest. But of these we must leave the illustration wholly to other inquirers. It is mortifying to be obliged to leave a subject, on which so much depends, and for which so little has been done, with so very imperfect an attempt for its improvement. We shall, however, have performed a service of some utility to education, if what we have said has any tendency to lead men to a juster estimate of the physical circumstances which concur in fashioning the human mind, and hence to greater industry and care in studying and applying them.

2. The moral circumstances which determine the mental trains of the human being, and hence the character of his actions, are of so much importance, that to them the term education has been generally confined: Or rather, the term education has been generally used in so narrow a sense, that it embraces only one of the four classes into which we have thought it convenient to distribute the moral circumstances which operate to the formation of the human mind.

Of the *Moral* circumstances which operate in forming the Mind.

The first of these classes we have comprehended under the term *Domestic Education*. To this the groundwork of the character of most individuals is almost wholly to be traced. The original features are fabricated here; not, indeed, in such a manner as to be unsusceptible of alteration, but in such a manner, decidedly, as to present a good or bad subject for all future means of cultivation. The importance, therefore, of domestic education, needs no additional words to explain it; though it is difficult to restrain a sigh, when we reflect, that it has but now begun to be regarded as within the pale of education; and a few scattered remarks, rather than a full exposition of the subject, is all the information upon it, with which the world has been favoured.

By Domestic Education, we denote all that the child hears and sees, more especially all that it is made to suffer or enjoy at the hands of others, and all that it is allowed or constrained to do, in the house in which it is born and bred, which we shall consider generally as the parental.

If we consider that the mental trains, as explained above, are that upon which every thing depends, and that the mental trains depend essentially upon those sequences among our sensations which have been so frequently experienced as to create a habit of passing from the idea of the one to that of the other,—we shall perceive immediately the reasons of what we have advanced.

It seems to be a law of human nature, that the first sensations experienced produce the greatest effects; more especially, that the earliest repetitions of one sensation after another produce the deepest habit; the strongest propensity to pass immediately from the idea of the one to the idea of the other. Common language confirms this law, when it speaks of the susceptibility of the tender mind. On this depends the power of those associations which form some of the most interesting phenomena of human life. From what other cause does it arise, that the hearing of a musical air, which, after a life of absence, recalls the parental mansion, produces as it were a revolution in the whole being? That the sympathies between brothers and sisters are what they are? On what other cause

originally is the love of country founded?—that passionate attachment to the soil, the people, the manners, the woods, the rivers, the hills, with which our infant eyes were familiar, which fed our youthful imaginations, and with the presence of which the pleasures of our early years were habitually conjoined!

It is, then, a fact, that the early sequences to which we are accustomed form the primary habits; and that the primary habits are the fundamental character of the man. The consequence is most important; for it follows, that, as soon as the infant, or rather the embryo, begins to feel, the character begins to be formed; and that the habits which are then contracted, are the most pervading and operative of all. Education, then, or the care of forming the habits, ought to commence, as much as possible, with the period of sensation itself; and, at no period, is its utmost vigilance of greater importance, than the first.

Very unconnected, or very general instructions, are all that can be given upon this subject, till the proper decompositions and recompositions are performed; in other terms, till the subject is first analyzed, and then systematized; or, in one word, *philosophized*, if we may use that verb in a passive signification. We can, therefore, do little more than exhort to the prosecution of the inquiry.

The steady conception of the End must guide us to the Means. Happiness is the end; and we have circumscribed the inquiry, by naming Intelligence, Temperance, and Benevolence, of which last the two parts are Generosity and Justice, as the grand qualities of mind through which this end is to be attained. The question, then, is, how can those early sequences be made to take place on which the habits, conducive to intelligence, temperance, and benevolence, are founded; and how can those sequences, on which are founded the vices opposite to those virtues, be prevented?

Clearness is attained, by disentangling complexity: we ought, therefore, to trace the sequences conducive to each of those qualities in their turn. A part, however, must suffice, when we cannot accomplish the whole. Intelligent trains of ideas constitute intelligence. Now trains of ideas are intelligent, when the sequences in the ideas correspond to the sequences in nature. A man, for example, knows the order of certain words, when his idea of the one follows that of the other, in the same order in which the events themselves took place. A man is sagacious in devising means for the production of events when his ideas run easily in trains which are at once agreeable to knowledge, that is, to the trains of events, and, at the same time, new in the combination. They must be agreeable to knowledge; that is, one of the ideas

must follow another in the order in which the objects of which they are the ideas follow one another in nature, otherwise the train would consist of mere chimeras, and, having no connection with things, would be utterly useless. As the event, however, is not in the ordinary course, otherwise sagacity would not be required to give it existence, the ordinary train of antecedents will not suffice; it must be a peculiar train, at once correspondent with nature, and adapted to the end. The earliest trains, produced in the minds of children, should be made to partake as much as possible of those characters. The impressions made upon them should correspond to the great and commanding sequences established among the events on which human happiness principally depends. More explicitly, children ought to be made to see, and hear, and feel, and taste, in the order of the most invariable and comprehensive sequences; in order that the ideas which correspond to their impressions, and follow the same order of succession, may be an exact transcript of nature, and always lead to just anticipations of events. Especially, the pains and pleasures of the infant, the deepest impressions which he receives, ought, from the first moment of sensation, to be made as much as possible to correspond to the real order of nature. The moral procedure of parents is directly the reverse; who strive to defeat the order of nature, in accumulating pleasures to their children, and in preventing the arrival of pains, when the children's own conduct would have had very different effects.

Not only are the impressions, from which ideas are copied, made, by the injudicious conduct of those to whom the destiny of infants is confided, to follow an order very different from the natural one, or that in which the grand sequences among events would naturally produce them; but wrong trains of ideas, trains which have no correspondence to the order of events, are often introduced immediately by words, or other signs of the ideas, of other men. As we can only give very partial examples of a general error, we may content ourselves with one of the most common. When those who are about children express by their words, or indicate by other signs, that terrific trains of ideas are passing in their minds, when they go into the dark; terrific trains, which have nothing to do with the order of events, come up also in the minds of the children in the dark, and often exercise an uncontrollable sway during the whole of their lives.—This is the grand source of wrong education; to this may be traced the greater proportion of all the wrong biases of the human mind.—If an order of ideas, correspondent to the order of events, were taught to come up in the minds of children when they go into the dark, they would think of nothing but the real dangers which are apt to attend it, and the precautions which are proper to be taken; they would have no wrong feelings, and their conduct would be nothing but that which prudence, or a right conception of the events, would prescribe.—If the expressions, and other signs of



the ideas, of those who are about children, indicate that trains, accompanied with desire and admiration, pass in their minds when the rich and powerful are named, trains accompanied with aversion and contempt when the weak and the poor; the foundation is laid of a character stained with servility to those above, and tyranny to those below.—If indication is given to children that ideas of disgust, of hatred, and detestation, are passing in the minds of those about them, when particular descriptions of men are thought of; as men of different religions, different countries, or different political parties in the same country, a similar train becomes habitual in the minds of the children, and those antipathies are generated which infuse so much of its bitterness into the cup of human life.

We can afford to say but very few words on the powers of domestic education with regard to Temperance. That virtue bears a reference to pain and pleasure. The grand object evidently is, to connect with each pain and pleasure those trains of ideas, which, according to the order established among events, tends most effectually to increase the sum of pleasures upon the whole, and diminish that of pains. If the early trains create a habit of over-valuing any pleasure or pain, too much will be sacrificed during life to obtain the one, or avoid the other, and the sum of happiness, upon the whole, will be impaired. The order in which children receive their impressions, as well as the order of the trains which they copy from others, has a tendency to create impatience under privation; in other words, to make them in prodigious haste to realize a pleasure as soon as desired, to extinguish a pain as soon as felt. A pleasure, however, can be realized in the best possible manner, or a pain removed, only by certain steps,—frequently numerous ones; and if impatience hurries a man to overlook those steps, he may sacrifice more than he gains. The desirable thing would be, that his ideas should always run over those very steps, and none but them; and the skilful use of the powers we have over the impressions and trains of his infancy would lay the strongest foundation for the future happiness of himself, and of all those over whom his actions have any sway. It is by the use of this power that almost every thing is done to create what is called the temper of the individual; to render him irascible on the one hand, or forbearing on the other; severe and unforgiving, or indulgent and placable.

Intelligence and Temperance are sometimes spoken of, as virtues which have a reference to the happiness of the individual himself: Benevolence as a virtue which has a reference to the happiness of others. The truth is, that intelligence and temperance have a reference not less direct to the happiness of others than to that of the individual; and Benevolence cannot be considered as less essential than they to the happiness of the individual. In reality, as

the happiness of the individual is bound up with that of his species, that which affects the happiness of the one, must also, in general, affect that of the other.

It is not difficult, from the expositions we have already given, to conceive in a general way, how sequences may take place in the mind of the infant, which are favourable to benevolence, and how sequences may take place which are unfavourable to it. The difficulty is, so to bring forward and exhibit the details, as to afford the best possible instruction for practice. We have several books now in our own language, in particular those of Miss Edgeworth, which afford many finely selected instances, and many detached observations of the greatest value, for the cultivation of benevolence in the infant mind. But the great task of the philosopher, that of *theorizing* the whole, is yet to be performed. What we mean by “theorizing the whole,” after the explanations we have already afforded, is not, we should hope, obscure. It is, to observe exactly the facts; to make a perfect collection of them, nothing omitted that is of any importance, nothing included of none; and to record them in that order and form, in which all that is best to be done in practice (that is, in what manner the sequences established in nature may be turned most effectually to the production of a certain end) can be most immediately and certainly perceived.

The order of the impressions which are made upon the child by the spontaneous order of events, is, to a certain degree, favourable to benevolence. The pleasures of those who are about him are most commonly the cause of pleasure to himself; their pains of pain. When highly pleased, they are commonly more disposed to exert themselves to gratify him. A period of pain or grief in those about him, is a period of gloom,—a period in which little is done for pleasure,—a period in which the pleasures of the child are apt to be overlooked. Trains of pleasurable ideas are thus apt to arise in his mind, at the thought of the pleasurable condition of those around him; trains of painful ideas at the thought of the reverse; and he is thus led to have an habitual desire for the one,—aversion to the other. But if pleasures, whencesoever derived, of those about him, are apt to be the cause of good to himself, those pleasures which they derive from himself are in a greater degree the cause of good to himself. If those about him are disposed to exert themselves to please him when they are pleased themselves, they are disposed to exert themselves in a much greater degree to please *him*, in particular, when it is he who is the cause of the pleasure they enjoy. A train of ideas, in the highest degree pleasurable, may thus habitually pass through his mind at the thought of happiness to others, produced by himself; a train of ideas, in the highest degree

painful, at the thought of misery to others, produced by himself: and in this manner the foundation of a life of beneficence is laid.

The business of a skilful education is, so to arrange the circumstances by which the child is surrounded, that the impressions made upon him shall be in the order most conducive to this happy result. The impressions, too, which are made originally upon the child are but one of the causes of the trains which are rendered habitual to him, and which therefore obtain a leading influence on his mind. When he is often made to conceive the trains of other men, by the words, or other signs by which their feelings are betokened, those borrowed trains become also habitual, and exert a similar influence on the mind. This, then, is another of the instruments of education. When the trains signified to the child of the ideas in the minds of those about him are trains of pleasure at the thought of the happiness of other human beings, trains of the opposite kind at the conception of their misery; and when the trains are still more pleasurable or painful at the thought of the happiness or misery produced by themselves, the association becomes in time sufficiently powerful to govern the life.

The grand object of human desire is a command over the wills of other men. This may be attained, either by qualities and acts which excite their love and admiration, or by those which excite their terror. When the education is so wisely conducted as to make the train run habitually from the conception of the good end to the conception of the good means; and as often, too, as the good means are conceived, viz. the useful and beneficial qualities, to make it run on to the conception of the great reward, the command over the wills of men; an association is formed which impels the man through life to pursue the great object of desire, by fitting himself to be, and by actually becoming the instrument of the greatest possible quantity of benefit to his fellow men.

But, unhappily, a command over the wills of men may be obtained by other means than by doing them good; and these, when a man can command them, are the shortest, the easiest, and the most effectual. These other means are all summed up in a command over the pains of other men. When a command over the wills of other men is pursued by the instrumentality of pain, it leads to all the several degrees of vexation, injustice, cruelty, oppression, and tyranny. It is, in truth, the grand source of all wickedness, of all the evil which man brings upon man. When the education is so deplorably bad as to allow an association to be formed in the mind of the child between the grand object of desire, the command over the wills of other men, and the fears and pains of other men, as the means; the foundation is laid of bad character,—the bad son, the bad brother, the bad husband, the bad father, the bad neighbour,

the bad magistrate, the bad citizen,—to sum up all in one word, the bad man. Yet, true it is, a great part of education is still so conducted as to form that association. The child, while it yet hangs at the breast, is often allowed to find out by experience, that crying, and the annoyance which it gives, is that by which chiefly it can command the services of its nurse, and obtain the pleasures which it desires. There is not one child in fifty who has not learned to make its cries and wailings an instrument of power, and very often an instrument of absolute tyranny. When the evil grows to excess, the vulgar say the child is spoiled. Not only is the child allowed to exert an influence over the wills of others by means of their pains, it finds, that frequently, sometimes most frequently, its own will is needlessly and unduly commanded by the same means, pain, and the fear of pain: All these sensations concur in establishing a firm association between the idea of the grand object of desire, command over the acts of other men, and those of pain and terror, as the means of acquiring it. That those who have been subject to tyranny are almost always desirous of being tyrants in their turn; that is to say, that a strong association has been formed in their minds between the ideas of pleasure and dignity, on the one hand, and those of the exercise of tyranny, on the other, is a matter of old and invariable observation. An anecdote has just been mentioned to us, so much in point, that we will repeat it, as resting on its own probability, though it is by hearsay testimony (very good, however, of its kind) by which it has reached us. At Eton, in consequence, it is probable, of the criticisms which the press has usefully made upon the system of *fagging* (as it is called) at the public schools, a proposition was lately made, among the boys themselves, for abolishing it. The idea originated with the elder boys, who were in possession of the power,—a power of a very unlimited and formidable description,—and was by them warmly supported; but it was opposed with still greater vehemence by the junior boys, the boys who were then the victims of it, so much did the expected pleasure of tyrannising in their turn outweigh the pain of their present slavery.—In this case, too, as in most others, the sources of those trains which govern our lives are two,—the impressions made upon ourselves, and the trains which we copy from others. Besides the impressions just recounted, if the trains which pass in the minds of those by whom the child is surrounded, and which he is made to conceive by means of their words, and other signs, lead constantly from the idea of command over the wills of other men, as the grand object of desire, to the ideas of pain and terror as the means, the repetition of the copied trains increases the effect of the native impressions, and establishes and confirms the maleficent character. These are the few things we can afford to adduce upon the subject of Domestic Education.

In the next place comes that which we have denominated *Technical*. To this the term Education has been commonly confined; or, rather, the word Education has been used in a sense so unhappily restricted, that it has extended only to a part of that which we call *Technical Education*. It has not extended to all the arts, but only to those which have been denominated *liberal*.

The question here occurs, What is the sort of education required for the different classes of society, and what should be the difference in the training provided for each? Before we can treat explicitly of technical education, we must endeavour to show, in what manner at least, this question ought to be resolved.

There are certain qualities, the possession of which is desirable in all classes: There are certain qualities, the possession of which is desirable in some, not in others. As far as those qualities extend which ought to be common to all, there ought to be a correspondent training for all. It is only in respect to those qualities which are not desirable in all, that a difference in the mode of training is required.

What then are the qualities, the possession of which is desirable in all? They are the qualities which we have already named as chiefly subservient to the happiness of the individual himself, and of other men,—Intelligence, Temperance, and Benevolence. It is very evident that all these qualities are desirable in all men; and if it were possible to get them all in the highest possible degree in all men, so much the more would human nature be exalted.

The chief difficulty respects Intelligence; for it will be readily allowed, that almost equal care ought to be taken, in all classes, of the trains leading to the settled dispositions which the terms Temperance and Benevolence denote. Benevolence, as we have above described it, can hardly be said to be of more importance to the happiness of man in one class than in another. If we bear in mind, also, the radical meaning of Temperance, that it is the steady habit of resisting a present desire, for the sake of a greater good, we shall readily grant, that it is not less necessary to happiness in one rank of life than in another. It is only necessary to see, that temperance, though always the same disposition, is not always exerted on the same objects, in the different conditions of life. It is no demand of temperance, in the man who can afford it, to deny himself animal food; it may be an act of temperance in the man whose harder circumstances require that he should limit himself to coarser fare. It is also true, that the trains which lead to Temperance and Benevolence may be equally cultivated in all classes. The impressions which they are made to receive, and the trains of others which they are made to copy, may, with equal

certainly, be guided to the generating of those two qualities in all the different classes of society. We deem it unnecessary (here, indeed, it is impossible) to enter into the details of what may be done in the course of technical education, to generate, or to confirm, the dispositions of Temperance and Benevolence. It can be nothing more than the application of the principles which we developed, when we endeavoured to show in what manner the circumstances of domestic education might be employed for generating the trains on which these mental qualities depend.

Technical Education we shall then consider as having chiefly to do with *Intelligence*.

The first question, as we have said before, respects what is desirable for all,—the second what is desirable for each of the several classes. Till recently, it was denied, that intelligence was a desirable quality in the great body of the people; and as intelligence is power, such is an unavoidable opinion in the breasts of those who think that the human race ought to consist of two classes,—one that of the oppressors, another that of the oppressed. The concern which is now felt for the education of the working classes, shows that we have made a great step in knowledge, and in that genuine morality which ever attends it.

The analysis of the ideas decides the whole matter at once. If education be to communicate the art of happiness, and if intelligence consists of two parts,—a knowledge of the order of those events of nature on which our pleasures and pains depend—and the sagacity which discovers the best means for the attaining of ends,—the question, whether the people should be educated, is the same with the question, whether they should be happy or miserable. The question, whether they should have more or less of intelligence, is merely the question, whether they should have more or less of misery, when happiness might be given in its stead. This has been seized, and made use of as an objection, viz. that men are seen, by daily experience, not to be happy, not to be moral, in proportion to their knowledge. It is wonderfully shallow. Hume said long ago, that knowledge, and its accompaniments, morality and happiness, may not be strictly conjoined in every individual, but they are infallibly so in every age and in every country. The reason is plain: a natural cause may be hindered of its operation in one particular instance, though in a great variety of instances it is sure to prevail. Besides, there may be a good deal of knowledge in an individual, but not knowledge of the best things; this cannot easily happen in a whole people; neither the whole nor the greater part will miss the right objects of knowledge, when knowledge is generally diffused.

As evidence of the vast progress which we have made in right thinking upon this subject, we cannot help remarking, that even when Milton and Locke wrote upon education, though both men of so much benevolence to the larger family of mankind, and both men whose sentiments were democratical, they yet seem to have had in their view no education but that of the *gentleman*: education had not presented itself, even to their minds, as a blessing in which the indigent orders could be made to partake.

As we strive for an equal degree of justice, an equal degree of temperance, an equal degree of veracity, in the poor as in the rich, so we should strive for an equal degree of intelligence, if there were not a cause which prevents. It is absolutely necessary for the existence of the human race, that labour should be performed, that food should be raised, and other things provided which human welfare requires. A large portion of mankind is required for this labour. Now, then, in regard to all this portion of mankind that labours, only such a portion of time can by them be given to the acquisition of intelligence as can be abstracted from labour. The difference between intelligence and the other qualities desirable in the mind of man, is this,—that much of time exclusively devoted to the fixing of the associations on which they depend is not necessary; such trains may go on while other things are attended to, and amid the whole of the business of life. The case, to a certain extent, is the same with intelligence; but, to a great extent, it is not. Time must be exclusively devoted to the acquisition of it; and there are degrees of command over knowledge to which the whole period of human life is not more than sufficient. There are degrees, therefore, of intelligence, which must be reserved to those who are not obliged to labour.

The question is (and it is a question which none can exceed in magnitude), What is the degree attainable by the most numerous class? To this we have no doubt, it will, in time, very clearly appear, that a most consolatory answer may be given. We have no doubt it will appear that a very high degree is attainable by them. It is now almost universally acknowledged, that, on all conceivable accounts, it is desirable that the great body of the people should not be wretchedly poor; that when the people are wretchedly poor, all classes are vicious, all are hateful, and all are unhappy. If so far raised above wretched poverty, as to be capable of being virtuous, though it is still necessary for them to earn their bread by the sweat of their brow, they are not bound down to such incessant toil as to have no time for the acquisition of knowledge, and the exercise of intellect. Above all, a certain portion of the first years of life are admirably available to this great end. With a view to the productive powers of their very labour, it is desirable that the animal frame should not be devoted to it before a certain age,

before it has approached the point of maturity. This holds in regard to the lower animals: a horse is less valuable, less, in regard to that very labour for which he is valuable at all, if he is forced upon it too soon. There is an actual loss, therefore, even in productive powers, even in good economy, and in the way of health and strength, if the young of the human species are bound close to labour before they are fifteen or sixteen years of age. But if those years are skilfully employed in the acquisition of knowledge, in rendering all those trains habitual on which intelligence depends, it may be easily shown that a very high degree of intellectual acquirements may be gained; that a firm foundation may be laid for a life of mental action, a life of wisdom, and reflection, and ingenuity, even in those by whom the most ordinary labour will fall to be performed. In proof of this, we may state, that certain individuals in London, a few years ago, some of them men of great consideration among their countrymen, devised a plan for filling up those years with useful instruction,—a plan which left the elements of hardly any branch of knowledge unprovided for, and at an expence which would exceed the means of no class of a population, raised above wretched poverty to that degree which all men profess to desire. Mr. Bentham called this plan of instruction by the Greek name *Chrestomathia*; and developed his own ideas of the objects and mode of instruction, with that depth and comprehension which belong to him, in a work which he published under that name.\* Of the practicability of the scheme, no competent judge has ever doubted; and the difficulty of collecting funds is the only reason why it has not, already, been demonstrated by experiment, how much of that intelligence which is desirable for all, may be communicated to all.†

Beside the knowledge or faculties which all classes should possess in common, there are branches of knowledge and art which they cannot all acquire; and, in respect to which, education must undergo a corresponding variety. The apprenticeships, for example, which youth are accustomed to serve to the useful arts, we regard as a branch of their education. Whether these apprenticeships, as they have hitherto been managed, have been good instruments of education, is a question of importance, about which there is now, among enlightened men, hardly any diversity of opinion. When the legislature undertakes to do for every man, what every man has abundant motives to do for himself, and better means than the legislature; the legislature takes a very unnecessary, commonly a not very innocent trouble. Into the details, however, of the best mode of teaching, to the working people, the arts by which the different commodities useful or agreeable to man are provided, we cannot possibly enter. We must content ourselves with marking it out as a distinct branch of the subject, and an important object of study.



With respect to the education of that class of society who have wealth and time for the acquisition of the highest measure of intelligence, there is one question as to which every body must be ripe for a decision. If it be asked, whether, in the constitution of any establishment for their education, call it university, call it college, school, or any thing else, there ought to be a provision made for perpetual improvement,—a provision to make it keep pace with the human mind; or if, on the other hand, it ought to be so constituted as that there shall not only be no provision for, but a strong spirit of resistance to all improvement,—a passion of adherence to whatever was established in a dark age, and a principle of hatred to those by whom improvement is proposed;—all indifferent men will declare that such institutions would be a curse rather than a blessing. That he is a *progressive* being, is the grand distinction of man; he is the only progressive being upon this globe; when he is the most rapidly progressive, then he most completely fulfills his destiny: an institution for *education* which is hostile to progression, is, therefore, the most preposterous and vicious thing, which the mind of man can conceive.

There are several causes which tend to impair the utility of old and opulent establishments for education. Their love of ease makes them love easy things, if they can derive from them as much credit, as they would from others which are more difficult. They endeavour, therefore, to give an artificial value to trifles. Old practices, which have become a hackneyed routine, are commonly easier than to make improvements: accordingly, they oppose improvements, even when it happens that they have no other interest in the preservation of abuses. Hardly is there a part of Europe in which the Universities are not recorded, in the annals of education, as the enemies of all innovation. “A peine la compagnie de Jesus,” says d’Alembert, “commença-t-elle à se montrer en France, qu’elle essuya des difficultés sans nombre pour s’y établir. Les universités sur tout firent les plus grands efforts, pour écarter ces nouveaux venus. Les Jesuites s’annonçaient pour enseigner gratuitement, ils comptoient déjà parmieux des hommes savans et célèbres, superieurs peut-être à ceux dont les universités pouvaient se glorifier; l’interêt et la vanité pouvaient donc suffire à leurs adversaires pour chercher à les exclure. On se rapelle les contradictions semblables que les ordres mendians essuyèrent de ces mêmes universités quand ils voulurent s’y introduire; contradictions fondées à peu près sur les mêmes motifs.” (*Destruction des Jesuites in France.*) The celebrated German Philosopher Wolf remarks the aversion of the universities to all improvement, as a notorious thing, founded upon adequate motives, in the following terms: “*Non adeo impune turbare licet scholarum quietem, et docentibus lucrosam, et discentibus jucundam.*” (Wolfi *Logica*, Dedic. p. 2.)

But though such and so great are the evil tendencies which are to be guarded against in associated seminaries of education,—evil tendencies which are apt to be indefinitely increased when they are united with an ecclesiastical establishment, because, whatever the vices of the ecclesiastical system, the universities have in that case an interest to bend the whole force of their education to the support of them all, and the human mind can only be rendered the friend of abuses in proportion as it is vitiated intellectually, or morally, or both; it must, notwithstanding, be confessed, that there are great advantages in putting it in the power of the youth to obtain all the branches of their education in one place; even in assembling a certain number of them together, when the principle of emulation acts with powerful effect; and in carrying on the complicated process according to a regular plan, under a certain degree of discipline, and with the powerful spur of publicity. All this ought not to be rashly sacrificed; nor does there appear to be any insuperable difficulty in devising a plan for the attainment of all these advantages, without the evils which have more or less adhered to all the collegiate establishments which Europe has yet enjoyed.

After the consideration of these questions, we ought next to describe, and prove by analysis, the exercises which would be most conducive in forming those virtues which we include under the name of intelligence. But it is very evident, that this is a matter of detail far too extensive for so limited a design as ours. And though education, in common language, means hardly any thing more than making the youth perform those exercises; and a treatise on education means little more than an account of them, we must content ourselves with marking the place which the inquiry would occupy in a complete system, and proceed to offer a few remarks on the two remaining branches of the subject, *Social Education*, and *Political Education*.

The branches of moral education, heretofore spoken of, operate upon the individual in the first period of life, and when he is not as yet his own master. The two just now mentioned operate upon the whole period of life, but more directly and powerfully after the technical education is at an end, and the youth is launched into the world under his own control.

*Social Education* is that in which society is the Institor. That the society in which an individual moves, produces great effects upon his mode of thinking and acting, every body knows by indubitable experience. The object is, to ascertain the extent of this influence, the mode in which it is brought about, and hence the means of making it operate in a good, rather than an evil direction.

The force of this influence springs from two sources: the principle of imitation; and the power of the society over our happiness and misery.

We have already shown, that when, by means of words, and other signs of what is passing in the minds of other men, we are made to conceive, step by step, the trains which are governing them, those trains, by repetition, become habitual to our own minds, and exert the same influence over us as those which arise from our own impressions. It is very evident, that those trains which are most habitually passing in the minds of all those individuals by whom we are surrounded, must be made to pass with extraordinary frequency through our own minds, and must, unless where extraordinary means are used to prevent them from producing their natural effect, engross to a proportional degree the dominion of our minds. With this slight indication of this source of the power which society usurps over our minds, that is, of the share which it has in our education, we must content ourselves, and pass to the next.

Nothing is more remarkable in the proceedings of human nature, than the intense desire which we feel of the favourable regards of mankind. Few men could bear to live under an exclusion from the breast of every human being. It is astonishing how great a portion of all the actions of men are directed to this object and to no other. The greatest princes, the most despotical masters of human destiny, when asked, What they aim at by their wars and conquests? would answer, if sincere, as Frederic of Prussia answered, *pour faire parler de soi*; to occupy a large space in the admiration of mankind? What are the ordinary pursuits of wealth and of power, which kindle to such a height the ardour of mankind? Not the mere love of eating and of drinking, or all the physical objects together, which wealth can purchase or power command. With these every man is at bottom speedily satisfied. It is the easy command, which those advantages procure over the favourable regards of society,—it is this which renders the desire of wealth unbounded, and gives it that irresistible influence which it possesses in directing the human mind.

Whatever, then, are the trains of thought, whatever is the course of action which most strongly recommends us to the favourable regards of those among whom we live, these we feel the strongest motive to cultivate and display; whatever trains of thought and course of action expose us to their unfavourable regards, these we feel the strongest motives to avoid. These inducements, operating upon us continually, have an irresistible influence in creating habits, and in moulding, that is, educating us, into a character conformable to the society in which we move. This is the general

principle; it might be illustrated in detail by many of the most interesting and instructive phenomena of human life; it is an inquiry, however, in which we must not indulge.

To what extent the habits and character, which those influences tend to produce, may engross the man, will no doubt depend, to a certain degree, upon the powers of the domestic and technical education which he has undergone. We may conceive that certain trains might, by the skilful occupation of the early years, be rendered so habitual as to be uncontrollable by any habits which the subsequent period of life would induce, and that those trains might be the decisive ones on which intelligent and moral conduct depends. The influence of a vicious and ignorant society would in this case be greatly reduced; but still, the actual rewards and punishments which society has to bestow upon those who please, and those who displease it; the good and evil which it gives or withholds, are so great, that to adopt the opinions which it approves, to perform the acts which it admires, to acquire the character, in short, which it "delighteth to honour," can seldom fail to be the leading object of those of whom it is composed. And as this potent influence operates upon those who conduct both the domestic education and the technical, it is next to impossible that the trains which are generated, even during the time of their operation; should not fall in with, instead of counteracting, the trains which the social education produces; it is next to impossible, therefore, that the whole man should not take the shape which that influence is calculated to impress upon him.

The *Political Education* is the last, which we have undertaken to notice, of the agents employed in forming the character of man. The importance of this subject has not escaped observation. Some writers have treated of it in a comprehensive and systematical manner. And a still greater number have illustrated it by occasional and striking remarks, It is, nevertheless, true, that the full and perfect exposition of it yet remains to be made.

The Political Education is like the key-stone of the arch; the strength of the whole depends upon it. We have seen that the strength of the Domestic and the Technical Education depends almost entirely upon the Social. Now it is certain, that the nature of the social depends almost entirely upon the Political; and the most important part of the Physical (that which operates with greatest force upon the greatest number, the state of aliment and labour of the lower classes), is, in the long-run, determined by the action of the political machine. The play, therefore, of the political machine acts immediately upon the mind, and with extraordinary power; but this is not all; it also acts upon almost every thing else by which the character of the mind is apt to be formed.

It is a common observation, that such as is the direction given to the desires and passions of men, such is the character of the men. The direction is given to the desires and passions of men by one thing, and one alone; the means by which the grand objects of desire may be attained. Now this is certain, that the means by which the grand objects of desire may be attained, depend almost wholly upon the political machine. When the political machine is such, that the grand objects of desire are seen to be the natural prizes of great and virtuous conduct—of high services to mankind, and of the generous and amiable sentiments from which great endeavours in the service of mankind naturally proceed—it is natural to see diffused among mankind a generous ardour in the acquisition of all those admirable qualities which prepare a man for admirable actions; great intelligence, perfect self-command, and over-ruling benevolence. When the political machine is such that the grand objects of desire are seen to be the reward, not of virtue, not of talent, but of subservience to the will, and command over the affections of the ruling few; that interest with the *man above* is the only sure means to the next step in wealth, or power, or consideration, and so on; the means of pleasing the man above become, in that case, the great object of pursuit. And as the favours of the man above are necessarily limited—as some, therefore, of the candidates for his favour can only obtain the objects of their desire by disappointing others—the arts of supplanting rise into importance; and that whole tribe of faculties which is expressed by the words intrigue, flattery, back-biting, treachery, &c., are the fruitful offspring of that political education, which a government, in which the many interests of the subject are but a secondary object, cannot fail to produce.

(f. f.)

See the article Education, in the *Encyclopædia* for the discussion of various questions connected with that subject, and Universities, in this *Supplement*.

[\[Back to Table of Contents\]](#)

## GOVERNMENT.

The question with respect to Government, is a question about the adaptation of means to an end.

Nature of the Inquiry.

Notwithstanding the portion of discourse which has been bestowed upon this subject, it is surprising to find, upon a close inspection, how few of its principles are settled. The reason is, that the ends and means have not been analyzed; and it is only a general and undistinguishing conception of them which exists in the minds of the greater number of men. So long as either remain in this situation, they give rise to interminable disputes; more especially when the deliberation is subject, as in this case, to the strongest action of personal interest.

In a discourse, limited as the present; it would be obviously vain to attempt the accomplishment of such a task, as that of the analysis we have mentioned. The mode, however, in which the operation should be conducted, may perhaps be described, and evidence enough exhibited to show in what road we must travel to approach the point at which so many have vainly endeavoured to arrive.

Object of this Article.

The end of government has been described in a great variety of expressions. By Locke it was said to be "the public good;" by others it has been

End of Government.

described as being "the greatest happiness of the greatest number." These, and equivalent expressions, are just; they are only defective in as much as the particular ideas which they embrace are indistinctly announced; and different combinations are by means of them raised in different minds, and even in the same mind on different occasions.

It is immediately obvious, that a wide and difficult field is opened, and that the whole science of human nature must be explored to lay a foundation for the science of government. To understand what is included in the happiness of the greatest number, we must understand what is included in the happiness of the individuals of whom it is composed.

That dissection of human nature which would be necessary to show, on proper evidence, the primary elements into which human happiness may be resolved, it is not compatible with the present design to undertake. We must content ourselves with assuming certain results.

We may allow, for example, in general terms, that the lot of every human being is determined by his pains and pleasures; and that his happiness corresponds with the degree in which his pleasures are great, and his pains are small.

Human pains and pleasures are derived from two sources. They are produced either by our fellow men, or by causes independent of other men.

We may assume it as another principle, that the concern of government is with the former of these two sources; and that its business is to increase to the utmost the pleasures, and diminish to the utmost the pains, which men derive from one another.

Of the laws of nature, on which the condition of man depends, that which is attended with the greatest number of consequences, is the necessity of labour for obtaining the means of subsistence, as well as the means of the greatest part of our pleasures. This is, no doubt, the primary cause of government; for, if nature had produced spontaneously all the objects which we desire, and in sufficient abundance for the desires of all, there would have been no source of dispute or of injury among men; nor would any man have possessed the means of ever acquiring authority over another.

The results are exceedingly different, when nature produces the objects of desire not in sufficient abundance for all. The source of dispute is then exhaustless; and every man has the means of acquiring authority over others, in proportion to the quantity of those objects which he is able to possess. In this case, the end to be obtained, through government as the means, would be, to make that distribution of the scanty materials of happiness which would insure the greatest sum of it in the members of the community taken altogether; and to prevent every individual, or combination of individuals, from interfering with that distribution, or making any man to have less than his share.

An element of great importance is taken into the calculation, when it is considered that most of the objects of desire, and even the means of subsistence, are the product of labour. The means of insuring labour must, in that case, be provided for as the foundation of all.

The means for the insuring of labour are of two sorts; the one made out of the matter of evil, the other made out of the matter of good. The first sort is commonly denominated force; and, under its application, the labourers are slaves. This mode of procuring labour we need not consider; for, if the end of government be to produce the greatest happiness of the greatest number,

that end cannot be attained by making the greatest number slaves. Government.



The other mode of obtaining labour is by allurements, or the advantage which it brings. If we would obtain all the objects of desire in the greatest possible quantity, we must obtain labour in the greatest possible quantity; and, if we would obtain labour in the greatest possible quantity, we must raise the advantage attached to labour to the greatest possible height. It is impossible to attach to labour a greater degree of advantage than the whole of the product of labour. Why so? Because, if you give more to one man than the produce of his labour, you can do so only by taking it away from the produce of some other man's labour. The greatest possible happiness of society is, therefore, attained by insuring to every man the greatest possible quantity of the produce of his labour.

How is this to be accomplished? For it is obvious that every man who has not all the objects of his desire, has inducement to take them from any other man who is weaker than himself. And how is this to be prevented? One mode is sufficiently obvious; and it does not appear that there is any other. It is the union of a certain number of men, agreeing to protect one another; and the object is best accomplished when a great number of men combine together, and delegate to a small number the power necessary for protecting them all. This is government. And it thus appears, that it is for the sake of property that government exists.\*

With respect to the end of government, or that for the sake of which it exists, it is not conceived to be necessary, on the present occasion, that the analysis should be carried any farther. What follows is an attempt to analyze the means.

Means necessary to the Ends of Government.

Two things are here to be considered; the power with which the small number are entrusted; and the use which they are to make of it.

With respect to the first, there is no difficulty. The elements, out of which the power of coercing others is fabricated, are obvious to all. Of these we shall, therefore, not lengthen this article by any explanation.

All the difficult questions of government relate to the means of restraining those, in whose hands are lodged the powers necessary for the protection of all, from making a bad use of it.



Whatever would be the temptations under which individuals would lie, if there was no government to take the objects of desire from others weaker than themselves, under the same temptations the members of government would lie, to take the objects of desire from the members of the community, if they were not prevented from doing so. Whatever, then, are the reasons for establishing government, the very same exactly are the reasons for establishing securities, that those entrusted with the powers necessary for protecting others make use of them for that purpose solely, and not for the purpose of taking from the members of the community the objects of desire.

There are three modes in which it may be supposed, that the powers of protecting the community are capable of being exercised. The community may undertake the protection of itself, and of its members. The powers of protection may be placed in the hands of a few. And, lastly, they may be placed in the hands of an individual. The Many, the Few, the One; these varieties appear to exhaust the subject. It is not possible to conceive any hands, or combination of hands, in which the powers of protection can be lodged, which will not fall under one or other of those descriptions. And these varieties correspond to the three forms of government, the Democratical, the Aristocratical, and the Monarchical.

Three simple Modes or Forms of Government.

It will be necessary to look somewhat closely at each of these forms in their order.

I. *The Democratical*. It is obviously impossible, that the community in a body can be present to afford protection to each of its members. It must employ individuals for that purpose. Employing individuals, it must choose them, it must lay down the rules under which they are to act, and it must punish them, if they act in disconformity to those rules. In these operations are included the three great operations of government, Administration, Legislation, and Judicature. The community, to perform any of these operations, must be assembled. This circumstance alone seems to form a conclusive objection against the democratical form. To assemble the whole of a community as often as the business of government requires performance would almost preclude the existence of labour; hence the existence of property; and hence the existence of the community itself.

Of the Democratical Form.

There is also another objection not less conclusive. A whole community would form a numerous assembly. But all numerous assemblies are essentially incapable of business. It is unnecessary to be tedious in the proof of this proposition. In an assembly, every

thing must be done by speaking and assenting. But where the assembly is numerous, so many persons desire to speak, and feelings, by mutual inflammation, become so violent, that calm and effectual deliberation is altogether impossible.

It may be taken, therefore, as a proposition, from which there will be no dissent, that a community in mass is ill adapted for the business of government. There is no principle more in conformity with the sentiments and the practice of the people than this. The management of the joint affairs of any considerable body of the people they never undertake for themselves. What they uniformly do is, to choose a certain number of persons to be the actors in their stead. Even in the case of a common benefit club, the members choose a committee of management, and content themselves with a general control.

*2. The Aristocratical.* This term applies to all those cases, in which the powers of government are held by any number of persons intermediate between a single person and the majority. When the number is small, it is common to call the government an Oligarchy; when it is considerable, to call it an Aristocracy. The cases are essentially the same; because the motives which operate in both are the same. This is a proposition which carries, we think, its own evidence along with it. We, therefore, assume it as a point which will not be disputed.

Of the  
Aristocratical  
Form.

The source of evil is radically different in the case of aristocracy, and that of democracy. The community cannot have an interest opposite to its interest. To affirm this would be a contradiction in terms. The community within itself, and with respect to itself, can have no sinister interest. One community may intend the evil of another: never its own. This is an indubitable proposition, and one of great importance. It may act wrong from mistake. To suppose that it could from design, would be to suppose this absurdity, that human beings can wish their own misery.

The circumstances from which the inaptitude of the community as a body for the business of government arose, namely, the inconvenience of assembling them, and the inconvenience of their numbers when assembled, do not necessarily exist in the case of aristocracy. If the number of those who hold among them the powers of government is so great, as to make it inconsistent to assemble them, or impossible for them to deliberate calmly when assembled, this is only an objection to so extended an aristocracy, and has no application to an aristocracy not too numerous, when assembled for the best exercise of deliberation.

The question is, whether such an aristocracy may be trusted to make that use of the powers of government which is most conducive to the end for which government exists?

There may be a strong presumption, that an aristocracy, monopolizing the powers of government, would not possess intellectual powers in any very high perfection. Intellectual powers are the offspring of labour. But an hereditary aristocracy are deprived of the strongest motives to labour. The greater part of them will, therefore, be defective in those powers. This is one objection, and an important one, though not the greatest.

We have already observed, that the reason for which government exists is, that one man, if stronger than another, will take from him whatever that other possesses and he desires. But if one man will do this, so will several. And if powers are put into the hands of a comparatively small number, called an aristocracy, powers which make them stronger than the rest of the community, they will take from the rest of the community as much as they please of the objects of desire. They will, therefore, defeat the very end for which government was instituted. The unfitness, therefore, of an aristocracy to be entrusted with the powers of government rests on the basis of demonstration.

3. *The Monarchical.* It will be seen, and therefore words to make it manifest are unnecessary, that, in most respects, the monarchical form of government agrees with the aristocratical, and is liable to the same objections.

Of the  
Monarchical  
Form.

If government is founded upon this, as a law of human nature, that a man, if able, will take from others any thing which they have, and which he desires, it is sufficiently evident that, when a man is called a king, it does not change his nature; so that, when he has got power to enable him to take from every man what he pleases, he will take whatever he pleases. To suppose that he will not, is to affirm that government is unnecessary; and that human beings will abstain from injuring one another of their own accord.

It is very evident that this reasoning extends to every modification of the smaller number. Whenever the powers of government are placed in any hands other than those of the community, whether those of one man, of a few, or of several, those principles of human nature which imply that government is at all necessary, imply that these persons will make use of them to defeat the very end for which government exists.

One observation, however, suggests itself. Allowing, it may be said, that this deduction is perfect, and the inference founded upon it indisputable, it is yet true, that, if there were no government, every man would be exposed to depredation from every man; but, under government, if an aristocracy, he is exposed to it only from a few; if a monarchy, only from one.

This is a highly important observation, and deserves to be minutely investigated.

It is sufficiently obvious, that, if every man is liable to be deprived of what he possesses at the will of every man stronger than himself, the existence of property is impossible; and, if the existence of property is impossible, so also is that of labour, of the means of subsistence for an enlarged community, and hence of the community itself. If the members of such a community are liable to be deprived only by a few hundred men, the members of an aristocracy, it may not be impossible to satiate that limited number with a limited portion of the objects belonging to all. Allowing this view of the subject to be correct, it follows that the smaller the number of hands into which the powers of government are permitted to pass, the happier it will be for the community. That an oligarchy, therefore, is better than an aristocracy, and a monarchy better than either.

This view of the subject deserves to be the more carefully considered, that the conclusion to which it leads is the same with that which has been adopted and promulgated by some of the most profound and most benevolent investigators of human affairs. That government by one man, altogether unlimited and uncontrolled, is better than government by any modification of aristocracy, is the celebrated opinion of Mr Hobbes, and of the French *Economists*, supported on reasonings which it is not easy to controvert. Government, by the many, they with reason considered an impossibility. They inferred, therefore, that, of all the possible forms of government, absolute monarchy is the best.

Experience, if we look only at the outside of the facts, appears to be divided on this subject. Absolute monarchy, under Neros and Caligulas, under such men as Emperors of Morocco and Sultans of Turkey, is the scourge of human nature. On the other side, the people of Denmark, tired out with the oppressions of an aristocracy, resolved that their king should be absolute; and, under their absolute monarch, are as well governed as any people in Europe. In Greece, notwithstanding the defects of democracy, human nature ran a more brilliant career than it has ever done in any other age or country. As the surface of history, therefore, affords no certain

principle of decision, we must go beyond the surface, and penetrate to the springs within.

Where it is said that one man, or a limited number of men, will soon be satiated with the objects of desire, and when they have taken from the community what suffices to satiate them, will protect its members in the enjoyment of the remainder, it appears that an important element of the calculation is left out. Human beings are not a passive substance. If human beings, in respect to their rulers, were the same as sheep in respect to their shepherd; and if the king, or the aristocracy, were as totally exempt from all fear of resistance from the people, and all chance of obtaining more obedience from severity, as the shepherd from the sheep, it does appear that there would be a limit to the desire of taking to one's self the objects of desire. The case will be found to be very much altered when the idea is taken into the account of the resistance to their wills which one human being may expect from another, and of that perfection in obedience which fear alone can produce.

That one human being will desire to render the person and property of another subservient to his pleasures, notwithstanding the pain or loss of pleasure which it may occasion to that other individual, is the foundation of government. The desire of the object implies the desire of the power necessary to accomplish the object. The desire, therefore, of that power which is necessary to render the persons and properties of human beings subservient to our pleasures, is a grand governing law of human nature.

What is implied in that desire of power? and what is the extent to which it carries the actions of men? are the questions which it is necessary to resolve, in order to discover the limit which nature has set to the desire of a king, or an aristocracy, to inflict evil upon the community for their own advantage.

Power is a means to an end. The end is every thing, without exception, which the human being calls pleasure, and the removal of pain. The grand instrument for attaining what a man likes, is the actions of other men. Power, in its most appropriate signification, therefore, means security for the conformity between the will of one man and the acts of other men. This, we presume, is not a proposition which will be disputed. The master has power over his servant, because when he wills him to do so and so, in other words, expresses a desire that he would do so and so, he possesses a kind of security that the actions of the man will correspond to his desire. The general commands his soldiers to perform certain operations, the king commands his subjects to act in a certain manner, and their power is complete or not complete, in proportion as the conformity is complete or not complete between the actions willed

and the actions performed. The actions of other men, considered as means for the attainment of the objects of our desire, are perfect or imperfect, in proportion as they are or are not certainly and invariably correspondent to our will.—There is no limit, therefore, to the demand of security for the perfection of that correspondence. A man is never satisfied with a smaller degree if he can obtain a greater. And as there is no man whatsoever, whose acts, in some degree or another, in some way or another, more immediately or more remotely, may not have some influence as means to our ends, there is no man, the conformity of whose acts to our will we would not give something to secure. The demand, therefore, of power over the acts of other men is really boundless. It is boundless in two ways; boundless in the number of persons to whom we would extend it, and boundless in its degree over the actions of each.

It would be nugatory to say, with a view to explain away this important principle, that some human beings may be so remotely connected with our interests, as to make the desire of a conformity between our will and their actions evanescent. It is quite enough to assume, what nobody will deny, that our desire of that conformity is unlimited, in respect to all those men whose actions can be supposed to have any influence on our pains and pleasures. With respect to the rulers of a community, this at least is certain, that they have a desire for the uniformity between their will and the actions of every man in the community. And for our present purpose this is as wide a field as we need to embrace.

With respect to the community, then, we deem it an established truth, that the rulers, one, or a few, desire an exact uniformity between their will and the acts of every member of the community. It remains for us to inquire to what description of acts it is the nature of this desire to give existence.

There are two classes of means, by which the conformity between the will of one man and the acts of other men may be accomplished. The one is pleasure, the other pain.

With regard to securities of the pleasurable sort for obtaining a conformity between one man's will and the acts of other men, it is evident, from experience, that when a man possesses a command over the objects of desire, he may, by imparting those objects to other men, insure to a great extent the conformity between his will and their actions. It follows, and is also matter of experience, that the greater the quantity of the objects of desire, which he may thus impart to other men, the greater is the number of men between whose actions and his own will he can insure a conformity. As it has been demonstrated that there is no limit to the number of men

whose actions we desire to have conformable to our will, it follows, with equal evidence, that there is no limit to the command which there are motives for endeavouring to possess over the objects of desire.

It is, therefore, not true, that there is in the mind of a king, or in the minds of an aristocracy, any point of saturation with the objects of desire. The opinion, in examination of which we have gone through the preceding analysis, that a king or an aristocracy may be satiated with the objects of desire, and, after being satiated, leave to the members of the community the greater part of what belongs to them, is an opinion founded upon a partial and incomplete view of the laws of human nature.

We have next to consider the securities of the painful sort which may be employed for attaining conformity between the acts of one man and the will of another. We are of opinion, that the importance of this part of the subject has not been duly considered; and that the business of government will be ill understood, till its numerous consequences have been fully developed.

Pleasure appears to be a feeble instrument of obedience in comparison with pain. It is much more easy to despise pleasure than pain. Above all it is important to consider, that in this class of instruments is included the power of taking away life, and with it of taking away not only all the pleasures of reality, but, what goes so far beyond them, all the pleasures of hope. This class of securities is, therefore, incomparably the strongest. He who desires obedience to a high degree of exactness, cannot be satisfied with the power of giving pleasure, he must have the power of inflicting pain. He who desires it to the highest possible degree of exactness, must desire power of inflicting pain sufficient at least to insure that degree of exactness; that is, an unlimited power of inflicting pain; for, as there is no possible mark by which to distinguish what is sufficient and what is not, and as the human mind sets no bounds to its avidity for the securities of what it deems eminently good, it is sure to extend, beyond almost any limits, its desire of the power of giving pain to others.

So much with respect to the motive for having and holding power of inflicting pain upon others. It may, however, be said, that how inseparable a part soever of human nature it may appear to be to desire to possess unlimited power of inflicting pain upon others, it does not follow, that those who possess it will have a desire to make use of it.

This is the next part of the inquiry upon which we have to enter; and we need not add that it merits all the attention of those who

would possess correct ideas upon a subject which involves the greatest interests of mankind.

The chain of inference, in this case, is close and strong, to a most unusual degree. A man desires that the actions of other men shall be instantly and accurately correspondent to his will. He desires that the actions of the greatest possible number shall be so. Terror is the grand instrument. Terror can work only through assurance that evil will follow any want of conformity between the will and the actions willed. Every failure must, therefore, be punished. As there are no bounds to the mind's desire of its pleasure, there are of course no bounds to its desire of perfection in the instruments of that pleasure. There are, therefore, no bounds to its desire of exactness in the conformity between its will and the actions willed; and by consequence to the strength of that terror which is its procuring cause. Every, the most minute, failure, must be visited with the heaviest infliction; and, as failure in extreme exactness must frequently happen, the occasions of cruelty must be incessant.

We have thus arrived at several conclusions of the highest possible importance. We have seen, that the very principle of human nature upon which the necessity of government is founded, the propensity of one man to possess himself of the objects of desire at the cost of another, leads on, by infallible sequence, where power over a community is attained, and nothing checks, not only to that degree of plunder which leaves the members (excepting always the recipients and instruments of the plunder) the bare means of subsistence, but to that degree of cruelty which is necessary to keep in existence the most intense terror.

The world affords some decisive experiments upon human nature, in exact conformity with these conclusions. An English gentleman may be taken as a favourable specimen of civilization, of knowledge, of humanity, of all the qualities, in short, that make human nature estimable. The degree in which he desires to possess power over his fellow-creatures, and the degree of oppression to which he finds motives for carrying the exercise of that power, will afford a standard from which, assuredly, there can be no appeal. Wherever the same motives exist, the same conduct, as is displayed by the English gentleman, may be expected to follow in all men not farther advanced in human excellence than him. In the West Indies, before that vigilant attention of the English nation, which now, for thirty years, has imposed so great a check upon the masters of slaves, there was not a perfect absence of all check upon the dreadful propensities of power. But yet it is true, that these propensities led English gentlemen, not only to deprive their slaves of property, and to make property of their fellow-creatures, but to



treat them with a degree of cruelty, the very description of which froze the blood of their countrymen, who were placed in less unfavourable circumstances. The motives to this deplorable conduct are exactly those which we have described above, as arising out of the universal desire to render the actions of other men exactly conformable to our will. It is of great importance to remark, that not one item in the motives which had lead English gentlemen to make slaves of their fellow-creatures, and to reduce them to the very worst condition in which the negroes have been found in the West Indies, can be shown to be wanting, or to be less strong in the set of motives which universally operate upon the men who have power over their fellow-creatures. It is proved, therefore, by the closest deduction from the acknowledged laws of human nature, and by direct and decisive experiments, that the ruling one, or the ruling few, would, if checks did not operate in the way of prevention, reduce the great mass of the people subject to their power, at least to the condition of negroes in the West Indies.\*

We have thus seen, that of the forms of government, which have been called the three simple forms, not one is adequate to the ends which government is appointed to secure; that the community itself, which alone is free from motives opposite to those ends, is incapacitated by its numbers from performing the business of government; and that whether government is entrusted to one or a few, they have not only motives opposite to these ends, but motives which will carry them, if unchecked, to inflict the greatest evils.

These conclusions are so conformable to ordinary conceptions, that it would hardly have been necessary, if the development had not been of importance for some of our subsequent investigations, to have taken any pains with the proof of them. In this country, at least, it will be remarked, in conformity with so many writers, that the imperfection of the three simple forms of government is apparent; that the ends of government can be attained in perfection, only as under the British constitution, by an union of all the three.

The doctrine of the union of the three simple forms of government is, then, the next part of this important subject, which we are called upon to examine.

Union of the three simple Forms of Government.

The first thing which it is obvious to remark upon it is, that it has been customary, in regard to this part of the inquiry, to beg the question. The good effects which have been ascribed to the union of the three simple forms of government, have been *supposed*; and the supposition has commonly been allowed. No proof has been adduced; or if any thing having the appearance of proof, it has only

been a reference to the British constitution. The British constitution, it has been said, is an union of the three simple forms of government, and the British government is excellent. To render the instance of the British government in any degree a proof of the doctrine in question, it is evident that three points must be established; *1st*, That the British government is not in show but in substance an union of the three simple forms; *2dly*, That it has any peculiar excellence; and, *3dly*, That its excellence arises from the union so supposed, and not from any other cause. As these points have always been taken for granted without examination, the question with respect to the effects of an union of the three simple forms of government may be considered as yet unsolved.

The positions which we have already established with regard to human nature, and which we assume as foundations, are these; that the actions of men are governed by their wills, and their wills by their desires; that their desires are directed to pleasure and relief from pain as *ends*, and to wealth and power as the principal means; that to the desire of these means there is no limit; and that the actions which flow from that desire are the constituents whereof bad government is made. Reasoning correctly from these acknowledged laws of human nature, we shall presently discover what opinion, with respect to the mixture of the different species of government, it will be incumbent upon us to adopt.

The theory in question implies, that of the powers of government, one portion is held by the king, one by the aristocracy, and one by the people. It also implies, that there is on the part of each of them a certain unity of will, otherwise they would not act as three separate powers. This being allowed, we proceed to the inquiry.

From the principles which we have already laid down, it follows, that of the objects of human desire, and (speaking more definitely) of the means to the ends of human desire, namely, wealth and power, each of the three parties will endeavour to obtain as much as possible. After what has been said, it is not suspected that any reader will deny this proposition; but it is of importance that he retain a very clear conception of it.

If any expedient presents itself to any of the supposed parties, any expedient effectual to that end, and not opposed to any preferred object of pursuit, we may infer, with certainty, that it will be adopted. One effectual expedient is not more effectual than obvious. Any two of them by combining may swallow up the third. That such combination will take place appears to be as certain as any thing which depends upon human will; because there are strong motives in favour of it, and none that can be conceived in opposition to it. Whether the portions of power, as originally

distributed to the parties, be supposed to be equal or unequal, the mixture of three of the kinds of government, it is thus evident, cannot possibly exist.

This proposition appears to be so perfectly proved, that we do not think it necessary to dwell here upon the subject. As a part, however, of this doctrine of the mixture of the simple forms of government, it may be proper to inquire whether an union may not be possible of two of them.

Three varieties of this union may be conceived; the union of monarchy with aristocracy, or the union of either with democracy.

Let us first suppose that monarchy is united with aristocracy. The power of each is equal or not equal. If it is not equal, it follows, as a necessary consequence, from the principles which we have already established, that the stronger will take from the weaker, till it engrosses the whole. The only question, therefore, is, What will happen when the power is equal?

In the first place, however, it seems impossible that such equality should ever exist. How is it to be established? Or by what criterion is it to be ascertained? If there is no such criterion, it must, in all cases, be the result of chance. If so, the chances against it are as infinite to one. The idea, therefore, is wholly chimerical and absurd.

Besides an overweening propensity, a disposition to overrate one's own advantages, and underrate those of other men, is a well known law of human nature. Suppose, what would be little less than miraculous, that equality were established, this propensity would lead each of the parties to conceive itself the strongest. The consequence would be that they would go to war, and contend till one or other was subdued. Either those laws of human nature, upon which all reasoning with respect to government proceeds, must be denied, and then the utility of government itself may be disputed, or this conclusion is demonstrated. Again, if this equality were established, is there any human being who can suppose that it would last? If any thing be known about human affairs, it is this, that they are in perpetual change. If nothing else interfered, the difference of men, in respect of talents, would abundantly produce the effect. Suppose your equality to be established when your king is a man of talents, and suppose his successor to be the reverse, your equality no longer exists. The moment one of the parties is superior, it begins to profit by its superiority, and the inequality is daily increased. It is unnecessary to extend the investigation to the remaining cases—the union of democracy with either of the other two kinds of government: It is very evident that the same reasoning would lead to the same results.

In this doctrine of the mixture of the simple forms of government is included the celebrated theory of the balance in the component parts of a government. By this, it is supposed, that when a government is composed of monarchy, aristocracy, and democracy, they balance one another, and by mutual checks produce good government. A few words will suffice to show, that, if any theory deserves the epithets of "wild, visionary, chimerical," it is that of the balance. If there are three powers, how is it possible to prevent two of them from combining to swallow up the third?

Hypothesis of a Balance in mixed Governments.

The analysis which we have already performed, will enable us to trace rapidly the concatenation of causes and effects in this imagined case. We have already seen that the interest of the community, considered in the aggregate or democratical point of view, is, that each individual should receive protection; and that the powers which are constituted for that purpose should be employed exclusively for that purpose. As this is a proposition wholly indisputable, it is also one to which all correct reasoning upon matters of government must have a perpetual reference.

We have also seen that the interest of the king, and of the governing aristocracy, is directly the reverse; it is to have unlimited power over the rest of the community, and to use it for their own advantage. In the supposed case of the balance of the monarchical, aristocratical, and democratical powers, it cannot be for the interest of either the monarchy or the aristocracy to combine with the democracy; because it is the interest of the democracy or community at large, that neither the king nor the aristocracy should have one particle of power, or one particle of the wealth of the community, for their own advantage. The democracy or community have all possible motives to endeavour to prevent the monarchy and aristocracy from exercising power, or obtaining the wealth of the community, for their own advantage. The monarchy and aristocracy have all possible motives for endeavouring to obtain unlimited power over the persons and property of the community. The consequence is inevitable; they have all possible motives for combining to obtain that power, and unless the people have power enough to be a match for both, they have no protection. The balance, therefore, is a thing, the existence of which, upon the best possible evidence, is to be regarded as impossible. The appearances which have given colour to the supposition are altogether delusive.

What then is to be done? For, according to this reasoning, we may be told that good government appears to be impossible. The people, as a body, cannot perform the business of government for themselves. If the powers of government are entrusted to one man,

or a few men, and a monarchy, or governing aristocracy, is formed, the results are fatal. And it appears that a combination of the simple forms is impossible.

Notwithstanding the certainty of these propositions, it is not yet proved that good government is impossible. For though it is perfectly true that, as the people cannot exercise the powers of government themselves, they must entrust them to some one individual, or set of individuals, and these individuals will, infallibly, have the strongest motives to make a bad use of them; it is nevertheless possible that checks may be found sufficient to prevent the bad use of them. The next subject of inquiry, then, is the doctrine of checks. It is sufficiently conformable to the established and new-fashioned opinions to say, that, upon the right constitution of checks, all goodness of government depends. To this proposition we fully subscribe. Nothing, therefore, can exceed the importance of correct conclusions upon this subject. After the developements which we have already made, it is hoped that the inquiry will be neither intricate nor unsatisfactory.

In the grand discovery of modern times, the system of representation, the solution of all the difficulties, both speculative and practical, will perhaps be found. If it cannot, we seem to be forced upon the extraordinary conclusion, that good government is impossible. For as there is no individual, or combination of individuals, except the community itself, who have not an interest in bad government, if entrusted with its powers; and as the community itself is incapable of exercising those powers, and must entrust them to some individual or combination of individuals, the conclusion is obvious. The community itself must check these individuals, or they will follow their interest, and produce bad government. But how is it the community can check? The community can act only when assembled. And then it is incapable of acting. The community, however, can chuse representatives; and the question is, whether the representatives of the community can operate as a check?

Representative System, and Doctrine of Checks.

We may begin by laying down two propositions, which appear to involve a great portion of the inquiry; and about which it is unlikely that there will be any dispute. The checking body must have a degree of power sufficient for the business of checking. It must also have an identity of interest with the community; otherwise it will make a mischievous use of its power.

The first question relates to the degree of power which is necessary to perform the business of checking. We need hardly excite the

reader's attention to the importance of this inquiry; for upon this, it is evident that every thing depends.

To measure the degree of power which is requisite upon any occasion, we must consider the degree of power which is necessary to be overcome. Just as much as suffices for that purpose is requisite, and no more. We have then to inquire what power it is which the representatives of the community, acting as a check, need power to overcome. The answer here is easily given. It is all that power, wheresoever lodged, which they, in whose hands it is lodged, have an interest in misusing. We have already seen, that to whomsoever the community entrusts the powers of government, whether one, or a few, they have an interest in misusing it. All the power, therefore, which the one or the few, or which the one and the few combined, can apply to insure the accomplishment of their sinister ends, the checking body must have power to overcome, otherwise its check will be unavailing. In other words, there will be no check.

This is so exceedingly evident, that we hardly think it necessary to say a single word in illustration of it. If a king is prompted by the inherent principles of human nature to seek the gratification of his will; and if he finds an obstacle in that pursuit, he removes it, of course, if he can. If any man, or any set of men, oppose him, he overcomes them, if he is able; and to prevent him, they must, at the least, have equal power with himself.

The same is the case with an aristocracy. To oppose them with success in pursuing their interest at the expence of the community, the checking body must have power successfully to resist whatever power they possess. If there is both a king and an aristocracy, and if they would combine to put down the checking force, and to pursue their mutual interest at the expence of the community, the checking body must have sufficient power successfully to resist the united power of both king and aristocracy.

These conclusions are not only indisputable, but the very theory of the British constitution is erected upon them. The House of Commons, according to that theory, is the checking body. It is also an admitted doctrine, that if the king had the power of bearing down any opposition to his will that could be opposed by the House of Commons; or if the King and the House of Lords combined had the power of bearing down its opposition to their joint will, it would cease to have the power of checking them; that it must, therefore, have a power sufficient to overcome the united power of both.

All the questions which relate to the degree of power necessary to be given to that checking body, on the perfection of whose

operations all the goodness of government depends, are thus pretty easily solved. The grand difficulty consists in finding the means of constituting a checking body, whose powers shall not be turned against the community for whose protection it is created. There can be no doubt, that, if power is granted to a body of men, called representatives, they, like any other men, will use their power, not for the advantage of the community, but for their own advantage, if they can. The only question is, therefore, how they can be prevented? in other words, how are the interests of the representatives to be identified with those of the community?

Each representative may be considered in two capacities; in his capacity of representative, in which he has the exercise of power over others, and in his capacity of member of the community, in which others have the exercise of power over him.

If things were so arranged, that, in his capacity of representative, it would be impossible for him to do himself so much good by misgovernment, as he would do himself harm in his capacity of member of the community, the object would be accomplished. We have already seen, that the amount of power assigned to the checking body cannot be diminished beyond a certain amount. It must be sufficient to overcome all resistance on the part of all those in whose hands the powers of government are lodged. But if the power assigned to the representative cannot be diminished in amount, there is only one other way in which it can be diminished, and that is, in duration.

This, then, is the instrument; lessening of duration is the instrument, by which, if by any thing, the object is to be accomplished. It is very evident, that the smaller the period of time during which any man retains his capacity of representative, as compared with the time in which he is simply a member of the community, the more difficult it will be to compensate the sacrifice of the interests of the longer period, by the profits of misgovernment during the shorter.

This is an old and approved method of identifying, as nearly as possible, the interests of those who rule, and the interests of those who are ruled. It is in pursuance of this advantage, that the members of the British House of Commons have always been chosen for a limited period. If the members were hereditary, or even if they were chosen for life, every inquirer would immediately pronounce that they would employ the powers entrusted to them for their own advantage, and that they would go just as far in abusing the persons and properties of the people, as their estimate of the powers and spirit of the people to resist them would let them regard it as safe.

As it thus appears, by the consent of all men, from the time when the Romans made their Consuls annual, down to the present day, that the end is to be attained by limiting the duration, either of the principal, or (what is better) of the checking power—the next question is, to what degree should the limitation proceed?

The general answer is plain. It should proceed, till met by overbalancing inconveniences on the other side. What then are the inconveniences which are likely to flow from a too limited duration?

They are of two sorts; those which affect the performance of the service, for which the individuals are chosen, and those which arise from the trouble of election. It is sufficiently obvious, that the business of government requires time to perform it. The matter must be proposed, deliberated upon, resolved, and executed. If the powers of government were to be shifted from one set of hands to another every day, the business of government could not proceed. Two conclusions, then, we may adopt with perfect certainty; that whatsoever time is necessary to perform the periodical round of the stated operations of government, this should be allotted to those who are invested with the checking powers; and, secondly, that no time, which is not necessary for that purpose, should by any means be allotted to them. With respect to the inconvenience arising from frequency of election, though, it is evident, that the trouble of election, which is always something, should not be repeated oftener than is necessary, no great allowance will need to be made for it, because it may easily be reduced to an inconsiderable amount.

As it thus appears, that limiting the duration of their power is a security against the sinister interest of the people's representatives, so it appears that it is the only security of which the nature of the case admits. The only other means which could be employed to that end, would be punishment on account of abuse. It is easy, however, to see, that punishment could not be effectually applied. For punishment, definition is required of the punishable acts, and proof must be established of the commission. But abuses of power may be carried to a great extent, without allowing the means of proving a determinate offence. No part of political experience is more perfect than this. If the limiting of duration be the only security, it is unnecessary to speak of the importance which ought to be attached to it.

It is necessary just to bring to notice, that, in the principle of limiting the duration of the power delegated to the representatives of the people, is not included the idea of changing them. The same individual may be chosen any number of times. The check of the short period for which he is chosen, and during which he can promote his sinister interest, is the same upon the man who has



been chosen, and rechosen twenty times, as upon the man who has been chosen for the first time. And there is a good reason for always re-electing the man who has done his duty, because, the longer he serves, the better acquainted he becomes with the business of the service. Upon this principle of rechoosing, or of the permanency of the individual, united with the power of change, has been recommended the plan of permanent service with perpetual power of removal. This, it has been said, reduces the period within which the representative can promote his sinister interest to the narrowest possible limits; because the moment when his constituents begin to suspect him, that moment they may turn him out. On the other hand, if he continues faithful, the trouble of election is performed once for all, and the man serves as long as he lives. Some disadvantages, on the other hand, would accompany this plan. The present, however, is not the occasion on which the balance of different plans is capable of being compared.

Having considered the means which are capable of being employed for identifying the interest of the representatives, when chosen, with that of the persons who choose them, it remains that we endeavour to bring to view the principles which ought to guide in determining who the persons are by whom the choice ought to be performed.

Proper  
Constitution of a  
Representative  
Body.

It is most evident that every thing depends upon this question. It can be of no consequence to insure, by shortness of duration, a conformity between the conduct of the representatives and the will of those who appoint them, if those who appoint them have an interest opposite to that of the community; because those who choose will, according to the principles of human nature, make choice of such persons as will act according to their wishes. As this is a direct inference from the very principle on which government itself is founded, we assume it as indisputable.

We have seen already, that if one man has power over others placed in his hands, he will make use of it for an evil purpose; for the purpose of rendering those other men the abject instruments of his will. If we, then, suppose that one man has the power of choosing representatives for the people, it follows, that he will choose men who will use their power as representatives for the promotion of this his sinister interest.

We have likewise seen, that when a few men have power given them over others, they will make use of it exactly for the same ends, and to the same extent, as the one man. It equally follows, that, if a small number of men have the choice of the representatives, such representatives will be chosen as will

promote the interests of that small number, by reducing, if possible, the rest of the community to be the abject and helpless slaves of their will.

In all these cases, it is obvious and indisputable, that all the benefits of the representative system are lost. The representative system is, in that case, only an operose and clumsy machinery, for doing that which might as well be done without it; namely, reducing the community to subjection under the One or the Few.

When we say the Few, it is seen that, in this case, it is of no importance whether we mean a few hundreds or a few thousands; or even *many* thousands. The operation of the sinister interest is the same; and the fate is the same of all that part of the community over whom the power is exercised. A numerous aristocracy has never been found to be less oppressive than an aristocracy confined to a few.

The general conclusion, therefore, which is evidently established is this; that the benefits of the representative system are lost, in all cases in which the interests of the choosing body are not the same with those of the community.

It is very evident, that if the community itself were the choosing body, the interest of the community and that of the choosing body would be the same. The question is, if that of any portion of the community, if erected into the choosing body, would remain the same?

One thing is pretty clear, that all those individuals whose interests are indisputably included in those of other individuals, may be struck off without inconvenience. In this light may be viewed all children, up to a certain age, whose interests are involved in those of their parents. In this light, also, women may be regarded, the interests of almost all of whom are involved either in that of their fathers or in that of their husbands.

Having ascertained that an interest identical with that of the whole community is to be found in the aggregate males, of an age to be regarded as *sui juris*, persons who may be regarded as the natural representatives of the whole population, we have to go on, and inquire, whether this requisite quality may not be found in some less number, some aliquot part of that body.

As degrees of mental qualities are not easily ascertained, they must be outward and visible signs which are taken to distinguish, for this purpose, one part of these males from another. The applicable signs

of this description appear to be three: years; property; profession or mode of life.

According to the first of these means of distinction, a portion of the males, to any degree limited, may be taken, by prescribing an advanced period of life at which the power of voting for a representative should commence. According to the second, the elective body may be limited, by allowing a vote to those only who possess a certain amount of property or of income. According to the third, they may be limited, by allowing a vote only to such persons as belong to certain professions, or certain connections and interests. What we have to inquire is, if the interest of the limited number, set apart upon any of those principles as the organ of choice for a body of representatives, will be the same with the interest of the community?

With respect to the first principle of selection, that of age, it would appear that a considerable latitude may be taken without inconvenience. Suppose the age of forty were prescribed as that at which the right of suffrage should commence, scarcely any laws could be made for the benefit of all the men of forty which would not be laws for the benefit of all the rest of the community.

Plan of Limiting the Right of Voting to Persons of a certain Age.

The great principle of security here is, that the men of forty have a deep interest in the welfare of the younger men; for otherwise it might be objected with perfect truth, that if decisive power were placed in the hands of men of forty years of age, they would have an interest, just as any other detached portion of the community, in pursuing that career, which we have already described, for reducing the rest of the community into the state of abject slaves of their will. But it so happens (and it is a fully established law of human nature), that the great majority of old men have sons, whose interest they regard as an essential part of their own. There is, therefore, no great danger that, in such an arrangement as this, the interests of the young would be greatly sacrificed to those of the old.

We come next to the inquiry, whether the interest of a body of electors, constituted by the possession of a certain amount of property or income, would be the same with the interest of the community?

Plan of making Property a qualification.

It will not be disputed, that, if the qualification were raised so high that only a few hundreds possessed it, the case would be exactly the same with that of the consignment of the electoral suffrage to an aristocracy. This we have already considered, and have seen that it differs in form rather than substance from a simple

aristocracy. We have likewise seen, that it alters not the case in regard to the community, whether the aristocracy be some hundreds or many thousands. One thing is, therefore, completely ascertained, that, unless the qualification be very low, it would only create an aristocratical government on a broad basis, and be accompanied with all the evils which we have shown to belong to an aristocratical government.

This question, however, deserves to be a little more minutely considered. Let us next take the opposite extreme. Let us suppose that the qualification is very low, so low as to include the great majority of the people. It would not be easy for the people who have very little property, to separate their interests from those of the people who have none. It is not the interest of those who have little property to give undue advantages to the possession of property, which those who have the great portions of it would turn against themselves. It may, therefore, be said, that there would be no evil in a low qualification. It can hardly be said, however, on the other hand, that there would be any good; for if the whole mass of the people who have some property would make a good choice, it will hardly be pretended that, added to them, the comparatively small number of those who have none, and whose minds are naturally and almost necessarily governed by the minds of those who have, would have any chance of making the choice a bad one.

We have ascertained, therefore, two points. We have ascertained that a very low qualification is of no use, as affording no security for a good choice beyond that which would exist if no pecuniary qualification was required. We have likewise ascertained, that a qualification so high as to constitute an aristocracy of wealth, though it were a very numerous one, would leave the community without protection, and exposed to all the evils of unbridled power. The only question, therefore, is, whether, between these extremes, there is any qualification which would remove the right of suffrage from the people of small, or of no property, and yet constitute an elective body, the interest of which would be identical with that of the community?

It is not easy to find any satisfactory principle to guide us in our researches, and to tell us where we should fix. The qualification must either be such as to embrace the majority of the population, or something less than the majority. Suppose, in the first place, that it embraces the majority, the question is, whether the majority would have an interest in oppressing those who, upon this supposition, would be deprived of political power? If we reduce the calculation to its elements, we shall see that the interest which they would have, of this deplorable kind, though it would be something, would not be very great. Each man of the majority, if

constituted the governing body, would have something less than the benefit of oppressing a single man. If the majority were twice as great as the minority, each man of the majority would only have one-half the benefit of oppressing a single man. In that case, the benefits of good government, accruing to all, might be expected to overbalance to the several members of such an elective body the benefits of misrule peculiar to themselves. Good government would, therefore, have a tolerable security. Suppose, in the second place, that the qualification did not admit a body of electors so large as the majority, in that case, taking again the calculation in its elements, we shall see that each man would have a benefit equal to that derived from the oppression of more than one man; and that, in proportion as the elective body constituted a smaller and smaller minority, the benefit of misrule to the elective body would be increased, and bad government would be insured.

It seems hardly necessary to carry the analysis of the pecuniary qualification, as the principle for choosing an elective body, any farther.

We have only remaining the third plan for constituting an elective body. According to the scheme in question, the best elective body is that which consists of certain classes, professions, or fraternities. The notion is, that when these fraternities or bodies are represented, the community itself is represented. The way in which, according to the patrons of this theory, the effect is brought about, is this. Though it is perfectly true, that each of these fraternities would profit by misrule, and has the strongest interest in promoting it; yet, if three or four of them are appointed to act in conjunction, they will not profit by misrule, and will have an interest in nothing but good government.

Plan of  
Limitation to  
certain  
Professions or  
Interests.

This theory of representation we shall not attempt to trace farther back than the year 1793. In the debate on the motion of Mr (now Earl) Grey, for a reform in the system of representation, on the 6th of May, of that year, Mr Jenkinson, the present Earl of Liverpool, brought forward this theory of representation, and urged it in opposition to all idea of reform in the British House of Commons, in terms as clear and distinct as those in which it has recently been clothed by leading men on both sides of that House. We shall transcribe the passage from the speech of Mr Jenkinson, omitting, for the sake of abbreviation, all those expressions which are unnecessary for conveying a knowledge of the plan, and of the reasons upon which it was founded.

“Supposing it agreed,” he said, “that the House of Commons is meant to be a legislative body, representing all descriptions of men in the country, he supposed every person would agree, that the landed interest ought to have the preponderant weight. The landed interest was, in fact, the *stamina* of the country. In the second place, in a commercial country like this, the manufacturing and commercial interest ought to have a considerable weight, secondary to the landed interest, but secondary to the landed interest only. But was this all that was necessary? There were other descriptions of people, which, to distinguish them from those already mentioned, he should style professional people, and whom he considered as absolutely necessary to the composition of a House of Commons. By professional people, he meant those members of the House of Commons who wished to raise themselves to the great offices of the State; those that were in the army, those that were in the navy, those that were in the law.” He then, as a reason for desiring to have those whom he calls “professional people” in the composition of the House of Commons, gives it as a fact, that country gentlemen and merchants seldom desire, and seldom have motives for desiring, to be ministers and other great officers of State. These ministers and officers, however, ought to be made out of the House of Commons. Therefore, you ought to have “professional people” of whom to make them. Nor was this all. “There was another reason why these persons were absolutely necessary. We were constantly in the habit of discussing in that House all the important concerns of the State. It was necessary, therefore, that there should be persons in the practice of debating such questions.” “There was a third reason, which, to his mind, was stronger than all the rest. Suppose that in that House there were only country gentlemen, they would not then be the representatives of the nation, but of the landholders. Suppose there were in that House only commercial persons, they would not be the representatives of the nation, but of the commercial interest of the nation. Suppose the landed and commercial interest could both find their way into the House. The landed interest would be able, if it had nothing but the commercial interest to combat with, to prevent that interest from having its due weight in the constitution. All descriptions of persons in the country would thus, in fact, be at the mercy of the landholders.” He adds, “the professional persons are, then, what makes this House the representatives of the people. They have collectively no *esprit de corps*, and prevent any *esprit de corps* from affecting the proceedings of the House. Neither the landed nor commercial interest can materially affect each other, and the interests of the different professions of the country are fairly considered. The honourable gentleman (Mr Grey), and the petition on this table, rather proposed uniformity of election. His ideas were the reverse—that the modes of election ought to be as varied as possible, because, if there was but one mode of election,

there would, generally speaking, be but one description of persons in that House, and by a varied mode of election only could that variety be secured."

There is great vagueness undoubtedly in the language here employed, and abundant proof of wavering and uncertainty in the ideas. The ideas, however, of this theory, appear in the same half-formed state in every speech and writing in which we have seen it adduced. It is this mist by which it has been kept surrounded which creates the only difficulty; because it cannot be precisely known how any thing is good or bad, till it is precisely known what it is.

According to the ideas of Lord Liverpool, the landholders ought to be represented; the merchants and manufacturers ought to be represented; the officers of the army and navy ought to be represented; and the practitioners of the law ought to be represented. Other patrons of the scheme have added, that literary men ought to be represented. And these, we believe, are almost all the fraternities which have been named for this purpose by any of the patrons of the scheme. To insure the choice of representatives of the landholders, landholders must be the choosers; to insure the choice of representatives of the merchants and manufacturers, merchants and manufacturers must be the choosers; and so with respect to the other fraternities, whether few or many. Thus, at least, it must be in *substance*, whatever the *form*, under which the visible acts may be performed. According to the scheme in question, these several fraternities are represented *directly*, the rest of the community is *not* represented directly; but it will be said by the patrons of that scheme, that it is represented *virtually*, which, in this case, answers the same purpose.

From what has already been ascertained, it will appear certain, that each of these fraternities has its sinister interest, and will be led to seek the benefit of misrule, if it is able to obtain it. This is frankly and distinctly avowed by Lord Liverpool. And by those by whom it is not avowed, it seems impossible to suppose that it should be disputed.

Let us now, then, observe the very principle upon which this theory must be supported. Three, or four, or five, or more clubs of men, have unlimited power over the whole community put into their hands. These clubs have, each, and all of them, an interest, an interest the same with that which governs all other rulers in misgovernment, in converting the persons and properties of the rest of the community wholly to their own benefit. Having this interest, says the theory, they will not make use of it, but will use all their powers for the benefit of the community. Unless this

proposition can be supported, the theory is one of the shallowest which the pretenders to political wisdom have ever espoused.

Let us resume the proposition. Three, or four, or five fraternities of men, composing a small part of the community, have all the powers of government placed in their hands. If they oppose and contend with one another, they will be unable to convert these powers to their own benefit. If they agree they will be able to convert them wholly to their own benefit, and to do with the rest of the community just what they please. The patrons of this system of representation assume, that these fraternities will be sure to take that course which is *contrary* to their interest. That course which is *according* to their interest, they leave as if it had never presented itself to their imaginations!

There being two courses which the clubs may pursue, one contrary to their interest, the other agreeable to it, the patrons of the club system must prove, they must place it beyond all doubt, that the clubs will follow the first course, and not follow the second; otherwise the world will laugh at a theory which is founded upon a direct contradiction of one of the fundamental principles of human nature.

In supposing that clubs or societies of men are governed, like men individually, by their interests, we are surely following a pretty complete experience. In the idea that a certain number of those clubs can unite to pursue a common interest, there is surely nothing more extraordinary, than that as many individuals should unite to pursue a common interest. Lord Liverpool talks of an *esprit de corps* belonging to a class of landholders, made up of the different bodies of landholders in every county in the kingdom. He talks of an *esprit de corps* in a class of merchants and manufacturers, made up of the different bodies of merchants and manufacturers in the several great towns and manufacturing districts in the kingdom. What, then, is meant by an *esprit de corps*? Nothing else but a union for the pursuit of a common interest. To the several clubs supposed in the present theory, a common interest is created by the very circumstance of their composing the representing and represented bodies. Unless the patrons of this theory can prove to us, contrary to all experience, that a common interest cannot create an *esprit de corps* in men in combinations, as well as in men individually, we are under the necessity of believing, that an *esprit de corps* would be formed in the classes separated from the rest of the community for the purposes of representation; that they would pursue their common interest, and inflict all the evils upon the rest of the community to which the pursuit of that interest would lead.



It is not included in the idea of this union for the pursuit of a common interest, that the clubs or sets of persons appropriated to the business of representation should totally harmonize. There would, no doubt, be a great mixture of agreement and disagreement among them. But there would, if experience is any guide, or if the general laws of human nature have any power, be sufficient agreement to prevent their losing sight of the common interest; in other words, for insuring all that abuse of power which is useful to the parties by whom it is exercised.

The real effect of this motley representation, therefore, would only be to create a motley aristocracy; and, of course, to insure that kind of misgovernment which it is the nature of aristocracy to produce, and to produce equally, whether it is a uniform or a variegated aristocracy; whether an aristocracy all of landowners; or even aristocracy in part landowners, in part merchants and manufacturers, in part officers of the army and navy, and in part lawyers.

We have now, therefore, examined the principles of the representative system, and have found in it all that is necessary to constitute a security for good government. We have seen in what manner it is possible to prevent in the representatives the rise of an interest different from that of the parties who choose them, namely, by giving them little time, not dependent upon the will of the parties. We have likewise seen in what manner identity of interest may be insured between the electoral body and the rest of the community. We have, therefore, discovered the means by which identity of interest may be insured between the representatives and the community at large. We have, by consequence, obtained an organ of government which possesses that quality, without which there can be no good government.

The question remains, whether this organ is competent to performance of the whole of the business of government? And it may be certainly answered, that it is not. It may be competent to the making of laws, and it may watch over their execution. But to the executive functions themselves, operations in detail, to be performed by individuals, it is manifestly not competent. The executive functions of government consist of two parts, the administrative and the judicial. The administrative, in this country, belong to the king; and it will appear indubitable, that, if the best mode of disposing of the administrative powers of government be to place them in the hands of one great functionary, not elective, but hereditary, a king, such as ours, instead of being inconsistent with the representative system in its highest state of perfection, would be an indispensable branch of a good government; and even if it did not previously exist, would be established by a

representative body whose interests were identified, as above, with those of the nation.

The same reasoning will apply exactly to our House of Lords. Suppose it true, that, for the perfect performance of the business of legislation, and of watching over the execution of the laws, a second deliberative assembly is necessary, and that the end can best be attained by such an assembly as the British House of Lords, the proprietors of the greatest landed estates, with certain dignities and privileges annexed. It follows, that a body of representatives, whose interests were identified with those of the nation, would establish such an assembly, if it did not previously exist. For what reason? The most certain of all possible reasons; that they would have motives for, and none at all against it.

Those parties, therefore, who reason against any measures necessary for identifying the interests of the representative body with those of the nation, under the plea that such a representative body would abolish the King and the House of Lords are wholly inconsistent with themselves. They maintain that a King and a House of Lords, such as ours, are important and necessary branches of a good government. It is demonstratively certain that a representative body, the interests of which were identified with those of the nation, would have no motive to abolish them, if they were not causes of bad government. Those persons, therefore, who affirm that it would certainly abolish them, affirm implicitly that they are causes of bad, and not necessary to good government. This oversight of theirs is truly surprising.

Examination of Objections to the extension of the Representative System.

The whole of this chain of deduction is dependent, as we stated at the beginning, upon the principles that the acts of men will be conformable to their interests. Upon this principle, we conceive that the chain is complete and irrefragable. The principle, also, appears to stand upon a strong foundation. It is undisputable that the acts of men follow their will; that their will follows their desires; and that their desires are generated by their apprehensions of good or evil; in other words, by their interests.

These apprehensions, however, may be just, or they may be erroneous. If just, the man's actions will be agreeable to his real interests. If erroneous, they will not be agreeable to his real interests, but to a false supposition of interest. This it is which creates the difficulty.

We have seen, that, unless the representative body are chosen by a portion of the community, the interest of which cannot be made to differ from that of the community, the interest of the community

will infallibly be sacrificed to the interest of the rulers. The whole of that party of reasoners who support aristocratical power affirm, that a portion of the community, the interest of whom cannot be made to differ from that of the community, will not act according to their interest, but contrary to their interest. All their pleas are grounded upon this assumption; because, if such a portion of the community would act agreeably to their interest, which is the same with that of the community, they would act agreeably to the interest of the community, and the end of government would be obtained.

If this assumption of theirs is true, the prospect of mankind is deplorable. To the evils of misgovernment they are subject by inexorable destiny. If the powers of government are placed in the hands of persons whose interests are not identified with those of the community, the interests of the community are wholly sacrificed to those of the rulers. If so much as a checking power is held by the community, or by any part of the community, where the interests are the same as those of the community, the holders of that checking power will not, according to the assumption in question, make use of it in a way agreeable, but in a way contrary, to their own interest. According to this theory, the choice is placed between the evils which will be produced by design, the design of those who have the power of oppressing the rest of the community, and an interest in doing it; and the evils which may be produced by mistake, the mistake of those who, if they acted agreeably to their own interest, would act well.

Supposing that this theory were true, it would still be a question, between those two sets of evils, whether the evils arising from the design of those who have motives to employ the powers of government for the purpose of reducing the community to the state of abject slaves of their will, or the evils arising from the misconduct of those who never produce evil but when they mistake their own interest, are the greatest evils.

Upon the most general and summary view of this question, it appears that the proper answer cannot be doubtful. They who have a fixed, invariable interest in acting ill, will act ill invariably. They who act ill from mistake, will often act well, sometimes even by accident, and in every case in which they are enabled to understand their interest, they will act well by design.

There is another and a still more important ground of preference. The evils which are the produce of interest and power united, the evils on the one side, are altogether incurable: the effects are certain, while that conjunction which is the cause of them remains. The evils which arise from mistake are not incurable; for, if the

parties who act contrary to their interest had a proper knowledge of that interest, they would act well. What is necessary, then, is knowledge. Knowledge on the part of those whose interests are the same as those of the community would be an adequate remedy. But knowledge is a thing which is capable of being increased; and the more it is increased, the more the evils on this side of the case would be reduced.

Supposing, then, the theory of will opposed to interest to be correct, the practical conclusion would be, as there is something of a remedy to the evils arising from this source, none whatever to the evils arising from the conjunction of power and sinister interest, to adopt the side which has the remedy, and to do whatever is necessary for obtaining the remedy in its greatest possible strength, and applying it with the greatest possible efficacy.

It is no longer deniable that a great portion of knowledge is capable of being conveyed to a portion of the community, whose interests would be the same with those of the community. This being the only resource for good government, those who say that it is not yet attained stand in this dilemma: Either they do not desire good government, which is the case with all those who derive advantage from bad; or they will be seen employing their utmost exertions to increase the quantity of knowledge in the body of the community.

The practical conclusion, then, is actually the same, whether we embrace or reject the assumption that the community are little capable of acting according to their own interest.

That assumption, however, deserves to be considered. And it would need a more minute consideration than the space to which we are confined will enable us to bestow upon it.

One caution, first of all, we should take along with us; and it is this, that all those persons who hold the powers of government, without having an identity of interests with the community, and all those persons who share in the profits which are made by the abuse of those powers, and all those persons whom the example and representations of the two first classes, who, from the very supposition of their having the powers of government, must have the power of setting the fashion, and of influencing, to a large extent, the public mind,—all those persons will be sure to represent the community, or a part of the community having an identity of interest with the community, as incapable, in the highest degree, of acting according to their own interest; because this is the only resource of those who hold the powers of government without having that identity of interest; it being clear that they ought to hold them no longer, if those who have that identity of interest

could be expected to act in any tolerable conformity with their interest. All representations from that quarter, therefore, of their incapability so to act, are to be received with suspicion. They come from interested parties; they come from parties who have the strongest possible interest to deceive themselves, and to endeavour to deceive others.

It is impossible that the interested endeavours of all those parties should not propagate, and for a long time successfully uphold, such an opinion, to whatever degree it might be found, upon accurate inquiry, to be without foundation. A parallel case may be given. It was the interest of the priesthood, when the people of Europe were all of one religion, that the laity should take their opinions exclusively from them; because, in that case, the laity might be rendered subservient to the will of the clergy, to any possible extent; and as all opinions were to be derived professedly from the Bible, they withdrew from the laity the privilege of reading it. When the opinions which produced the Reformation, and all the blessings which may be traced to it, began to ferment, the privilege of the Bible was demanded. The demand was resisted by the clergy, upon the very same assumption which we have now under contemplation. "The people did not understand their own interest. They would be sure to make a bad use of the Bible. They would derive from it not right opinions, but all sorts of wrong opinions."\*

There can be no doubt, that the assumption in the religious case was borne out by still stronger appearance of evidence than it is in the political. The majority of the people may be supposed less capable of deriving correct opinions from the Bible, than of judging who is the best man to act as a representative.

Experience has fully displayed the nature of the assumption in regard to religion. The power bestowed upon the people, of judging for themselves, has been productive of good effects, to a degree which has totally altered the condition of human nature, and exalted man to what may be called a different stage of existence.

For what reason is it, then, we are called upon to believe, that, if a portion of the community, having an identity of interests with the whole community, have the power of choosing representatives, they will act wholly contrary to their interests, and make a bad choice?

Experience, it will be said, establishes this conclusion. We see that the people do not act according to their interests, but very often in opposition to them. The question is between a portion of the community, which, if entrusted with power, would have an interest in making a bad use of it, and a portion which, though entrusted with power, would not have an interest in making a bad use of it.

The former are any small number whatsoever; who, by the circumstance of being entrusted with power, are constituted an aristocracy.

From the frequency, however great, with which those who compose the mass of the community act in opposition to their interests, no conclusion can, in this case, be drawn, without a comparison of the frequency with which those, who are placed in contrast with them, act in opposition to theirs. Now, it may with great confidence be affirmed, that as great a proportion of those who compose the aristocratical body of any country, as of those who compose the rest of the community, are distinguished for a conduct unfavourable to their interests. Prudence is a more general characteristic of the people, without the advantages of fortune, than of the people who have been thoroughly subject to their corruptive operation. It may surely be said, that if the powers of government must be entrusted to persons incapable of good conduct, they were better entrusted to incapables who have an interest in good government, than to incapables who have an interest in bad.

It will be said, that a conclusion ought not to be drawn from the unthinking conduct of the great majority of an aristocratical body, against the capability of such a body for acting wisely in the management of public affairs; because the body will always contain a certain proportion of wise men, and the rest will be governed by them. Nothing but this can be said with pertinency. And, under certain modifications, this may be said with truth. The wise and good in any class of men do, to all general purposes, govern the rest. The comparison, however, must go on. Of that body, whose interests are identified with those of the community, it may also be said, that if one portion of them are unthinking, there is another portion wise; and that, in matters of state, the less wise would be governed by the more wise, not less certainly than in that body, whose interests, if they were entrusted with power, could not be identified with those of the community.

If we compare in each of these two contrasted bodies the two descriptions of persons, we shall not find that the foolish part of the democratical body are more foolish than that of the aristocratical, nor the wise part less wise. Though, according to the opinions which fashion has propagated, it may appear a little paradoxical, we shall probably find the very reverse.

That there is not only as great a proportion of wise men in that part of the community which is not the aristocracy, as in that which is; but that, under the present state of education, and the diffusion of knowledge, there is a much greater, we presume, there are few persons who will be disposed to dispute. It is to be observed, that

the class which is universally described, as both the most wise, and the most virtuous part of every community, the middle rank, are wholly included in that part of the community which is not the aristocratical. It is also not disputed, that in Great Britain the middle rank are numerous, and form a large proportion of the whole body of the people. Another proposition may be stated, with a perfect confidence of the concurrence of all those men who have attentively considered the formation of opinions in the great body of society, or, indeed, the principles of human nature in general. It is, that the opinions of that class of the people, who are below the middle rank, are formed, and their minds are directed by that intelligent and virtuous rank, who come the most immediately in contact with them, who are in the constant habit of intimate communication with them, to whom they fly for advice and assistance in all their numerous difficulties, upon whom they feel an immediate and daily dependence, in health and in sickness, in infancy and in old age; to whom their children look up as models for their imitation, whose opinions they have daily repeated, and account it their honour to adopt. There can be no doubt whatever that the middle rank, which gives their most distinguished ornaments to science, to art, and to legislation itself, to every thing which exalts and refines human nature, is that part of the community of which, if the basis of representation were now so far extended, the opinion would ultimately decide. Of the people beneath them, a vast majority would be sure to be guided by their advice and example.

The incidents which have been urged as exceptions to this general rule, and even as reasons for rejecting it, may be considered as contributing to its proof. What signify the irregularities of a mob, more than half composed, in the greater number of instances, of boys and idlers, and disturbing, for a few hours or days, a particular town? What signifies the occasional turbulence of a manufacturing district, peculiarly unhappy from a very great deficiency of a middle rank, as there the population almost wholly consists of rich manufacturers and poor workmen; with whose minds no pains are taken by any body; with whose afflictions there is no virtuous family of the middle rank to sympathize; whose children have no good example of such a family to see and to admire; and who are placed in the highly unfavourable situation of fluctuating between very high wages in one year, and very low wages in another? It is altogether futile with regard to the foundation of good government, to say that this, or the other portion of the people, may at this, or the other time, depart from the wisdom of the middle rank. It is enough that the great majority of the people never cease to be guided by that rank; and we may, with some confidence, challenge the adversaries of the people to

produce a single instance to the contrary in the history of the world.

(f. f.)



[\[Back to Table of Contents\]](#)

## JURISPRUDENCE.

The object and end of the science, which is distinguished by the name of Jurisprudence, is the protection of rights.

The business of the present discourse is, therefore, to ascertain the means which are best calculated for the attainment of that end. What we desire to accomplish is,—the protection of rights: What we have to inquire is,—the means by which protection may be afforded.

The end of Jurisprudence, viz. the Protection of Rights.

That rights have hitherto been very ill protected, even in the most enlightened countries, is matter of universal acknowledgment and complaint. That men are susceptible of happiness, only in proportion as rights are protected, is a proposition, which, taken generally, it is unnecessary to prove. The importance of the inquiry, therefore, is evident.

Importance of the Inquiry, as involving Human Happiness.

It is requisite, as a preliminary, to fix, with some precision, what we denote by the expression *rights*. There is much confusion in the use of this term. That disorderly mass, the Roman law, changes the meaning of the word in the two members into which it divides the subject, *Jura Personarum* and *Jura Rerum*. In the first of these phrases, the word *Jura* means a title to enjoy; in the second, it must of necessity mean something else, because things cannot enjoy. Lawyers, whose nature it is to trudge, one after another, in the track which has been made for them; and to whose eyes that which is, and that which ought to be, have, often, no mark of distinction, have translated the jargon into English, as well as into other modern languages.

Confusion in the vulgar uses of the word Right.

This is not all the confusion which has been incurred in the use of the word *right*. It is sometimes employed in a very general way, to denote whatever ought to be; and in that sense is opposed to wrong. There are also persons, but these are philosophers, pushing on their abstractions, who go beyond the sense in which it is made to denote generally whatever ought to be, and who make it stand for the *foundation* of whatever ought to be. These philosophers say, that there is a right and a wrong, original, fundamental; and that things ought to be, or ought not to be, according as they do, or do not, conform to that standard. If asked whence we derive a knowledge of this right and wrong in the abstract, which is the foundation and standard of what we call right and wrong in the

concrete, they speak dogmatically, and convey no clear ideas.\* In short, writers of this stamp give us to understand, that we must take this standard, like many other things which they have occasion for, upon their word. After all their explanations given, this, we find, is what alone we are required, or rather commanded, to trust to. The standard exists,—Why? Because they say it exists; and it is at our peril if we refuse to admit the assertion. They assume a right, like other despots, to inflict punishment, for contumacy, or contempt of court. To be sure, hard words are the only instrument of tyranny which they have it in their power to employ. They employ them, accordingly; and there is scarcely an epithet, calculated to denote a vicious state of the intellectual, or moral part, of the human mind, which they do not employ to excite an unfavourable opinion of those who refuse subscription to their articles of faith.

With right, however, in this acceptation, we have at present no farther concern than to distinguish it clearly from that sense in which the word is employed in the science of jurisprudence. To conceive more exactly the sense in which it is employed in that science, it is necessary to revert to what we established, in the article Government, with regard to the end or object of the social union, for to that, every thing which is done in subservience to the social union, must of course bear a reference.

Use of the term Right, in the science of Jurisprudence.

In that article it appeared, that, as every man desires to have for himself as many good things as possible, and there is not a sufficiency of good things for all, the strong, if left to themselves, would take from the weak every thing, or at least as much as they pleased; that the weak, therefore, who are the greater number, have an interest in conspiring to protect themselves against the strong. It also appeared, that almost all the things, which man denominates good, are the fruit of human labour; and that the natural motive to labour is the enjoyment of its fruits.

Jurisprudence.



That the object, then, of the social union, may be obtained; in other words, that the weak may not be deprived of their share of good things, it is necessary to fix, by some determination, what shall belong to each, and to make choice of certain marks by which the share of each may be distinguished. This is the origin of right. It is created by this sort of determination, which determination is either the act of the whole society, or of some part of the society which possesses the power of determining for the whole. Right, therefore, is factitious, and the creature of will. It exists, only because the society, or those who wield the powers of the society, will that it should exist; and before it was so willed, it had no existence.

It is easy to see what is the standard, in conformity with which the rights in question *ought* to be constituted; meaning by *ought*, that which perfect benevolence would desire. It is the greatest happiness of the greatest number. But whether rights are constituted, that is, whether the shares of good things are allotted to each, according to this standard, or not according to this standard, the allotment is still the act of the ruling power of the community; and the rights, about which the science of jurisprudence treats, have this alone for the cause of their existence.

In this complicated term, it is obvious that there is involved, on the one hand, the idea of the person to whom a share is allotted, and on the other hand, an idea of the things which are allotted. The one is the owner of the right, the person to whom it belongs; the other is the object of the right, namely, the person or thing over which the right gives certain powers.

The principal ideas involved in the Jurisprudential sense of the word Right.

All rights of course are to objects of human desire,—of nothing else need shares be allotted. All objects which men desire, are desired, either as the end, or as means. The pleasurable state of the mind is the end; consisting of the feelings of the mind. It would be absurd, however, to speak of giving a man a right to the feelings of his own mind. The objects of desire, therefore, which are the objects of right, are not the pleasurable feelings themselves, which are desired as the end, but the objects which are desired as the means to that end.

All Objects of Rights are things desired; and desired as means to an end.

Objects of desire, as means to that end, may be divided into the class of persons and the class of things. Both may be the object of rights. In framing our language, therefore, we may say, that all rights are the rights *of* persons; but rights may be *to* either persons or things.

The Objects of Rights are twofold, viz. either Persons or Things.

All that men desire, either with persons or things, is to render them subservient to the end, for which they are desired as means. They are so rendered by certain powers over them.

All rights, then, when the term is closely investigated, are found to mean powers; powers with respect to persons, and powers with respect to things. What any one means when he says that a thing is his property, is, that he has the power of using it in a certain way.

Rights, when closely investigated, mean Powers—legalized Powers—Powers with respect to Persons, and Powers with respect to Things.

It is no part of the present inquiry to ascertain what rights *ought* to be constituted, or what rights perfect benevolence would choose to see constituted. That belongs to the question how government should be constituted; in other words, how the powers which are necessary for the general protection ought to be distributed, and the advantages of the union to be shared. At present our sole endeavour is to ascertain the most effectual means which the governing power of the state can employ for protecting the rights, whatever they are, which it has seen meet to create.

Rights, it must be remembered, always import obligations. This is a point of view, which, in the consideration of rights, has not, in general, attracted sufficient attention. If one man obtains a right to the services of another man, an obligation is, at the same time, laid upon that man to render those services. If a right is conferred upon one man to use and dispose of a horse, an obligation is laid upon other men to abstain from using him. It thus appears, that it is wholly impossible to create a right, without at the same time creating an obligation.

Every Right imports a corresponding Obligation.

The consequences of this law of nature are in the highest degree important. Every right is a benefit; a command to a certain extent over the objects of desire. Every obligation is a burthen; an interdiction from the objects of desire. The one is in itself a good; the other is in itself an evil. It would be desirable to increase the good as much as possible. But, by increasing the good, it necessarily happens that we increase the evil. And, if there be a certain point at which the evil begins to increase faster than the good, beyond that point all creation of rights is hostile to human welfare.

No Creation of Good, by Rights, without the Creation of Evil.

The end in view is a command over the objects of desire. If no rights are established, there is a general scramble, and every man seizes what he can. A man gets so much, and he is interdicted by the scramble from all the rest. If rights are established, he also gets so much, and is interdicted by his obligations from the rest. If what he obtains by his rights exceeds what he would have obtained

by the scramble, he is a gainer by the obligations which he sustains.

If it is proposed to create rights in favour of all the members of a community, the limits are strict. You cannot give all your advantages to every one; you must share them out. If you do not give equal rights to all, you can only give more than an equal share to some, by diminishing the share of others, of whom, while you diminish the rights, you increase the obligations. This is the course which bad governments pursue; they increase the rights of the few, and diminish the rights of the many, till, in the case of governments virtually despotic, it is all right on the one side, all obligation on the other.

It may be necessary to say a word, to prevent misconstruction of the term "equal rights." Rights may truly be considered as equal, if all the sorts of obligation under which a man lies with respect to other men, they are placed under with respect to him; if all the abstinence which he is obliged to practise with respect to their property, they are obliged to practise with respect to his; if all the rules by which he is bound not to interfere with their actions bind them equally not to interfere with his. It is evident, that inequality of fortune is not excluded by equality of rights. It is also evident, that, from equality of rights must always be excepted those who are entrusted with the powers of the community for the purposes of government. They have peculiar rights, and the rest of the community are under corresponding obligations. It is equally evident that those must be excepted who are not *sui juris*, as children in non-age, who must be under the guidance of others. Of two such classes of persons the relation to one another, that is, their reciprocal rights and obligations, need to be regulated by particular rules.

It is presumed that these illustrations will suffice to fix, in the minds of our readers, the exact meaning which is intended, in the present discourse, to be attached to the word *rights*. The sequel is to be occupied in discovering the means which are most proper to be employed for affording *protection* to those rights.

In the term protection, it is hardly necessary to give notice, that we do not here mean protection against foreign enemies; that protection which is to be yielded by employing armies against invaders. The protection, of which it is the business of jurisprudence to find out, and to describe the means, is that which is required by one member of the community against the other members. The members of the community, each of whom endeavours to have as

Meaning of the Word Protection, in the Jurisprudential Phrase, Protection of Rights.

much as possible of the objects of desire, will be disposed to take those objects one from another; to take them, either by force, or by fraud. The means of preservation are, therefore, to be found. Certain members of the community, as organs of government, are furnished with powers for that purpose. The question is, what powers are required; and in what manner are they to be employed?

In proceeding to present what may be called a sort of skeleton map of the ill-explored country of Jurisprudence, it is necessary to warn the peruser, that he must supply, by his own attention, what the limits of the work did not permit to be done for him. The several topics are rather indicated, than expounded. It is hoped they are indicated so clearly, that there will be no difficulty in spreading out the ideas in detail. It is necessary, however, that the reader should do this for himself. As the writer has not been able to dwell upon the several topics, though of the utmost importance, long enough to stamp the due impression of them upon the mind; unless the reader takes time to do this, by reflection on each topic, as it arrives, he will pass to the succeeding ones without due preparation, and the whole will be perused without interest and without profit.

That a man's rights may be effectually secured, it is obviously necessary, in the first place, that they should be capable of being accurately known. This seems to be so undeniable, that it would answer little purpose to enlarge in its illustration.

It is, however, exceedingly necessary that the importance of this requisite should be clearly and adequately conceived. How can a man's rights be protected from encroachment, if what are his rights be uncertain or unknown? If the boundary by which his rights are distinguished is clear and conspicuous, it is in itself a protection. It warns off invaders; it serves to strike them with awe; for it directs the eyes and indignation of mankind immediately and certainly to the offender. Where the boundary, on the other hand, is obscure and uncertain, so far scope is allowed for encroachment and invasion. When the question, to which of two men an article of property belongs, comes for decision to the judge, the question is easy, if accurate marks are fixed, to point out and determine the rights of each. If no marks are attached, or such only as are obscure and variable, the decision must be arbitrary and uncertain. To that extent the benefit derived from the creation and existence of rights is diminished.

The first Requisite to the Protection of Rights is to make them capable of being known.

It is, therefore, demonstrable, and we may say demonstrated (the demonstration not being difficult), that, in the inquiry respecting the means of protecting rights, the *Definition of Rights* may be entered at the head of the list. Without this, as

Definition of Rights, the first Instrument of Protection.

the groundwork, all other means are ineffectual. In proportion as rights can be ascertained, are the judicial functions, and judicial apparatus, capable of being employed to any beneficial purpose. In proportion to the facility with which they can be ascertained, is the extent of the benefit which the judicial functions are enabled to secure.

Such, then, is the first of the means necessary for the protection of rights. That they may receive the most perfect possible protection, they must be as accurately as possible defined.

In supposing that rights have need of protection, we suppose that there are acts by which rights are violated. With regard to those acts, the object is twofold; to redress the evil of the act when it has taken place; and to prevent the performance of such acts in future. To prevent the performance, two classes of means present themselves; to watch till the act is about to be committed, and then to interpose; or, to create motives which shall prevent the will to commit. It is but a small number of cases in which the first can be done; the latter is, therefore, the grand desideratum. From the view of these circumstances, we discover two other articles in the catalogue of means. Those acts by which rights are violated require to be made accurately known; in other words, to be defined; and the motives which are fitted to prevent them must be duly applied. Motives sufficient to that end can only be found in the painful class; and the act by which they are applied is denominated punishment. The definition, therefore, of offences, or of the acts by which rights are violated, and which it is expedient to punish; and the definition of the penalties by which they are opposed, are not less necessary than the definition of rights themselves. The reasons which demonstrate this necessity are so nearly the same with those which demonstrate the necessity of the definition of rights, that we deem it unnecessary to repeat them.

Definition of the Acts by which Rights are Violated, and the Application of Preventive Motives, another Instrument of Protection.

The definition of rights constitutes that part of law which has been generally denominated the *civil code*. The definition of offences and punishments constitutes that other part of law which has been generally denominated the criminal or *penal code*.

Civil and Penal Codes,—What.

When rights are distributed, and the acts by which they may be violated are forbidden, an agency is required, by which that distribution may be maintained, and the violators of it punished. That agency is denominated judicature. The powers, by which that agency is constituted, require to be accurately defined; and the mode in

Code of Procedure,—What.

which the agency itself is to be carried on must be fixed and pointed out by clear and determinate rules. These rules and definitions prescribe the form and practice of the courts, or mode in which the judicial functions are performed; and constitute that branch of law which has been called the *code of procedure*.

These three codes, the civil code, the penal code, and code of procedure, form together the whole subject of jurisprudence. Of the three, it sufficiently appears, that the last exists only for the sake of the preceding. Courts and their operations are provided that the provisions of the civil and penal codes may not be without their effect. It is to be considered, therefore, as subordinate, and merely instrumental, in respect to the other two. They form the main body of the law; this is an accessory to the main body, though an accessory of indispensable use. It would be of great advantage to affix characteristic names to distinguish from one another the main and accessory parts of law. Unexceptionable names, however, it is not easy to find. Mr Bentham, the great improver of this branch of knowledge, has called the civil and penal codes together, by the name of "substantive law," the code of procedure by that of "adjective law;" not, we may be satisfied, because he approved of these names, but because the language hardly afforded others to which equal objections would not apply. In the very sense in which either the term accessory, or the term adjective can be applied to the code of procedure, both may be applied to the penal code, as it respects the civil. The penal code exists purely for the sake of the civil; that the rights, which are ordained by the legislature, and marked out by the terms of the code, may be saved from infringement. The civil code is therefore the end and object of all the rest. The code of procedure, however, is auxiliary to each of the other two; the penal code to no more than one.

*Corpus Juris, or  
Body of  
Law,—What.*

Having now explained the nature of the three codes which constitute the body of law necessary for the protection of rights, it remains that we illustrate, as much in detail as our limits will permit, what is required for the perfection of each.

The grand object of the civil code is the definition of rights. Rights are sometimes more sometimes less extensive. Thus the right of a man to a horse may solely extend to use him in riding from one stage to another; or it may extend to the power of doing with him as he pleases. In like manner, the rights of a man with respect to a person may extend only to some momentary service, or they may go the length of slavery. Even slavery itself does not imply rights always equally extensive. In some cases, however, it implies rights as extensive over the slave as over the inferior animals.

What is required  
for the perfection  
of the Civil Code.



All rights, when the essence of them is spoken of, are powers; powers to an individual which the governing members of the community guarantee; powers more or less extensive, of making either a person or a thing subservient to the gratification of a desire. To be made to gratify the desire of an individual, is to be made to render him a *service*. And this term may, fortunately, be applied to both persons and things. A man receives a service from the field when it produces a crop, as well as from the servant and the horse who ploughed it. In one meaning of the word service, it implies only active service, or that rendered by the voluntary operations of sentient beings. In the present case, however, it is employed to denote both active and passive services. It is evident, that in every case in which a being inanimate is rendered subservient to the gratification of a desire, the service is, properly speaking, a passive service. It is also evident, that even animate beings are rendered subservient to the gratification of desires in a way which may equally be called passive.

It is necessary to request attention to the explanation which is here given of the meaning in which the term *service* is to be employed; as both the English and the Roman lawyers use it in a very restricted sense. Here it is employed to denote the whole of that ministration to the gratification of our desires, which we are entitled, in consequence of rights, to derive either from persons or from things. Rights are powers, and the powers are means for the obtaining of services. We have now, therefore, a language, by the help of which we may speak with tolerable clearness.

Our object is to define rights, and rights are powers. But these powers can be defined, only by a reference to the services which they are the means of obtaining.

The first thing, therefore, to be done for the definition of rights is, to make out a list of all the kinds of services, which the legislature permits an individual to derive, first, from persons, and secondly, from things. This would not be a matter of very great difficulty. It would be right to begin with the most simple cases, and go on to the more complex. Thus, in the services derivable from a person, some are limited to a single species of act, and that within a limited time, and at a particular place. Others are services, consisting of various acts, limited or not limited in space and time. And lastly, are the whole services which a man is capable of rendering; without limitation as to either space or time. Considerable pains would be necessary to make the list complete; and not only considerable pains, but considerable logic would be necessary, to classify the services, in other words, make them up into lots, the most convenient for the purpose in question; and to fix

Operations preliminary to the Definition of Rights.

the extent of each by an exact definition. It is obvious, that as soon as all the possible gradations, in the services which one human being can render to another, are exhibited by such enumeration and assortment, it is easy for the legislature to point out exactly whatever portion of these services it is its will to give any individual a right to.

The same considerations apply to the class of things. In being made subservient to the gratification of our desires, they also render services. In proportion as a man has the right to derive those services from them, they are said to be his property. The whole of the services, which are capable of being derived from them, may, without much difficulty, be enumerated and classified; and when they are so, those which it may be the pleasure of the legislature to make any one's property, may be very easily and distinctly pointed out.

We may take land for an example. All the different services which are capable of being derived from the land may be enumerated, and, being classed under convenient heads, may be referred to with perfect certainty; and any portion of them, which is made the property of any individual, may thus be accurately described. A man may have a right simply to pasture a field; to pasture it for a day, or a year, or a hundred years. He may have a right to crop it; and that either in a particular manner, or in any manner he pleases; for a year, or for any other time. He may have a right to use it for any purpose, and that during a limited time, or an unlimited time. The services which it is capable of rendering may belong to him only in common with a number of other persons, or they may all belong to himself.

In illustration of this subject we may notice a classification of the services derivable from the land, made, though very rudely, by the English law. Blackstone, who, like other English lawyers, has on this, as on all other occasions, no idea of any other classification, than that which is made by the technical terms of the English law, has distinguished certain lots of the services derivable from the land, under the name of "Estates therein; Estates with respect to, 1<sup>st</sup>, Quantity of interest; 2<sup>dly</sup>, Time of enjoyment; 3<sup>dly</sup>, Number and connection of the tenants." These accordingly are, estates in fee simple, comprehending the whole of the services which are capable of being derived from the land, unlimited in point of time; estates in fee tail, implying always limitation in point of time, and often a limitation in respect to some of the services; estates for years; estates at will; estates at sufferance; estates on condition; estates in remainder; estates in reversion; estates in jointenancy; estates in coparcenary; estates in common. The Roman law has made no enumeration or classification of the services derivable from any

thing, not even from the land. It speaks of property in the abstract, and in two states; property in possession, and property in action. The English law does the same thing in regard to all other property but the land. "Property, in chattels personal, is either in possession or in action," says Blackstone. He does, indeed, add, "The property of chattels personal is liable to remainders, if created by will, to jointenancy, and to tenancy in common."

Of articles of property, different from land, the services derivable from a great number need not be divided under many heads. A piece of plate, for example, may render certain services without alteration of its form; others it may be incapable of rendering without alteration of its form. It is chiefly, therefore, by limitation of time, that the various quantities of interest in such articles need to be determined. A man's right may extend to the use of a silver cup, for a day, or a year, or for his life. During this time the different services which it is capable of rendering have no occasion to be divided. They go naturally altogether. An unlimited right to its services implies the power of using it, either with or without alteration of its form, and without limitation of time. In most of the instances the limited right would be called loan, though, in the case of heirlooms and some others, there is a limited use to which the term loan is not customarily applied.

In speaking of the rights which a man may have to persons; as master, as father, as husband, and so on; there is one case so remarkable, that it requires a few words to be added in its explanation. It is that of one's own person. In this case the rights of the individual have no proper limitation beyond the obligations under which he is laid, in consequence, either of the rights conferred upon others, or of the means which are thought necessary for the protection of those rights.

If we have enabled our readers to form a tolerable conception of what we desire to be accomplished, under the title of an enumeration, and commodious classification of the services derivable from persons and things, we have performed what we proposed. The enumeration and classification, themselves, are evidently incommensurate with the design of an article in the present work. That they are practicable may be confidently taken for granted. In fact, they amount to nothing more than a description of the different degrees in which the property of a thing may be possessed; a point which is decided upon in every legal dispute. If this be done, from time to time, for one article after another, it may be done once for all.

We have already said, that rights are powers, powers for the obtaining of certain services. We have also said, that those powers

can be defined only by a reference to the services which they are the means of obtaining. When those services are enumerated and classified, what remains is easy. A right to these services must begin; and it must end. The legislature has only to determine what fact shall be considered as giving a beginning to each right, and what shall be considered as putting an end to it, and then the whole business is accomplished.

It is evident that, for the definition of rights, two things are necessary. The first is, an exact description of the extent of the right; the second is, the description of the fact which gives birth to it. The extent of the right is described by reference to the lots of services, in the title to which services, all rights consist. The facts, which the convenient enjoyment of rights has pointed out as the fittest for giving commencement to rights, have been pretty well ascertained from the earliest period of society; and there has, in fact, been a very great conformity with respect to them in the laws of all nations.

Two Things necessary for the Definition of a Right:—First, a Description of its Extent, Secondly, a Description of the Facts which give it a Beginning and an End.

The following is an imperfect enumeration of them:—*An expression of the will of the legislature*, when it makes any disposition with regard to property; *Occupancy*, when a man takes what belongs to nobody; *Labour*; *Donation*; *Contract*; *Succession*. Of these six causes of the commencement of a right there is a remarkable distinction between the first three and the last three. The first three give commencement to a right in favour of one individual, without necessarily putting an end to a right enjoyed by any other individual. The last three give commencement to a right in favour of one individual, only by making the same right to cease in favour of another individual. When a man, by donation, gives a horse to another man, the horse ceases to be the property of the one man, by the very same act by which he becomes the property of the other; so in the case of sale, or any other contract.

It is necessary for the legislature, in order that each man may know what are the objects of desire which he may enjoy, to fix, not only what are the facts which shall give commencement to a right, but what are the facts which shall put an end to it. In respect to these facts, also, there is a great harmony in the laws of all nations.

There is first the will of the legislature. When it confers a right, it may confer it, either for a limited, or for an unlimited time. In the term unlimited time, we include the power of tradition, or transfer, in all its shapes. If the time is limited, by the declaration of the legislature, either to a certain number of years, or the life of the party, the fact which terminates the right is obvious. If a man

possesses a right, unlimited in point of time, the events are three by which it has been commonly fixed that it may be terminated; some expression of his own will, in the way of gift or contract; some act of delinquency; or his death.

The possessor of a right, unlimited in point of time, may, in the way of gift or contract, transfer his right either for a limited or for an unlimited time. Thus the owner of a piece of land may lease it for a term of years. He may also, in this way, convey the whole of the services which it is capable of rendering, or only a part of them. In this transaction, one event gives birth to a right in favour of the man who receives the lease, and terminates a right which was possessed by the man who gives it; and another event, namely, the arrival of the period assigned for the termination of the lease, terminates the right of the man who had received the lease, and revives his former right to the man who gave it.

Acts of delinquency have been made to terminate rights, by the laws of most nations, in the various modes of forfeiture and pecuniary penalty.

The mode in which the event of death should terminate rights has been variously regulated. Sometimes it has been allowed to terminate them simply; and what a man left at his death was open to the first occupant. All but rude nations, however, have determined the persons to whom the rights which a man possessed without limitation of time shall pass at his death. The will of the former owner, when expressed, is commonly allowed to settle the matter. When that is not expressed, it has by most legislators been regulated, that his rights shall pass to his next of kin.

What is the extent of each right; by what event it shall receive its commencement; and by what event it shall be terminated;—this is all which is necessary to be pre-determined with respect to it. To do this is the duty of the legislature. When it is done, the inquiry of the judge is clear and simple. Does such a right belong to such a man? This question always resolves itself into two others. Did any of the events, which give commencement to a right, happen in this case? And did any of those events which terminate a right not happen in this case? These are questions of fact, as distinguished from law; and are to be determined by the production of evidence. If a man proves that an event which gives commencement to a right happened in his case, and if another man cannot prove that an event which terminates a right happened subsequently in that case, the right of the first man is established.

If we have now ascertained the importance and practicability of a civil code, and have shown what is to be done in order to obtain the

benefit of it, we shall conclude, with some confidence, that we have rendered a great service to mankind. We proceed to the consideration of the penal code. The object of that code is, the acts by which rights may be violated.

In the term violation, we include all those acts by which the powers, conveyed by a right, are prevented from operating according to the will of the owner.

What is necessary to the Perfection of the Penal Code.

With respect to a part of such acts, all that it is found convenient to do, through the instrumentality of judicature, is, to remove the obstruction, which prevents the enjoyment of the right, without inflicting any penalty for creating it. Thus, if a debt is not paid when due, the right is violated of the man who ought to receive it. Enough, however, is in this case supposed to be done, if the man, by whom the debt is due, is constrained to make payment. The act of secretly abstracting, with a view to appropriate a property, perhaps, of less value, would be an act which the laws of all nations would punish as theft.

Of injurious acts, those alone, to the commission of which it has been deemed expedient that penalties should be annexed, are considered as the object of the penal code. Of injurious acts so perfect an analysis has been performed by Mr Bentham; so perfectly, too, have the grounds been laid down upon which those acts which are destined for punishment should be selected from the rest; and so accurately have the principles, according to which punishment should be meted out, been displayed by that great philosopher, that, on this part of the subject, the philosophy of law is not far from complete.

As acts are declared to be offences, and are made subject to punishment, solely for the protection of rights, it is evident, that all acts which enter into the consideration of the penal code, are acts which infringe upon rights, either directly, or indirectly. Those which infringe upon rights *directly*, are those by which injury is done to some individual or individuals; a blow, for example, an act of theft, and so on. We include also, under this division, all acts the *effects* of which infringe immediately upon rights; destroying a mound, for example, to innndate the lands of another man; importation of infection, by which the health or lives of others may be destroyed. Those acts by means of which rights are affected *indirectly*, are those which bear immediately upon the means which the state has provided for the protection of rights. The means which the state has provided for the protection of rights, are the operations of government generally. All acts, therefore, meet for punishment, are acts which

Acts meet for Punishment.

disturb either individuals in the enjoyment of their rights, or the operations required for the protection of those rights. The latter, though mediately, and not immediately hurtful, are apt to be more extensively mischievous than the former. An act which infringes upon a right immediately, is commonly injurious only to one individual, or a small number of individuals; an act which prevents any of the operations of government from proceeding in its natural course is injurious to all those individuals to whose protection the due course of that operation is useful. Permit acts which interrupt all the operations of government, and all rights are practically destroyed.

If, as it thus appears, acts are meet for punishment, only because they infringe upon a right, or because they interrupt the operations provided for the protection of rights, it is evident, that, in the definition of one part of those acts, must be included the specification of the right which is infringed; and, in the definition of the other, must be included the specification of the operation disturbed. Before, therefore, an accurate penal code can exist, there must exist an accurate civil code, and also what we may call a constitutional or political code; the latter consisting of an accurate definition of the powers created for the purposes of government, and of the limitations applied to their exercise.

From what has been said, it may appear, that the definition of offences, by which name we shall hereafter distinguish punishable acts, consists necessarily of two parts. The first part is the specification of the right infringed, or the operation of government disturbed; and the second part is the definition of the mode. Thus, for the definition of an act of theft, the right which the act has violated must be distinctly marked, and also the mode in which the violation has been made. In the same class of offences; as those against property, for example; the mode in which the violation is performed is that chiefly which constitutes the difference between one offence and another. In a theft and a robbery, for example, the right violated may be exactly the same; the mode in which the violation was effected constitutes the difference.

What is required to the Definition of an Offence.

For several purposes of the penal code, it is useful, that, in the specification of the right violated, the value of what has been violated, in other words, the amount of the evil sustained, should sometimes be included. It is evident, that the value of rights can be judged of ultimately, only by a reference to human feelings. Of these feelings, however, certain outward marks must be taken as the standard. In offences which concern property the modes of valuation are familiarly known. In injuries to the person, those marks which denote injuries, regarded by mankind in general, as

differing in magnitude; the size, for example, or position, of a wound; in injuries to reputation, the words used, and the occasion when, and so forth, are the only means of distinction which can be employed.

It may be necessary also to remark, that, in that part of the definition which relates to the mode, are to be distinguished the parties, when more than one, who engage in the same offence with different degrees of criminality; meaning, by different degrees of criminality, nothing more than demand for different degrees of punishment. The chief classes of such persons are those of principals and accessaries; and of accessaries both those before and those after the fact.

In the definition of the mode, the act is to be described in its ordinary shape. The act, however, may be attended with aggravating circumstances on the one hand, or extenuating circumstances on the other; presenting a demand for increased punishment in the first case, and diminished punishment in the second. Mr Bentham has logically remarked, that the circumstances which are to be regarded as aggravating, and the circumstances which are to be regarded as extenuating, being pretty nearly the same in all cases, they may be defined, in a separate chapter, once for all. This being done, the code proceeds in the following manner:—The definition is given of the offence in its ordinary shape, and the appropriate punishment is annexed; then immediately follows the same offence with aggravating circumstances; punishment so much the more severe: the same offence with extenuating circumstances; punishment so much the less.

Thus far we have spoken of the definition of offences, into which we have entered the less in detail, because we do not think there is much of controversy on the subject. Many persons, who doubt the possibility of framing a civil code, though, after the preceding exposition of the subject, it is a doubt which could not, we should imagine, very easily maintain itself, allow, that offences may all be defined; and that it is possible to prevent the monstrous iniquity of punishing men for acts or offences which they have not the means of knowing to be so.

After offences comes the consideration of the punishment to be annexed to them. This is a subject of considerable detail; it has been, however, so fully and admirably treated by Mr Bentham, that only some of the more general considerations, necessary to mark out the place and importance of the topic, need here to be introduced.

The Doctrine of  
Punishment.



When a right has been infringed, there are two things, it is evident, which ought to be done: The injury which has been sustained by the individual ought to be repaired: And means ought to be taken to prevent the occurrence of a like evil in future.

The doctrine of Satisfaction is not at all difficult, as Satisfaction. far as regards the regulating principles; the complication is all in the detail. The greater number of injuries are those which concern property. A pecuniary value can generally be set upon injuries of this sort; though it is not very easy to determine the *pretium affectionis*, a matter of considerable importance, which the English law, so much made up of clumsiness in one part, and false refinement in another, wholly overlooks. For injuries to the person, also, it is most frequently in the pecuniary shape alone that any compensation can be made. In making these estimates, some general marks are all that can be conveniently defined by the law, and a considerable discretion must be left to the judge. Indeed, the question of damages is always a question of fact, which must be determined by the evidence adduced to the individual instance.

It accords with the feelings of every man to say, that he who has committed an injury, should be made to repair it. One part of punishment, therefore, ought, wherever special reason does not forbid, to consist in making satisfaction to the party injured. Pecuniary satisfaction, where the delinquent is rich, may be a small part of the due punishment; still, however, there is an obvious propriety, in making it a part so far as it can go. In the cases in which the delinquent has no property, there is the same propriety in making his labour subservient to that end. Hard labour, with the most economical fare, till the produce of the labour equals the amount of the satisfaction required, is, therefore, a species of punishment recommended by the strongest considerations. It is not said that labour so limited would always be sufficient punishment, and there are many cases in which it would be too much; but even then it should go as far as it can in the one case, and as far as it ought in the other.

When the injury is done to reputation, there is a manifest propriety in making the injurer contribute to the reparation, wherever it can be done. In many of the cases, too, the proper mode is abundantly obvious; all those, for example, where the publication of falsehood is the injurious act. The author of the injury may, in a way as public as that of the offence, and as well calculated as possible for the reparation of the injury, be obliged to declare that he has been solemnly adjudged to have propagated a falsehood, and is condemned to publish his own shame.

In the case of those offences which affect rights indirectly, namely, by affecting the securities provided for them, satisfaction seldom can have any place, because not any determinate individual or individuals have sustained an injury.

Thus much may suffice, in exposition of the first thing which is desirable, where an injury has been committed; namely, that reparation should be made. The second is, that measures should be adopted for preventing the future occurrence of similar events.

Acts are performed, only because there are motives to the performance of them. Of course injurious acts are performed, only because there are motives to the performance of them.

Punishment.

Corporal restraint being out of the question with regard to all the members of the community, it is evident that only two means remain for preventing injurious acts; either, first, to take away the motives which provoke to them; or, secondly, to apply motives sufficient for the prevention of them.

From the very nature of many of the acts it is impossible to take away the motives which provoke to them. From property stolen it is impossible to detach the value of the property; from vengeance it is impossible to detach the hope of that relief which is sought by the blow that is aimed.

What is wanted, then, is a sufficiency of motive in each instance to counteract the motives which lead to the crime. Whatever the motives, of the alluring kind, which lead to an act, if you give stronger motives of the same kind to abstain from the act, the act will, of course, be prevented. The man who would steal from you L. 5 will assuredly not do so, if he knows that he shall receive L. 6 for abstaining.

The question may then be started, Why should not all crimes be prevented in this way, since reward is much more desirable and humane than punishment? The answer is most satisfactory, and is built upon a ground which ought to receive profound attention on many occasions on which it is treated with the most perfect disregard. No reward can be given to one man, or set of men, but at the expence of some other man or set of men. What is reward to one is therefore punishment to others. If L. 6 be given to the man who would steal L. 5, it must be taken from some one or more individuals of the community. If one man is elevated by any title or distinction, all the rest are with regard to him degraded and depressed. This is utterly unavoidable. The one event is necessarily included in the other. The giving of rewards, therefore, is a matter

of serious consideration. It is not that simple act, that pure effusion of humanity, which it is often so fraudulently given out to be, and so credulously and foolishly admitted to be.

Other reasons, which prove the insufficiency of rewards for preventing injurious acts, are too obvious to require to be mentioned. We shall not therefore dwell upon this topic. This at least is sufficiently evident, that, to counteract the motives which lead to the commission of an act, we have but two methods. If we cannot apply motives, of the pleasurable sort, to induce the party to abstain from committing the act, we must apply such motives, of the painful sort, as will outweigh those which prompt to the performance. To prevent, by such means, a theft of L. 5, it is absolutely necessary to affix to that act a degree of punishment which shall outweigh the advantage of possessing L. 5.

We have now, it is evident, obtained the principle by which punishment ought to be regulated. We desire to prevent certain acts. That is our end, and the whole of our end. We shall assuredly prevent any acts, if we attach to them motives of the painful kind, sufficient to outweigh the motives of the opposite kind which lead to the performance. If we apply a less quantity of evil than is sufficient for outweighing those motives, the act will still be performed, and the evil will be inflicted to no purpose; it will be so much suffering in waste. If we apply a greater quantity of evil than is necessary, we incur a similar inconvenience; we create a quantity of evil which is absolutely useless; the act, which it is the tendency of the motives of the pleasurable kind to produce, will be prevented, if the motives of the painful kind outweigh them in the smallest degree, as certainly as if it outweigh them to any degree whatsoever. As soon, therefore, as the legislator has reached that point, he ought immediately to stop. Every atom of punishment which goes beyond is so much uncompensated evil, so much human misery created without any corresponding good. It is pure unmingled mischief.

As no exact measure, indeed, can be taken of the quantity of pain which will outweigh a supposed quantity of pleasure, it is always necessary to risk going somewhat beyond the mark, in order to make sure of not falling short of it. And, in the case of acts of which the evil is very great; of the higher order of crimes, in short; it may be expedient to risk a considerable degree of excess in order to make sure of reaching the point of efficiency.

In estimating the quantity of evil which it may be necessary to create, in order to compensate the motive which leads to a mischievous act, two circumstances should be taken into the account. These are, certainty and proximity. It is of the less

importance here to enter far into the illustration of these topics, that they are now pretty generally understood. It is well known that the prospect of an evil which is to happen within an hour, or two hours, produces a much greater uneasiness than the prospect of the very same evil removed to the distance of years. Every man knows that he will die within a certain number of years; many are aware that they cannot live beyond a few years; and this knowledge produces no uneasiness. The effort, on the other hand, which enables a man to behave with tranquillity, on the prospect of immediate death, is supposed to be so difficult, that it is this which makes the hero. It is, therefore, of the greatest importance, that punishment should be immediate; because, in that case, a much smaller quantity of evil suffices. It is imperatively required, by the laws of benevolence, that, if evil is a necessary means to our end, every expedient should be used to reduce it to the smallest quantity possible. It is cruelty; it belongs only to a malignant nature; to apply evil in a way which demands a quantity of it greater than would otherwise have been required. Suppose a law, that no act of theft should be punished or challenged till twenty years after the commission, or till the life of the thief was supposed to be near its end. It is evident that all punishment, in this case; that death, in the greatest torture, would be nearly destitute of power. This is partly the ground of the complaint, of the little efficacy of religious punishment, though dreadful beyond expression in the degree.

The want of certainty is a defect of equal importance. If it is a matter of doubt, whether a threatened evil will take place, the imagination is prone to magnify the chance of its not happening; and, by indulgence, magnifies it to such a degree, that the opposite chance at last excites a comparatively feeble influence. This is a remarkable law of human nature, from the influence of which even the most wise and prudent of men are not exempt; and of which the influence is predominant in those inconsiderate minds which are the most apt to give way to the allurements of vice. To illustrate this law, the influence of the religious punishments affords the most instructive of all examples. The punishments themselves go far beyond what the imagination can conceive. It is the complaint of divines, and the observation of all the world, that, with the great body of men, the efficacy of them is exceedingly small. The reason is, that to the want of proximity is added the greatest uncertainty. If a man puts his finger in the candle, he knows that he will be punished, and immediately, by being burned. If a man commits even a heinous sin, he has no fear of receiving the religious punishment immediately, and he conceives that, in the mercy of his Judge, in repentance and faith, he has a chance of escaping it altogether. This chance his imagination exaggerates, and most men can, in this way, go on sinning with tranquillity, to the end of their days. If all punishments were as certain and immediate as that of

putting a finger in the candle, the smallest quantity, it is evident, beyond what would form a counterbalance to the advantage of the forbidden act, would suffice for its prevention. If uncertainty is admitted, to any considerable degree, no quantity of evil will suffice. It is a fact, which experience has most fully established, and which is now recognized in the most vulgar legislation, that undue severity of punishment runs counter to its end. This it does by increasing uncertainty; because men are indisposed to be the instruments of inflicting evil by which their feelings are lacerated. That legislation, therefore, is bad, which does not take measures for the greatest possible degree of proximity and certainty in the punishments which it applies.

The sources are three, from which motives of the painful sort, applicable to the purposes of the legislator, are capable of being drawn:—1. The physical; 2dly, The moral; and, 3dly, The religious.

I. Pains from the physical source may be communicated to a man through,

1. His person,
2. His connections,
3. His property.

Through his person, they may be communicated in four principal ways,—by death, disablement, restraint and constraint, simple pain.

A man's connections are either public or private; private, as spouse, parent, servant, master, &c.; public, as ruler, subject, teacher, scholar, and so on.

The modes in which a man is punished through his property need no explanation.

II. Pains, from the moral source, are the pains which are derived from the unfavourable sentiments of mankind. For the strength of the pains, derived from this source, we must refer to the writers who have treated of this part of human nature. It is sufficient here to advert to what is universally recognized, that these pains are capable of rising to a height, with which hardly any other pains, incident to our nature, can be compared; that there is a certain degree of the unfavourable sentiments of his fellow creatures, under which hardly any man, not below the standard of humanity, can endure to live.

The importance of this powerful agency for the prevention of injurious acts, is too obvious to need to be illustrated. If sufficiently

at command, it would almost supersede the use of other means. It is, therefore, one of the first objects to the legislator to know, in what manner he can employ the pains of the popular sanction with the greatest possible effect.

To know how to direct the unfavourable sentiments of mankind, it is necessary to know in as complete, that is, in as comprehensive a way, as possible, what it is which gives them birth. Without entering into the metaphysics of the question, it is a sufficient practical answer, for the present purpose, to say, that the unfavourable sentiments of men are excited by every thing which hurts them. They love that which gives them pleasure; hate that which gives them pain. Those acts of other men which give them pleasure or save them from pain, acts of beneficence, acts of veracity, and so on, they love. Acts, on the other hand, which give them pain, mendacity, and so on, they hate. These sentiments, when the state of mind is contemplated out of which the acts are supposed to arise, are transformed into approbation and disapprobation, in all their stages and degrees; up to that of the highest veneration, down to that of the deepest abhorrence and contempt.

The unfavourable sentiments, which the legislator would excite as towards forbidden acts, must, therefore, in each man, arise from his conception of the mischievousness of those acts. That conception depends upon three circumstances; 1 *st*, The view which he himself takes of the act; 2 *dly*, The view which appears to be taken by other people; 3 *dly*, Every thing which operates to render more or less permanently present to his mind his own and other men's conception of its mischievousness. From these circumstances, the practical rules for applying this great power as an instrument of the legislator for the prevention of mischievous acts are easily deduced. 1. Let the best measures be taken for giving the people a correct view of the mischievousness of the act; and then their unfavourable sentiments will be duly excited. 2. Let proper pains be taken that the people shall know every mischievous act that is committed, and know its author; that, so, no evil act may, by concealment, escape the punishment which their unfavourable sentiments imply. 3. Let the legislature, as the leading section of the public, make publication of its own unfavourable sentiments; brand the act with infamy. 4. Let the same publication of his own unfavourable sentiments be made by the judge in the shape of reprimand and other declarations. 5. The legislature may increase the effect of these declarations, where the case requires it, by symbolical marks; or, 6, by personal exposure. 7. The legislature may so order matters in certain cases, that the mischievous act can be done only through another act already infamous; as when it is more infamous to break a vow to God than to make false

declarations to men, a witness may be made to swear that he will tell the truth. 8. As the favourable sentiments of mankind are so powerfully excited towards wealth, a man suffers in this respect when his property is so diminished as to lessen his rank.

III. In pointing and proportioning the apprehension of divine punishment, the legislator can do three things:

1. He can declare his own apprehension, and the measure of it, which should be as exactly proportioned as possible to the mischievousness of the acts:

*2dly*, He can hire other people to declare similar apprehensions, and to make the most of the means which are available for their propagation:

*3dly*, He may discountenance the pointing of religious apprehensions to any acts which are not mischievous; or the pointing of them to acts which are slightly, in a greater degree, than to acts which are deeply mischievous. Whatever power of restraining from mischievous acts may be lodged in religious apprehensions, is commonly misapplied and wasted. It would be worth the cost, therefore, of pretty forcible means to prevent such a misapplication and waste of religious fears.\*

In drawing from one, or more, of all these sources, a lot of punishment adapted to each particular case, the following properties, desirable in a lot of punishment, ought to be steadily borne in view. Every lot of punishment ought, as much as possible, to be,

1. Susceptible of graduation, so as to be applicable in different degrees.
2. Measurable, that the difference of degrees may be duly ascertained.
3. Equable, that is, calculated to operate not with different intensity upon different persons.
4. Such, that the thought of the punishment may naturally excite the thought of the crime.
5. Such, that the conception of it may be naturally vivid and intense.
6. Public, addressed to the senses.
7. Reformative.
8. Disabling; viz. from crime.
9. Remediable; viz. if afterwards found to be undeserved.
10. Compensative; viz. to the party injured.
11. Productive; viz. to the community, as labour.

Of all the instruments of punishment which have yet occurred to the ingenuity of man, there is none which unites these desirable qualities in any thing like an equal degree with the *Panopticon Penitentiary*, as devised and described by Mr Bentham.

One general rule applies in the case of all the lots of punishment. It is this: That the private good which has operated as the motive to the injurious action, should, in all possible cases, be cut off, and the expected enjoyment prevented. Where this can be done completely, all the additional punishment necessary is only that which would suffice to compensate the want of certainty and proximity in the act of deprivation; for no man would commit a crime which he was sure he could not profit by; no man would steal, if he knew that the property stolen would that minute be taken from him. The interests which are capable of being promoted by a criminal act, may be summed up under the following titles:

1. Money, or money's worth.
2. Power.
3. Revenge.
4. Vanity, emulation.
5. Sensual pleasure, chiefly venereal.
6. Safety in respect to legal punishment.

With respect to four of these interests, viz. money, power, vanity, and safety in respect to legal punishment, the contemplated benefit is capable, in many cases, of being completely intercepted. In the case in which revenge has operated through the degradation of the party suffering, the evil doer may be disappointed by re-exaltation of the degraded party. Sensual pleasure, having been enjoyed, is beyond the reach of this operation. It is highly worthy of observation, that, among the advantages constituting the motives to crime, those which can be cut off, and from the enjoyment of which the offender can be prevented, constitute by far the most frequent incentives to crime.

This must suffice as a summary of what should be said on the mode of applying pain most usefully for the prevention of certain acts. It only remains to add, that the following are the cases in which it may be pronounced unfit that pain should be employed for that purpose:

1. Where the evil to the community does not overbalance the good to the individual.
2. Where the evil necessary for the punishment would outweigh the evil of the act.
3. Where the evil created is not calculated to prevent the act.
4. Where the end could be obtained by other means.



We have now, therefore, stated what the limits of this discourse enable us to adduce, on the subject of the main body of the law; the enactments of the legislature with respect to rights, and with respect to those acts by which rights are violated. It remains that we consider that subsidiary branch of law, by which an agency is constituted for the purpose of carrying those enactments into effect. The inquiry here is, what are the operations essential to that agency; by what agents are they most likely to be well performed; and what are the best securities that can be taken for the good conduct of these agents.

The Code of Procedure.

It most significantly illustrates the manner in which ignorance gropes its way in the dark, to observe, that the agency, the sole end of which is to carry into execution the civil and penal laws, was created first, and was in operation for ages, before even the idea of the other branches of law was even tolerably framed. It is also worthy of remark, that the men, whose wisdom rules our affairs, are in the habit of calling the mode in which ignorance gropes its way in the dark, by the name of experience; the mode of acting upon a plan, and with foresight, by the names of theory and speculation.

There is instruction in observing the mode in which this inverted course of law-making was pursued. Men disputed; and their disputes were attended with the most destructive consequences. Originally, the king, at the head of the military force, and his subordinates, each at the head of a section of that force, interfered in those disputes. After a time, the king appointed functionaries, under the name of judges, for that particular service. These judges decided, without any rule, by their own discretion. The feelings of the community, grounded upon their experience of what tended to good and evil upon the whole, pointed vaguely to certain things as right, to other things as wrong; and to these the judge, as often as he was in *bona fides*, conformed his decision. The mode was similar both in arbitrating and in punishing.

As punishing, especially in the severer cases, was an act which made a vivid impression upon the mind, the mode in which that act had been performed in previous cases was apt to be remembered; of the several modes, that which was most approved by the public would naturally be followed the most frequently, and at last there would be a species of scandal, if it was unnecessarily departed from. In this way a uniformity, more or less perfect, was established, in punishing the more heinous offences; and in regard to them custom first established what had some feeble portion of the attributes of a law.

In those cases in which, without a call for punishment, the authoritative termination of a dispute was all that was required, the experience of what was necessary, not only for any degree of mutual comfort, but even for the means of subsistence, soon established a few leading points of uniformity. Thus, when a man had cultivated a piece of ground, which belonged to nobody more peculiarly than to himself, it was evidently necessary that the crop should be considered as belonging to him; otherwise, no crops would be raised, and the community would be deprived of the means of subsistence.

These general feelings, with the remembrance, more or less perfect, of what had been done in similar cases, were the only guide; and it is surprising to what an extent, over the surface of the whole globe, law has, in all ages, remained in that state of imperfect existence, if, indeed, with any propriety, it can be called a state of existence. In every part of Asia, and in all ages, law has remained in that state of existence, or non-existence. In Europe, where, at a pretty early period, it became the practice to record in writing the proceedings of the judges, the natural propensity of referring to the past as a rule for the present, begat in time a species of obligation of being directed by the examples which had already been set. This created a uniformity and certainty, which, however imperfect, were greatly superior to those which attended the arbitrary proceedings of Asiatic judges. Yet this was a benefit which had a dreadful alloy. A body, not of law, but of decisions, out of which, on each particular occasion, a law for that particular occasion, as out of the crude ore, was to be smelted, hammered, and wire-drawn, was the natural material out of which to manufacture a system of chicanery. How accurately the system of law, in the several nations of Europe, has conformed to the character of a system of chicanery, is matter of present and lamentable experience. The uncertainty, the delay, the vexation and expence, and that immorality of the worst species with which they inundate the community, are not the only evils, great as they are, of laws constructed upon such a plan. A system of laws, so constructed, becomes an instrument of conservation for the barbarous customs and ideas of the times in which they were engendered; and infests society with evils of another age.

To conceive the operations which are necessary to give effect to the enactments of the legislature, it is necessary to conceive the occasions which call for them.

When the legislature has established rights, so long as there is no dispute about those rights, and so long as there is no complaint of any violation of them, so long there is no occasion for any agency to give to the enactments of the legislature their effect. The moment,

however, one person says, the right to that object is mine, and another person says no, but the right to that object is mine; or the moment any man complains that such or such a right belonging to him another man has violated, that moment occasion for the agency in question begins.

It is evident, also, that the operations necessary to give effect to the enactments of the legislature are confined to those two occasions, namely, that on which a right is disputed, and that on which it has been violated. On the occasions on which a right is disputed, it is requisite to determine to whom it belongs. On the occasions on which a right has been violated, it is sometimes only required to compel reparation to the injured party; sometimes it is necessary, besides, to inflict punishment upon the offender. The question is, What are the operations required for these several results?

Where a right is disputed, all possible cases may be resolved into that of A who affirms, and B who denies. That right is mine, says A, it is not yours, says B.

The first question to be asked of A is, which, among those facts, which the legislature has determined shall give commencement to rights, happened in such a manner as to give commencement to that which is claimed as a right by him.

If no such fact is affirmed, the right does not exist. If some such fact is affirmed, it may be met by the opponent in one of two ways. B either may deny the fact, and affirm that the right never had a commencement; or he may allow the fact, and admit that the right had a commencement, but affirm that there had subsequently happened one of those facts which put an end to rights; admitting that A bought the horse, and had a right to him in the month of July, he might affirm that A sold him again in August, and by that transaction put an end to his right.

When B meets the affirmation of A in the first way, that is, by denying the commencement of the right, he may do it in either of two ways. He may deny the investitive fact which A affirms, or not denying the fact, he may affirm some antecedent fact which deprived it of its investitive power. Thus, if A affirmed that he got the property by occupancy, B may affirm that it was not open to occupancy, but the property of another person. If A affirmed that he got the property by succession to his father, B may allow the fact of the succession, but affirm that the property did not belong to the father of A at the time of his death.

Whenever the legislature has accurately determined what are the facts which shall give commencement, and what those which shall give termination to a right, the whole confused and intricate mass of what in English law is called *Pleading*, reduces itself to these clear and simple elements. A begins, by affirming some one of the facts which gives commencement to a right. B may deny this fact directly; A affirms contract for example, B denies it; and then, of course, comes the evidence: Or, instead of denying it, B may affirm an antecedent fact which deprived the fact affirmed by A of its investitive force; or he may affirm a subsequent fact, which put an end to the right. In those two cases, in which B affirms a new fact, A must be called upon for a reply, in other words, asked whether he admits or denies it. If he admits, there is an end, of course, to the claim of A. If he denies, then again we have affirmation and denial upon a matter of fact, which is to be determined by the production of evidence.

This is the first part of the proceeding, neither intricate nor obscure. The next is, the adduction of evidence. A fact is disputed; affirmed on the one side, denied on the other. A produces evidence to prove the fact, B produces evidence to disprove it. The decision is on the one side or the other, and the dispute is at an end.

If both parties obey the decision, there is no occasion for another act. If the losing party disobeys, force is necessary to compel obedience. This is called execution, and terminates the agency required.

It is needless to particularize a penal proceeding; all the possible varieties of which fall under one or other of the cases illustrated.

Thus, when a man is charged with a crime, the prosecutor affirms one of the acts violating rights, to which punishment is annexed by the legislator. The defendant can meet this affirmation in one of only two ways. First, he may deny the act, and then the second stage of proceeding, the adduction of evidence, immediately takes place. Or, not denying the act, he may affirm some previous act, which prevented it from having the effect of violating a right. Not denying the fact of taking the horse out of the field with a view to appropriate him, he may affirm a previous purchase, gift, &c. The adduction of evidence has nothing peculiar in the case of a penal proceeding at law. In the last stage, that of execution, the peculiar act of inflicting punishment is required.

Having thus a view, though very summary, of the operations required, we shall be the better able to judge of the agents necessary for the performance.

The stages, we have observed, are three. The *first* is that in which the plaintiff adduces the investitive fact on which he relies, and is met by the defendant either with a denial of the fact, or the affirmation of another fact, which, to maintain the suit, the plaintiff must deny. The *second* is that in which evidence, to prove or disprove the fact on which the affirmation and denial of the parties ultimately rests, is adduced and decided upon. The *third* is that in which the operations are performed necessary for giving effect to the sentence of the judge.

What is desirable in the operations of the first stage is, 1 *st*, That the affirmations and negations with respect to the facts should be true; and, 2 *dly*, That the facts themselves should be such as really to have the investitive or divestitive quality ascribed to them. For the first of these purposes, all the securities, which the nature of the case admits of, should be taken, for the veracity of the parties. There is the same sort of reason that the parties should speak truly, as that the witnesses should speak truly. They should speak, therefore, under all the sanctions and penalties of a witness. They cannot, indeed, in many cases swear to the existence or non-existence of the fact; which may not have been within their cognisance. But they can always swear to the state of their belief with respect to it. For the second of the above purposes, namely, that it may be known whether the facts affirmed and denied are such as to possess the investitive or divestitive quality ascribed to them, two things are necessary; the first is, that all investitive and divestitive facts should have been clearly predetermined by the legislature, in other words, that there should be a well made civil code; the second is, that the affirmations and denials with respect to them should be made in the presence of somebody capable of telling exactly whether they have the quality ascribed to them or not. The judge is a person with this knowledge, and to him alone can the power of deciding on matters so essential to the result of the inquiry be entrusted.

First stage of the  
Judicial Business.

To have this important part of the business, then, done in the best possible way, it is necessary that the parties should meet in the very first instance in the presence of the judge. A is asked, upon his oath, to mention the fact which he believes confers upon him his right. If it is not a fact capable of having that effect, he is told so, and his claim is at an end. If it is a fact capable of having that effect, B is asked whether he denies it; or whether he affirms another fact, either one of those, which, happening previously, would prevent it from having its investitive effect, or one of those which, happening subsequently, would put an end to the right to which it gave commencement. If he affirmed only a fact which could have neither of these effects, the pretension of B would be without foundation.

Done in this manner, the clearness, the quickness, and the certainty of the whole proceeding are demonstrated. Remarkable it is, that every one of the rules for doing it in the best possible manner, is departed from by the English law, and that to the greatest possible extent. No security whatsoever is taken that the parties shall speak the truth; they are left with perfect impunity, aptly by Mr Bentham denominated the *mendacity-licence*, to tell as many lies as they please. The legislature has never enumerated and defined the facts which shall give commencement, or put a period to rights; the subject, therefore, remains in a state of confusion, obscurity, and uncertainty. And, lastly, the parties do not make their affirmations and negations before the judge, who would tell them whether the facts which they allege could or could not have the virtue ascribed to them; they make them in secret, and in writing, each along with his attorney, who has an interest in making them not in the way most conducive to the interests of his client, but in the way most conducive to his own interests, and those of his confederates, from the bottom to the top of the profession. First, A, the plaintiff, writes what is called the declaration, an instrument for the most part full of irrelevant absurdity and lies; and this he deposits in an office, where the attorney of B, the defendant, obtains a copy of it, on paying a fee. Next B, the defendant, meets the declaration of A, by what is called a plea, the form of which is not less absurd than that of the declaration. The plea is written and put into the same office, out of which the attorney of the opposite party obtains a copy of it on similar terms. The plea may be of two sorts; either, *1st*, a dilatory plea, as it is called; or, *2dly*, a plea to the action. To this plea the plaintiff may make a *replication*, proceeding through the same process. To the replication the defendant may put in a *rejoinder*. The plaintiff may answer the rejoinder by a *sur-rejoinder*. This, again, the defendant may oppose by a *rebutter*, and the plaintiff may answer him by a *sur-rebutter*.

All this takes place without being once seen or heard of by the judge; and no sooner has it come before him, than some flaw is perhaps discovered in it, whereupon he quashes the whole, and sends it to be performed again from the beginning.

This mischievous mess, which exists in defiance and mockery of reason, English lawyers inform us, is a strict, and pure, and beautiful exemplification of the rules of logic. This is a common language of theirs. It is a language which clearly demonstrates the state of their minds. All that they see in the system of pleading is the mode of performing it. What they know of logic is little more than the name.

The agency necessary for the performance of this stage of the business, is some person, who, when he hears a fact affirmed or

denied, can tell whether it is one of those facts to which the legislature has attached the power of giving commencement or of putting a period to rights. It is evident, that on such occasion, any one person, with the requisite knowledge, attention, and probity, is as competent to the task as a hundred. If he is single, the attention and probity is likely to be the greatest, as responsibility is not weakened merely, it is almost annihilated by being shared. There should be one judge, therefore, and not more, to superintend that branch of procedure which consists of pleading.

The agency best adapted to the business of the second stage of judicature, is that which next demands our attention. The business of that stage is, the taking of evidence; in other words, the doing all that is necessary to ascertain whether the disputed fact happened or did not happen.

Second stage of the Judicial Business.

The subject of evidence is a matter of complexity in the detail. And where any thing complex is to be stated in words, there is always difficulty in the expression, how plain soever the ideas. Such general considerations, however, as we can even here adduce, will, we hope, throw sufficient light upon the subject, to leave no doubt with respect to the conclusions which we have it in view to establish. This is one of the topics, connected with law, which Mr Bentham has exhausted, though a small part only of what he has written upon it has yet seen the light.\*

With respect to all facts, legally operative, that is, which give or take away rights, it is desirable that evidence, amounting to proof, should, if possible, always exist. With respect to a great proportion of them, it is in the power of the legislature to take measures, that evidence of them shall be collected at the moment of their happening, and shall be preserved. This is the case with all those of which an evidentiary writing can be made and preserved by registration; all contracts, births, deaths, marriages, and so on. The proportion is really very great of the whole number of facts, legally operative, in regard to which a legislature, by proper means, might secure the existence of evidence, and to that extent might either prevent disputes, or render the decision of them easy. That so little of this most important and obvious work has any where been done, only shows how ill the legislatures of the world have hitherto performed the task. It is in the power of the legislature, by a proper classification, to have an accurate formulary, for the different species of *contracts*, *wills*, and other *evidentiary writings*. Those formularies, properly made and printed with blanks to fill up, would render the business of *Conveyancing*, which, in England, is a boundless, trackless, and almost impenetrable jungle, abounding with expence, with delay and vexation to parties, with wealth and

almost boundless power over the fortunes of other men to lawyers, a thing of the greatest simplicity, certainty, and ease.

Into the question of what might be, and ought to be done by the legislature, for making and preserving evidence of the principal facts by which rights are made to begin or to end, we cannot enter at length, on the present occasion. The great importance which belongs to the subject, is evident from what we have thus shortly advanced.

The business of him who is only called upon to determine whether a disputed fact did or did not happen, is, to make the best use of all the evidence which exists; whether it were, or were not desirable, that more had been made to exist. For the best use of that which exists, three things are necessary:

*1<sup>st</sup>*, That the whole of it should be made to bear, that is, should be taken and applied.

*2<sup>dly</sup>*, That it should be taken in those circumstances which are most conducive to trust-worthiness.

*3<sup>dly</sup>*, That the proper value should be set upon each article, and upon the whole.

1. That the evidence may be taken as completely as possible, two things are necessary. The first is, that the judge should have power to send for, and to compel the attendance of, all persons and things which may be capable of affording evidence. The second is, that the evidence should all be taken, and nothing be omitted or lost.

It is not necessary here to enter into any details with respect to the first of those requisites. The necessity of the powers is obvious, and the end to be attained is so precise and perspicuous, that there can be no difficulty in conceiving the mode of putting together and applying the means. There is no limit, it is obvious, to the physical power which should be placed at the disposal of the judge. He ought to have the right of calling upon every man, upon the whole community, to aid him in any act which is necessary to the performance of any part of his judicial duty; because any force, opposed to the performance of that duty, there ought to be a force sufficient promptly to overcome. It is convenient, however, to the community, instead of being liable to be called upon, individually, for the performance of the ordinary services auxiliary to the business of the judge, to provide him with a proper number of officers, paid for attending to execute his commands. Their principal business, as regards this stage of the judicial proceedings, is, to serve notice upon any persons whose own presence, or that of



any writing or other thing which they may possess, is required by the judge. Persons or things, subjected immediately to the operations of judicature, have a particular name in English. They are said to be *forthcoming*, a word which has an exact equivalent in few other languages, and is exceedingly appropriate and useful. It is of the greatest convenience, when a concrete term, the use of which is very frequent, has an abstract term corresponding to it; as good, has goodness; hard, hardness, and so on. There was not any word in the language corresponding in this way to *forthcoming*. Mr Bentham, perceiving the great need of it, made the term *forthcomingness*; not exceptionable on the score either of harshness or obscurity. The small wits thought proper to laugh at him. We shall, nevertheless, sorry at the same time that we cannot supply a defect in the language without offending them, make use of the word, in which we find great appropriateness and great convenience. This particular branch, therefore, of the judicial agency is that which relates to *forthcomingness*; and *forthcomingness* is required for two purposes, both for evidence and for justiciability; for evidence, that a true decision may be passed; for justiciability, that the sentence of the judge may not fail of its intended effect.

So much with respect to the *forthcomingness* of evidence. The second condition, required to give the decision the benefit of all the existing evidence, is, that the whole should be taken, and that not any part of it which can be taken without preponderant inconvenience should be excluded and lost.

Of the several articles of evidence, some will always be of more importance; some of less; and some may be of very little importance; but whether of little or of much, it is always desirable that all should be taken, and every the smallest portion counted for what it is worth. The discovery of truth is promoted by taking advantage of every thing which tends to throw light upon the subject of dispute.

These propositions, it may appear to be useless, indeed impertinent, formally to state. They are too evident, it may be said, to be disputed, and too important to be overlooked. Important as they are, and undisputed by all the rest of the world, they are not only disputed, but trampled upon by lawyers, especially English lawyers. They have unhappily established a set of rules in direct opposition to them. These rules they applaud in all forms of expression, and celebrate as guards and fences of all that is dear to mankind.

In all causes, they have determined, that persons so and so situated, things so and so situated, though apt to be pregnant with

information beyond all other persons and things, shall not be admitted as sources of evidence. Thus, in English law, we have incompetency of witnesses, that is, exclusion of them, 1<sup>st</sup>, From want of understanding; 2<sup>dly</sup>, From defect of religious principle; 3<sup>dly</sup>, From infamy of character; 4<sup>thly</sup>, From interest. These are undisguised modes of exclusion; besides which, there is an extensive assortment of disguised modes. Under this title comes the rule, that only the best evidence be given which the nature of the case admits of; according to which, it often happens that the only evidence which can be had is excluded. Under this title also falls the rule, making certain kinds of evidence conclusive, by which proceeding, all other evidence is excluded. To the same list belongs the rule, that hearsay evidence is not admissible. The rules, so extensive in their application, by which writings are wholly rejected, only because they want certain formularies, are rules of exclusion; and so are the limitations with respect to time, and to number of witnesses. Into the very extensive subject, however, of the absurdity and mischievousness of the rules of evidence in English law, we cannot pretend so much as to enter. A remarkable exemplification of them was afforded on the trial of Warren Hastings, to which, for this purpose, the reader may be referred. (See Mill's *History of British India*, Book VI. Chap. ii.)

The only conceivable reasons for the exclusion of evidence are three:

1. Irrelevancy.
2. Inconvenience in obtaining and producing.
3. Danger of deception.

With regard to irrelevancy, the decision is clear. What has no tendency either to prove or disprove the point in question, it would be loss of time to receive.

With regard to inconvenience, it is no doubt liable to happen, that when all the good which can be expected from the obtaining of a lot of evidence is compared with the evil of the delay, cost, and vexation, inseparable from the obtaining of it, the evil may be more than an overmatch for the good. In all such cases, it is expedient that the lot of evidence should be foregone.

As a guard against the danger of deception, it is equally certain that no evidence ought ever to be excluded. An account of all the reasons by which the absurdity is demonstrated of exclusion on this ground, and of the wide and deplorable mischief which, in the vulgar systems, is produced by it, would be far too extensive for the contracted limits of the present discourse. Reasons, however, decisive of the question, present themselves so obviously, that

hardly any man, with an ordinary understanding, not fettered by prejudice, can look at the subject without perceiving them.

If evidence is to be received from no source from which evidence, liable to produce deception, is capable of coming, evidence must not be received at all. Evidence must be received from sources whence false evidence, as well as true, is liable to flow. To refuse all information from such sources, is not the way by which a knowledge of the truth can be obtained. This is the way to make sure of not having that knowledge. The means of obtaining it are, to receive information from every possible source, and to separate the bad from the good, under all those securities, and by the guidance of all those marks, of which understanding and attention know how to avail themselves.

It is not enough to say, we will receive information from those sources only which are least likely to yield deceptive evidence, refuse to receive it from those which are most likely. You are obliged to receive it from sources differing in almost all possible degrees of likelihood. Where are you to draw the line of separation? Is not the same discernment which guards you against the danger of false information from the sources which you deem the least likely to yield it sufficient to guard you against it from those sources which you deem the most likely to do so? In fact it will be still more sufficient because in this case you will be much more apt to be upon your guard. The very best information is, in truth, liable to be derived from the very worst of sources,—from a man who, you know, would not tell you one word of truth, if he could help it.

The securities that a man will give true information, independently of those artificial securities which the legislature can apply equally to all, are, *1st*, Intelligence. *2d*, Probity. *3d*, Freedom from interest. Suppose that one, or two, or all of these securities are wanting; it only follows, that what he states should be heard with a proportional distrust. It may still be of the utmost importance to the discovery of the truth that he should be heard. It never can be less than unfavourable to that great end that, with the proper allowances, he should not be heard at all. His testimony may appear, when heard, to be utterly unworthy of credence. But that could not be known till it was heard and examined. It might so have been, that it was not only worthy of credence, but completed the proof of a fact of the greatest possible importance. That a man should not be heard as a witness, on account of his religious creed, is an absurdity which we cannot descend to notice.

2. The second of the three things which we found necessary, as above, for making the best use judicially of whatever evidence, to the fact in question, exists, was, that it should be taken under those

circumstances, which are most conducive to trust-worthiness. Those circumstances are constituted by the artificial securities, which arrangements can be made to apply. The following enumeration of them has been made by Mr Bentham (*Introduction to the Rationale of Evidence*, p. 54), and appears to be complete.

1. Punishment.
2. Shame.
3. Interrogation, including counter-interrogation.
4. Counter evidence,—admission of.
5. Writing,—use made of it for giving permanence, &c. to evidence.
6. Publicity,—to most purposes and on most occasions.
7. Privacy,—to some purposes, and on some occasions.

For developing the import of these several securities, we can afford to say nothing. The principal operation of the judicial functionary in this part of the business is, to preside over the interrogation; to see that it is properly and completely performed. The question, then, what is the sort of agency best adapted for the performance of this part of the task of taking evidence is not difficult to answer. There is nothing in it which one man, with the proper intellectual and moral qualifications, is not as capable of performing, as any number of men.

3. All the existing evidence being collected and received, it only remains that the proper value should be attached to the several portions, and a corresponding decision pronounced.

It is sufficiently evident that, for the performance of this duty, no very precise instructions can be laid down. The value which belongs to an article of evidence often depends on minute and almost indescribable circumstances; and the result must be left to the sagacity and conscience of the judge.

At the same time, however, service to this end, and of the greatest importance, may be, and, of course, ought to be, rendered by the legislature. The different marks of trust-worthiness may, to a certain extent of particularity, be very correctly described. This being done, the difference between the value of any two lots of evidence, to which those marks attach, may be very exactly ascertained. One has a certain number of the marks of trust-worthiness, as laid down by the legislature; another has all these and so many more; the result is clear. It is evident, that as far, in this respect, as experience and foresight can go, nothing should be left undone by the legislature.

Another important service can be rendered by the legislature; and that is, to provide an accurate language for the judge; a language in which he can express precisely the degree of value which he allots to each article of evidence, and to the whole. Various expedients may be adopted for this purpose. A very obvious one is, to fix upon some particular, well known article of evidence, the value of which all men appreciate equally; the clear testimony, for example, of a man of the ordinary degree of intelligence and probity; as a standard. Is the value to be expressed, which the judge attaches to any other article of evidence? If inferior to the standard, it falls below it by so many degrees, one, two, three, four: If superior, it rises above it by so many.

Having provided an accurate language, the legislature should take security that it be used; and admit of no vague and general expressions in the account of the value which the judge attaches to each article of the evidence on which he grounds his decision.

At the same time that the legislature insists upon the use of precise language in stating the value of evidence, it should insist upon reasons; upon receiving from the judge a precise statement of the grounds upon which he attaches such a value, and no other, to each and every article of evidence; that is, upon receiving a reference, as exact as language can give, to each of the circumstances which contributed to suggest to him that particular estimate which he says he has formed.

Of the importance of all these expedients we presume that no illustration is required.

We come now to the third and last stage of the business of judicature; when all that remains is to carry into effect the sentence of the judge.

Third stage of  
the Judicial  
Business.

When they, upon whom the sentence operates, are willing to obey, all that is necessary is to afford them notice of what it requires them to perform. In well ordered countries, all but a very insignificant number will be found to be cases of this description. When opposition is to be overcome, a physical force must be provided, sufficient for the purpose. As there seems nothing mysterious in determining how this should be formed, and under what rules it should act, to secure the ends for which it is provided, with the smallest possible amount of collateral evil; we shall here take leave of the subject.

We have now seen the whole of the operations to be performed. The parties are received to state before the judge the investitive or divestitive facts on which they rely. If they state, for this purpose, a

fact which is not possessed of those qualities, they are immediately told that it is not possessed of them, and not calculated to support their claim. They come, by two or three steps, at the longest, to a fact upon which the question ultimately turns; and which is either contested, or not contested. In a great many cases it would not be contested. When the subject was stripped of disguise, the party who had no right, would generally see that he had no hope, and would acquiesce. The suit would thus be terminated without the adduction of evidence. When it was not, the cases would be frequent in which it might be terminated by the evidence which the parties brought along with them. In these cases, also, the first hearing would suffice. A vast majority of the whole number of suits would be included in these two sets of cases. For the decision of a vast majority, therefore, of the whole number of suits, a few minutes would suffice. When all the evidence could not be forthcoming at the first hearing, and only then, would a second hearing be required. In this mode of proceeding, justice would be, that without which it is not justice, expeditious and cheap.

In all this there is nothing which one man, with the appropriate intellectual and moral qualities, is not as competent to perform as any number of men. As one man is cheaper than any greater number, that is one reason why no more than one judge should be allowed to one tribunal.

The Judicial Establishment; or inquiry what is the best form of the Agency required for giving effect to the Laws.

The next object of inquiry is, to ascertain what securities can be provided that those who are entrusted with the business of judicature shall possess the requisite intellectual and moral endowments.

The intellectual endowments depend upon those who have the power of choosing and of dismissing the judges; and who do or do not appoint men whose knowledge and capacity are ascertained.

Securities for the intellectual endowments of the Judge.

The moral behaviour of the judges depends upon the interests which act upon them in the situation in which they are placed.

Into the question, who should have the appointment of the judges, we do not intend to enter. The answer would be different under different forms of government; and this is not the place to compare the different forms of government, either for this or any other of the ends of its institution. One thing only we shall state, because it carries its evidence along with it. Those who appoint the judges ought to have no interest contrary to the best administration of justice.

As the uprightness of the judge is assailed by interests inseparable from his situation; viz. the profit which he may derive from misdecision, it is necessary to counterbalance them by opposite interests, assuming the character of securities. Several of the securities, which we have already seen applying to the situation of witness, apply also to the situation of judge: Some are peculiar to each. The following is the list of those which apply to the situation of judge.

Securities for the moral Qualities of the Judge.

1. Punishment.
2. Shame.
3. Publicity.
4. Writing, for the sake of accuracy and permanence.
5. Singleness of the functionary.
6. Appeal.

For the *Punishment* of the several kinds of judicial offences, provision ought to be made in the penal code.

In the case of the judge there is particular occasion to point accurately, and to strengthen to the utmost, the operation of *Shame*; for in the situation of judge it is possible to be guilty of offences very numerous and very serious, without permitting so much of evidence to attach to any definite act, as would suffice to form a ground for punishment.

The great instrument for the application of shame is *Publicity*. The importance of publicity, therefore, is paramount. It is not only the great instrument for creating and applying the moral sanction, the approbation and disapprobation of mankind; but it is of essential service towards the application of punishment, by making known the occasions on which it is deserved. It is not only a great security in itself, but it is the principle of life and strength to all other securities.

All other publicity is feeble and of little worth compared with that of the *Press*. Not only, therefore, ought this to be allowed to operate with its utmost force upon the judge, but effectual provision ought to be made to cause it to operate upon him with its utmost force. Not only ought the judgment hall to be rendered as convenient as possible for the reception of the public; not only ought the greatest freedom to be enjoyed in publishing the proceedings of the judge; and in publishing all manner of observations upon them, favourable or unfavourable; but measures ought to be taken to make a public, and to produce publication, where there is any chance that a voluntary public, and voluntary publication, would be wanting. For this purpose, unless other very

important considerations intervene, the judgment seat should always be in that place, within the district to which it belongs, where the most numerous and intelligent public, and the best means of publication, are to be had.

In England, where there is no definition of libel, and where the judges, therefore, are allowed to punish, under the name of libel, whatever writing they do not like, the publishing of unfavourable observations on the conduct of a judge; nay, in some instances, and these the highest in importance, the simple report of his proceedings—is treated as one of the most heinous of all possible offences. No wonder! Allow judges, or allow any men, to frame laws, and they will frame them, if they can, to answer their own purposes. Who would not, if he could, make a law to protect himself from censure? More especially if he were a man disposed to act in such a way as to deserve censure?

Would you allow falsehood to be published against the judge! The word falsehood is here ambiguous. It means both erroneous opinions, and false statements with regard to fact. Erroneous opinions we would undoubtedly permit, because we know no standard for ascertaining them, other than that which is afforded by public discussion; and because this is an adequate remedy for all the evil which erroneous opinions have any tendency to produce. Affirmation of facts injurious to the judge, if false, and made without reasonable grounds for having been believed to be true, we would prevent.

Allow facts, injurious to the judge, to be published, even when true; allow comments, unfavourable to the judge, to be made upon his actions, you discredit the administration of justice. Discredit the administration of justice, to which the people are resorting every day for the greatest of all possible benefits, protection from injury! As well talk of discrediting the business of a bread-baker, a meat-seller, if the fraudulent dealer is exposed to the censures of the public! Discredit the administration of justice, indeed, by taking measures of security against the vices of judges; indispensable for its perfection!

The importance of *recording, in permanent characters*, what takes place before the judge, we must content ourselves with assuming. We may do so, it is presumed, with propriety, on account of the facility with which the reasons present themselves. We must also leave it to our readers to draw the line of distinction between the occasions on which it is requisite, and the occasions on which it may be dispensed with; the occasions, for example, where every thing is simple and clear, and all parties are satisfied.



It is a great security, both for diligent and for upright conduct in the judge, that he occupy *singly* the judgment seat. When a man knows that the whole credit and reward of what is done well; the whole punishment and disgrace of what is done ill, will belong to himself, the motive to good conduct is exceedingly increased. When a man hopes that he can shuffle off the blame of negligence, the blame of unfairness, or fix a part of it on another, the uncertainty of the punishment operates, as we have already seen, to the diminution, and almost to the extinction, of its preventive force. Certain common, and even proverbial expressions, mark the general experience of that indifference, with which a duty, that belongs in common to many, is apt to be performed. What is every body's business is nobody's. This is as true in the family as in the state; as true in judicature as in ordinary life. Much remains to be said upon this topic, which is one of great importance; but we must pass to the next.

Of the use of *appeal*, as a security against the misconduct of the judge, there is the less occasion to adduce any proof, because it seems to be fully recognized by the practice of nations.

One thing, however, which is not recognized by that practice, is, that, if it is necessary in any one sort of causes, so it is in every other, without exception. Not a single reason can be given why it should exist in one set of cases, which is not equally strong to prove that it should exist in any other.

It is instructive to observe the cases in which it has been supposed that it ought to exist, and the cases in which it has been supposed that it might be omitted. The cases in which it has been thought necessary, are those which concern property of considerable value. Those in which it has been dispensed with are those which concern property of inconsiderable value. The first set of cases are those which are of importance to the aristocratical class; the second are those which are of no importance to that class. It is the aristocratical class who have made the laws; they have accordingly declared that the suits which were important to them should have the benefit of appeal; the suits not important to them should not have the benefit of appeal.

We recognize only one standard of importance; namely, influence upon human happiness and misery. The small sum of money for which the suit of the poor man is instituted is commonly of much greater importance to him, than the larger sum for which the suit of the rich man is instituted is to the rich. Again, for one rich man there are thousands and thousands of poor. In the calculation, then, of perfect benevolence, the suits for the small sums are not, as in the calculation of perfect aristocracy, those of the least, or rather

no importance; they are of ten thousand times greater importance than the suits for the largest sums.

If an appeal ought to be had, how many *stages* should there be of appeal? This question, we imagine, is easily answered. If you go for a second judgment, you should, if possible, go to the very best source: and if you go at once to the best source, why go any farther?

What is required to be done, in the case of an appeal, is the first thing which deserves to be ascertained. An appeal takes place in consequence of a complaint against the previous judge. Where no complaint, there is no appeal, nor place for appeal.

A complaint against the judge must relate to his conduct, either at the first, the second, or the third stage, of the judicial operations.

If to his conduct at the first stage, it must be a complaint of his having permitted a party to rest upon a fact which had not the investitive or divestitive quality ascribed to it; and this implies either a mistake with respect to the law, or that he allowed the decision to turn upon a fact which did not embrace the merits of the question. It is evident, that for the decision of this question, all that is necessary is an exact transcription of *the pleadings*, and transmission of them to the court of appeal.

If the complaint relates to his conduct at the second stage, it must turn upon one of two points; either that he did not take all the evidence, or that he did not properly determine its value.

If he did not take the evidence properly, by a failure either in assembling the sources of it, or in extracting it from them when assembled, the proper remedy is to send back the cause to him, with an order to him to supply the omission; or, if he be suspected of having failed wilfully, to send it to the judge of one of the neighbouring districts, to retake the evidence and decide.

If the complaint relates to a wrong estimate of the evidence, the statement of it transmitted to the court of appeal, with the reasons assigned by the judge for the value affixed to every portion of it, will enable the appellate court to decide.

With regard to the third stage, the only complaint there can be is, that the judge has not taken measures to execute his own sentence. If any inquiry is in this case to be made, the proper course is, that the appellate court refer it to one of the neighbouring judges. When a simple act is to be done, the proper order is to be dispatched, and the proper penalties for non-performance exacted.

It thus appears, that for every thing which is required to be done by the appellate judicature, nothing whatsoever is required, as a foundation, but certain papers. The presence is not required, either of parties or of witnesses.

As it is of no great consequence, in a country in which the means of communication are tolerably provided, whether papers have to be transmitted 50 or 500 miles, the distance, even though considerable, of the seat of the appellate jurisdiction is a matter of very little importance. The object, then, is to get the best seat; that is, the best public. The best public, generally speaking, is in the capital. The capital, then, is the proper seat of all appellate jurisdiction. And that there should be one judge, and one judge only, in each court of appeal, is proved by exactly the same reasons, as those which apply to the courts of primary jurisdiction.

The question how many courts there should be, as well of primary as of appellate jurisdiction, is to be determined by one thing, and one thing only; namely, the need there is for them. The number of the courts of primary jurisdiction must be determined, in some instances, by the number of suits; in some, by local extent. To render justice sufficiently accessible, the distance from the seat of judicature must not be great, though the number of accruing suits, either from the paucity or from the good conduct of the people, should be ever so small.

As the judgment seat should never be empty, for the need of staying injustice is not confined to times and seasons, and as one judge may be sometimes ill, sometimes called to a distance even by the duties of his office, provision ought to be made for supplying his place. For this purpose the proper expedient is a deputy. That the deputy should well perform his duty, the best security is, that he should be chosen and employed by the judge, the judge being responsible for the acts of the deputy as his own. Whatever it is which the judge cannot do, or cannot conveniently do, in that he may employ his deputy. If there is a great influx of causes, the deputy may be employed in some of those the least complex and difficult. If there is any business, not of first rate importance, requiring the presence of the judge at a distance, the delegation of the deputy or deputies is the proper resource.

Besides the judge and his deputy, there are two adjuncts to every tribunal, which are of the utmost importance; indispensable, indeed, to the due administration of justice. These are a *pursuer-general* and a *defender-general*. The business of both pursuer-general and defender-general is to reclaim the execution of all laws in the execution of which the nation has a peculiar interest, though individuals may not. The peculiar business of the pursuer-general is

to act on behalf of the administrative authority, in its character of plaintiff, and on behalf of every plaintiff who is without the means of engaging another advocate; to obviate any prejudice he sees likely to arise to justice from the conduct of plaintiffs, whether in civil matters or penal; and to perform in the case of all offences, where no private prosecutor appears, the office of prosecutor. The peculiar duty of the defender-general is to act on behalf of the administrative authority in its capacity of defendant, and on behalf of every defendant who has not the means of engaging another advocate, and to obviate any prejudice he sees likely to result to justice from want of skill or other causes on the part of a defendant who pleads his own cause, or on the part of him who pleads it for him.

The courts of appeal, though all seated in the metropolis, ought to be as numerous as the speedy hearing of all the appeals which come to them requires. The judges of appeal ought all to be chosen from the judges of primary jurisdiction, not only on account of the education and the experience received, but as a step of promotion, and a proper motive to acquire the requisite education, and to merit approbation in the inferior employment. There is the same propriety, and for the same reason, in choosing the judges of primary jurisdiction from the deputies.

(f. f.)

[\[Back to Table of Contents\]](#)

## LIBERTY OF THE PRESS.

The task of pointing out which of the acts capable of being committed by the press it would be expedient to prohibit under penalties, we trust will be found to be greatly diminished, by what we have already established in the articles Government and Jurisprudence.

Liberty of the Press.



There is scarcely a right, for the violation of which, scarcely an operation of government, for the disturbance of which the press may not be employed as an instrument. The offences capable of being committed by the press are indeed nearly co-extensive with the whole field of delinquency.

Nature and Objects of the Inquiry.

It is not for that reason, however, necessary to give a separate definition for every such violation or disturbance, for that would be to write the penal code over; first describing the violation as produced in other cases, and then describing them anew for the case in which the press is the particular instrument.

If, for the prevention of the violation of rights, it were necessary to give a separate definition for every instrument which might be employed as a means of producing the violation, the penal code would be endless. In general, the *means* is an immaterial circumstance. The violation itself, and the degree of alarm which may attend, are the principal objects of attention. If a man is put in fear of his life, and robbed of his purse, it is of no consequence whether he is threatened with a pistol or a sword. In the definition of a theft, of a fraud, or a murder, it is not necessary to include an account of all the sorts of means by which these injuries may be perpetrated. It is sufficient if the injury itself is accurately described. The object is to prevent the injury, not merely when produced by one sort of means or another sort of means, but by any means.

From these illustrations it sufficiently appears, that if an accurate penal code were composed, defining the violations of rights, and disturbances of the operations of government, to which penalties were to be annexed, every offence capable of being committed by the press would be defined without mentioning its name. It is no less evident, that if we include in the term *libel*, as, to the great encouragement of confusion, is generally done, all the offences capable of being committed by the press, we include in the definition of libel all the definitions of the penal code.

As far as persons and property are concerned, the general definition of the acts by which rights are liable to be violated, has been held sufficient; and has been regarded as including not less the cases in which the instrumentality of the press has been employed, than those in which any other means have been employed to the same end. Nobody ever thought of a particular law for restraining the press on account of the cases in which it may have been rendered subservient to the perpetration of a murder or a theft. It is enough that a law is made to punish him who has been guilty of the murder or theft, whether he has employed the press or any thing else as the means for accomplishing his end.

There can be no doubt, however, that the press is an instrument peculiarly adapted for the commission of injuries against *reputation*, and for effecting disturbance to the operations of *government*, while it has no peculiar adaptation for the commission of other offences. Here, too, it is equally certain there is the greatest disposition to restrain the press within improper limits. It is demanded of us, therefore, upon this part of the subject, to enter into greater detail.

We are then to inquire, in the first place, what are the acts of the press with respect to *private reputation*? and next, which are the acts with respect to *government*, which it is desirable that punishment should be employed to restrain?

Agreeably to the principles which have been already considered in the article Jurisprudence, no act can be regarded as an offence with respect to an individual, which is not a violation of some of his rights.

Offences of the Press with respect to *Private Rights*.

In considering the rights which ought to be established with respect to *reputation*, one proposition may be assumed, that every man should be considered as having a right to the character which he deserves; in other words, to be spoken of according to his actions.

In what manner the definition of this right, which would form a part of the civil code, should be expressed, is not now the question; but it is evident that no peculiar difficulty belongs to it. As words, not thoughts, are the object of legal cognizance, the right can only have respect to security against certain words;—words imputing to the individual actions which he has not performed, or a disposition to actions, of which disposition there is no evidence.

Suppose that one man has instituted a suit against another, for the offence of having violated, through the press, his right to all the

reputation he deserves. In his ground of complaint he must affirm that the man has imputed to him either the performance of actions which he did not commit, or a disposition to certain actions, of which disposition no evidence can be given.

The words are produced; and the first question is, whether they do or do not impute the actions which, in the complaint or bill of accusation, they are alleged to impute?

It is to be observed, that they who oppose the attempt to define the offences, which, for shortness, we call the *offences of the press*, make use of such occasions as this to raise their objections. How, they ask, can all the forms of expression be defined, by which the imputation of such and such actions may be either more openly, or more covertly conveyed?

It is very evident that the question on such an occasion, whether the words do or do not impute such or such actions, is a question of fact. The law says, that such and such actions shall not be imputed, defining the actions. Whether such and such a man has imputed such actions, either by one set of words or another, is a question of fact.

The law, when it said that such and such acts should not be imputed to a man, could not determine whether A, who is accused by B of having imputed to him one of these acts, did so or not. That is to be determined by evidence bearing upon the fact. One, and in general the main article of that evidence, are the words which have been used. What is the import of these words; or, which comes to the same thing, what is the degree of proof involved in them, is to be determined, as all questions respecting the weight of evidence are in each instance to be determined, by the tribunal before which the accusation is brought. The interpretation of words rests upon the same footing in this as in all other cases, that, for example, of a Will. The law determines that whatsoever disposition a man has made with respect to his property, shall take effect after his death. But whether A has left his manor of Dale to B, is a matter of fact to be determined by evidence applying to that particular fact; principally by that arising from the words of the will.

It may still be argued by persons who do not easily renounce an opinion to which they have once given their support, that even the actions, the interpretation of which, or that of the disposition to which the legislature means to prohibit, cannot be defined.

This, however, is a position which it is impossible long to maintain. Some actions it is hurtful, others it is not hurtful, to a man, if he is believed to have committed, or to have a disposition to commit

them. Evidently it is by imputation of the first sort alone, that any right with respect to reputation can be infringed.

The acts which a man receives injury from being believed to have committed, or to be disposed to commit, are either those to which the law has annexed penalties, or those to which the penalties of public disrepute and dislike are annexed.

With respect to those acts to which the law has annexed penalties, as theft, murder, perjury, and so on, it will not be pretended that there is any difficulty; the law has already defined them, or ought to define them, and they may be included with perfect precision in a few words.

Those acts which it is hurtful to a man, solely on account of the disrepute and dislike which they produce, to have it believed that he has committed them, may also be with sufficient accuracy determined.

The ends to be attained by punishment are, reparation to the individual to whom injury has been done, and prevention of similar acts in future.

In the idea of all punishment, effectual reparation to the injured individual is a necessary and essential ingredient. Suppose, then, it were declared by the legislature, that the imputation falsely of all acts, hurtful to the person against whom the imputation is brought, by reason of the disrepute and dislike which attach to him by whom such acts are supposed to be committed, shall be punished at least by reparation to be made to the party injured; the word *hurtful* is to this purpose perfectly precise. It would remain with the complainant to show what kind and degree of injury he had received; which is a matter of fact, to be estimated in each instance from the evidence adduced, by the tribunal before which the question is brought. If the injury sustained is a pecuniary injury, the question coincides exactly with the question of damages, decided regularly, in English courts, as a question of fact by the jury.

Injuries of the kind which we are now considering can affect a man only in two ways; either, as stated above, by lessening the pecuniary value which he might otherwise have enjoyed; or, secondly, by lessening the marks of respect and affection which he would otherwise have received. What the loss is, in this latter instance, is also evidently a question of fact. It has nothing, therefore, to do with the legal definition of the offence, the business of the legislature. It is a question, which, like all other questions of fact, must of necessity be determined upon evidence by the tribunal before which it is brought. It is no doubt a question



of delicacy, and considerable difficulty, because the evidence must often consist of very fine and minute circumstances, which can seldom be precisely ascertained. But this is not the only class of judicial questions, the determination of which depends upon such evidence as it is very difficult accurately to collect and to weigh.

What it is of greatest importance, on this occasion, to remark is, that all the difficulty lies in the matter of fact. There is no doubt or obscurity in the law, which says, that for whatsoever hurt a man has sustained through actions or dispositions falsely imputed to him, he shall receive compensation. Difficulties, however, arising either from the complexity of the matter of fact, or the obscurity of the evidence, no legislature enactments can prevent. These are committed to the skill and fidelity of the judge.

One question for the legislature we have not yet considered; and that is, the compensation which can be made to a man for the diminution of those marks of respect and affection which he would otherwise have received. Let us suppose that a soldier has been accused of cowardice, in such a manner as to create a general belief of the truth of the accusation; that a man of honour has been accused of mendacity, or of some of those irregular propensities to which the horror of the public is attached; it is evident that money is not an appropriate compensation for injuries thus received.

When a man, through the offence of another, has been deprived of a certain amount of money, or of money's worth, we say that he has received compensation, when he is placed in the same situation in which he would have been if the offence had not taken place.

According to this idea of compensation, a man, against whom an unfavourable opinion has been created by the act of another man, has received compensation, when he is placed in the same situation with regard to the opinion of those with whom he is connected, as if that act had not taken place. This, therefore, is the object which it ought to be the endeavour of the legislature to effect.

One expedient is perfectly appropriate. It is, that the man who has falsely propagated an unfavourable opinion with respect to another, should be made to do whatever is in his power to remove the impression he has made. To this end, he should publish the sentence of the judge, declaring that the action, or disposition which he had imputed to the individual injured, he had imputed to him falsely. He should at least be made to publish it in every way in which he had published the imputation. Frequently a more extensive publication might be required.

In most cases, it will be allowed, that this much would suffice. It may, however, be affirmed, that often the impression would be too profoundly struck, to be effaced by a mere knowledge of the sentence of the judge. In such cases, something more in the way of compensation would be required. On this, it is of importance to be observed, that if the impression produced by an imputation, which, after solemn inquiry, the judge has declared to be false, should not, by that declaration, be completely effaced, it implies necessarily one of two things; either that the public have evidence of the truth of the accusation, which was not adduced to the judge, and then the remaining impression is not owing to the imputation which the judge has condemned, but to the evidence; or, secondly, that the public mind is in a state of gross ignorance and imbecility, capable of forming opinions, even on the clearest subjects, not only not according to evidence, but in opposition to it. If the public mind, however, is in such a deplorable condition, it is the fault of the legislature; and for the rectification of this evil, the best course undoubtedly is, to take effectual measures for the instruction of the people, which instruction would soon place them beyond the danger of such contemptible as well as mischievous delusions. In the mean time, if something more than the publication of the sentence of the judge were necessary to restore a man to that degree of consideration of which the false imputation had deprived him, governments have numerous ways of raising the consequence of individuals; and no legislature would be at a loss for a gradation of expedients suited to the scale of demand.

We have now illustrated that part of this question which regards compensation to the injured individual. It remains to inquire what is best to be done in this case, for the attainment of the other object of punishment, namely, the prevention of similar offences in time to come.

To devise a punishment sufficient to prevent an offence, is to provide a motive sufficient to counteract the motive which leads to the offence. We have hence to consider what are the motives by which men are incited to make false imputations on the characters of others.

These motives may be of three different sorts. A man may derive *pecuniary profit*, he may derive *comparative distinction*, or he may satisfy his desire of *vengeance*, by blackening the character of his neighbour.

In the case in which a man has by calumny wrongfully intercepted the pecuniary receipts of his neighbour, the obligation of making satisfaction to the party injured would, it is obvious, alone suffice, provided the machinery of the laws were sufficiently perfect, to

render the execution of them certain. Seldom would any man calumniate his neighbour, for the sake of placing L.20 in his own pocket, if he were sure that next day, or next week, he would have to restore it, with all the profit which might have been made by the use of it, and with the disgrace besides of having committed an action which other men abhor.

Sometimes, however, a man may derive pecuniary profit from calumniating persons whom he has not by that means deprived of any pecuniary advantage; by the sale, for example, of a slanderous publication; when the satisfaction due to the individual may not be of a nature to counteract the motive which leads to the offence. The expedient in this case, also, is sufficiently obvious, and sufficiently simple. It is necessary to ascertain the whole of the gain which has been made by the offender, and to take it away from him. This, together with the satisfaction which he ought to make to the injured individual, would, if it were certain, create a surplus of motive to abstain from the injurious act.

In both of these cases, if the execution of the law is uncertain, an additional punishment may be necessary, sufficient to compensate for the chance of escape. The allowance to be made on this score must depend upon the imperfection of the laws; while one important fact is to be kept in remembrance, that as severity of punishment, beyond a certain point, is increased, certainty of execution is diminished. The true expedient, therefore, is to render the machinery of the laws so perfect, that the penalties which they denounce may always be sure of execution; and then hardly any thing beyond compensation to the individual, and the abstraction of any additional gain which might have been made by the propagation of slander, would be necessary to repress all offences against the reputation of others, to which the motive was constituted by pecuniary gain.

The two remaining cases are still more simple. If a man propagates a falsehood, for the sake of injuring the character of a man by whom his own consideration is eclipsed, it is only when he expects to obtain by that means a permanent advantage. If he knows that immediately the law will take its hold upon him; that he will be compelled to re-elevate the character of his neighbour, and to proclaim his own disgrace, he will see that, to attempt depressing the character of another man by calumny, is the very worst of all expedients, for giving a comparative elevation to his own. The same is the result in the case where vengeance constitutes the motive to injure the reputation of another. To render this proposition manifest, the most obvious illustration will suffice. No man, to gratify his malignity to another person, would kill his ox or his ass, provided he were sure that immediately he would be obliged to

make him full satisfaction; and instead of injuring the man whom he hated, to injure only himself. No, the rudeness and inefficacy of the law, holding out a chance of escaping the duty of making reparation, is the sole origin and cause of all offences of this description; and if the law were placed in a state but approaching perfection, hardly any thing beside the obligation of making satisfaction would be necessary to repress the whole of this order of crimes.

We have now made considerable progress in this important inquiry. We have ascertained, we think, with sufficient evidence, all that is necessary to be done for preventing injuries to the reputation of individuals; provided the rights of reputation are, by the civil code, not made to extend beyond the boundaries of truth. Whether or not they ought to extend farther, and individuals ought to be protected from the disclosure of acts which they may have committed, is, we confess, a question highly worthy of solution; upon which, therefore, before we proceed to any of the subsequent topics, we shall offer the following reflections.

There can be no doubt that the feelings of the individual may be as painful, where actions of a disreputable nature are truly, as where they are falsely imputed to him. It is equally certain that no painful feelings ought to be wilfully excited in any man, where no good, sufficient to overbalance that evil, is its natural consequence.

We have already shown, that reputation is injured by the imputation of acts of two different descriptions; first, those to which the law annexes penalties; secondly, those to which disrepute and the dislike of others are annexed.

With respect to those acts to which the law annexes penalties, there is no room for uncertainty or dispute. Unless the law is a bad law, which ought to be repealed (this, we confess, constitutes an exception, and one, which, in very imperfect codes, extends a great way), the law ought not to be disappointed of its execution. The man who gives information against a murderer, or a thief, by the press, or without the press, renders a public service, and deserves not punishment but reward.

It appears, therefore, that the question, whether a man ought to be protected from the imputation of actions which he has really committed, refers solely to those acts which, without being punishable by the law, are attended with disrepute; acts, in other words, which the members of the society disapprove and dislike.

The prospect of the immediate and public exposure of all acts of this description, would be a most effectual expedient to prevent

their being committed. Men would obtain the habit of abstaining from them, and would feel it as little painful to abstain, as at present it is to any well educated person to keep from theft, or those acts which constitute the ill manners of the vulgar. The fable of Momus has always been understood to carry an important moral. He found grievous fault that a window had not been placed in the breast of every man, by which, not his actions alone, but his thoughts, would have been known. The magnanimity of that Roman has been highly applauded, who not only placed his residence in such a situation that his fellow citizens might see as much as possible of his actions, but declared a wish that he could render open to the eyes of all his breast as well as his house.

If the hatred and contempt of the people, therefore, were always rightly directed, and rightly proportioned; if they never operated against any actions but those which were hurtful, either to the individual himself, or to others, and never, but in the degree in which they were hurtful, the case would be clear; the advantage which would be derived from the true exposure of any man's actions of any sort, would exceed beyond calculation the attendant evil. The great difficulty of insuring the practice of morality, in those numerous and highly important cases, to which the legal sanction, or the *security of pains and penalties* does not extend, consists in the want of a motive always present, and powerful enough to counteract the temporary motive which urges to the momentary offence. That motive almost every man would derive from his knowledge that the eyes were upon him of all those, the good opinion of whom it was his interest to preserve; and that no immoral act of his would escape their observation, and a proportionate share of their hatred and contempt. It is in this view that the aid of religion has been sometimes regarded as of importance to morality; suggesting the idea of a high and constant observer. All motives, however, are feeble, in proportion as the pains and pleasures upon which they depend are distant, and vague, or uncertain. Divines agree with all other men in complaining of the trifling effect of religious motives upon the lives of the greater number of men. From the nature of the prospect on which these motives depend, they were necessarily as feeble as they have so often been described. Such is not the case with the motives arising from the sentiments which we know we shall inspire in the breasts of our fellow creatures. It is a matter of daily and incontrovertible experience, that these are among the most powerful which operate upon the human mind. The soldier rushes upon death, and endures all the hardships and toils of his cruel profession, that he may enjoy the admiration, and escape the contempt, of his fellow men. On what else is founded the greater part of all the pursuits of mankind? How few, even of those who toil at the meanest occupation, but exert themselves to have something

for show, something to make an impression upon the eyes of those who surround them? The very subject of the present inquiry derives from this source the whole of its importance. The value of reputation is, indeed, but another name for the value which we attach to the favourable and unfavourable sentiments of our fellow men.

It is, however, true, that their unfavourable sentiments do not always fall where they ought, and this, we confess, is a consideration of the highest importance. It very often happens that men's antipathies are excited to actions from which no evil ensues, either to him who performs them, or to any body else. If any man derives a pleasure from such actions, it is to limit his sphere of innocent enjoyment, to debar him from them. And if the press exposes him to the antipathies, the hatred, and contempt of his fellow-creatures, on account of those actions, it produces an evil, uncompensated by the smallest portion of good. If an Indian Brahman were known to have eaten, even when starving, a morsel of food which had been prepared by a Christian, the consequences to him would be dreadful. Where the Roman Catholic religion is in vigour, a man who should indulge himself in animal food on forbidden days would be regarded with horror. The use of wine, however moderate, would render a Mahomedan execrable to the whole of his tribe.

This misdirection of the favourable and unfavourable sentiments of mankind, in other words, this perversion and corruption of their moral sentiments, has, in by far the greater number of instances, been the work of priests, contriving the means of increasing their influence. In some very important instances, such, for example, as the prejudices of birth, at one time so powerful in Europe, as to make ineffable contempt the lot of the low, the highest veneration that of the man of elevated birth, the perversion of the moral sentiments, is evidently the work of the aristocratical class, securing to themselves a more easy dominion over the rest of their fellow creatures. It is, therefore, evident, that where antipathies, religious or aristocratical, should prevail, the press would be hurtfully employed in giving notoriety to the facts which would expose a man to the operation of either.

We have now ascertained the cases in which it would *not* be good that men should be protected from the declaration of truth by the press, and also the cases in which it *would* be good that they should be so protected.

What, upon this view of the subject, would be desirable, is sufficiently clear. It would be desirable that, in the one set of cases, the declaration should be allowed, in the other it should not be

allowed. Are the two sets of cases, however, capable of being accurately distinguished?

If the comparison is made with any attention, it will not be difficult to determine that the evil to be incurred by the loss of truth in the set of cases in which the declaration of it would be useful, is much greater than that which would arise from permitting the declaration in the cases in which it would be hurtful.

In the first place, the set of cases in which the declaration would be useful are much more numerous, and much more important, than those in which, in any tolerably civilized state of society, it would be hurtful. Those in which it would be useful embrace the whole field of morality, all those acts, the performance of which, on account of their singular importance, has been elevated to the rank of virtues. Every body believes and proclaims, that the universal practice of the moral virtues would ensure the highest measure of human happiness; no one doubts that the misery which, to so deplorable a degree, overspreads the globe, while men injure men, and instead of helping and benefiting, supplant, defraud, mislead, pillage, and oppress, one another, would thus be nearly exterminated, and something better than the dreams of the golden age would be realized upon earth. Toward the attainment of this most desirable state of things, nothing in the world is capable of contributing so much as the full exercise of truth upon all immoral actions,—all actions, the practice of which is calculated to lessen the amount of human happiness. According to this view, the justice of which it is impossible to dispute, the evil incurred by forbidding the declaration of truth upon all immoral actions is incalculable. That which would be incurred by the antipathies of misguided minds against actions innocent in themselves, nobody, we should imagine, would so much as think of placing in comparison.

In our own country, for example, the classes of actions which, though they injure nobody, expose a man to the unfavourable sentiments of others, are not numerous. The number of persons who would be exposed to inconvenience on account of the declaration of truth, in regard to them, would be small in comparison with those who would benefit by its declaration, in the case of all really hurtful acts.

It is, indeed, important to be observed, that a comparative smallness of number is necessarily implied in the supposition of injury from any unfounded antipathy. Those who share in the antipathy, of course, abstain from the action. And unless the antipathy were so general as to include almost the whole of the society, it would lose its injurious effect. Besides, all the injury which can be done to the individuals against whom truth would in

this manner operate injuriously, would be, to make them abstain from the acts which were thus condemned.

Another thing to be considered is, that the whole of the evil arising from the exercise of truth is dependent upon an accidental circumstance, capable of being removed upon a mental disease, requiring to be cured; of which, of course, the legislature ought to undertake the case, and toward the cure of which truth is likely to operate as the most effectual of all expedients. If any considerable inconvenience were experienced from exposure to unfounded antipathies by publications of truth, the groundlessness of these antipathies could not fail to be so often canvassed, and made to appear, that at last it would become familiar to the multitude, and the antipathies would expire.

It clearly, therefore, appears, that, if the cases in which the declaration of truth would expose to unfounded prejudices could not be clearly defined, and separated from the cases in which the declaration would be salutary, the rule of permitting truth ought to be universal. But though we perceive, that, to a considerable extent, there are cases, in respect to which it would be vain to hope for agreement in drawing the line of distinction between what is hurtful and what is not, we are persuaded that principles might be laid down in which all would agree, and which would serve to mark out certain cases for exception with sufficient exactness. If any such cases could be separated, either of actions which, though injurious to nobody, excited antipathies, or of facts, as those of birth, for which, though a man was in no respect worse, he might be regarded as worse, the exercise of truth, with regard to them, might, on the express ground of these being actions innoxious, or facts which ought to be of no importance in the estimate of human worth, be forbidden, when injurious, under the penalty of at least making reparation for all the injury of which it had been the cause.

We have now explained, we trust, with sufficient clearness for the present occasion, the principles upon which laws should be constructed for protecting the *rights of individuals* against violations committed by the press. The first part of this inquiry, therefore, we must consider as completed. In the second part we have to explain the principles upon which they should be constructed for protecting *the operations of government*.

Offences of the Press with respect to *Government*.

This question involves a point which presents the appearance of considerable difficulty. In the first place, unless a door is left open to resistance of the government, in the largest sense of the word, the doctrine of passive obedience is adopted; and the consequence is, the universal prevalence of misgovernment, with the misery and



degradation of the people. In the second place, unless the operations of government, instituted for the protection of rights, are secured from obstruction, the security of rights, and all the advantages dependent upon the existence of government, are at an end. Between these two securities, both necessary to obtain the benefits of good government, there appears to be such a contrariety, that the one can only be obtained by the sacrifice of the other.

As this difficulty, however, arises chiefly from the largeness of the terms, a close inspection of the cases which they involve, and which they have a tendency to confuse, will enable us to discover the course which it belongs to practical wisdom to pursue.

It is necessary, first of all, to ascertain what sort of obstructions are inconsistent and what are not inconsistent, with the operations of government, which are necessary for the protection of rights.

The application of physical force to resist the government in applying, to the execution of the laws, the physical power placed at its disposal by the law, is such an obstruction of the operations of government as would, if frequent, render it inadequate to the ends which it is provided to secure. This application of force, therefore, must be treated as an offence; and any thing proceeding from the press, tending directly to produce it, as a similar offence.

This proposition requires to be illustrated. The application of physical force which is here described, and treated as an evil, is clearly distinguishable from that resistance of government which is the last security of the many against the misconduct of the few. This is an application of physical force to obstruct the operations of government in detail; the proceedings, for example, of a court of justice; the proceedings of the legislative organ, or the proceedings of any of the administrative functionaries, in the execution of the duties with which they are charged. This is not that species of resistance which is necessary in the last resort to secure the people against the abuse of the powers of government. This last is not a resistance to the operations of government in detail. It is a resistance to all the powers of government at once, either to withdraw them from the hands in which they have hitherto been deposited, or greatly to modify the terms upon which they are held.

Even this last species of resistance it may be necessary to punish, at least in a certain degree, whenever it is not successful; that society may not be disturbed by frequent commotions, in the motives to which, the majority of the people do not partake. This, however, is a question which belongs to the penal code in general, and does not concern the inquiry into the offences capable of being

committed by the press: because we think it may be satisfactorily shown, that no operation of the press, however directly exhorting to this species of resistance, ought to be treated as an offence. The reason is, that no such exhortation can have any immediate or formidable effect; can, indeed, have any effect at all, except through such mediums as ought to be at all times perfectly free. Suppose that a work is published, exhorting the people in general to take arms against the government, for the purpose of altering it against the consent of its rulers. The people cannot take arms against the government without the certainty of being immediately crushed, unless there has been already created a general consent. If this consent exists in such perfection as to want nothing to begin action but an exhortation, nothing can prevent the exhortation, and forbidding it is useless. If the consent does not exist in nearly the last degree of perfection, a mere exhortation, read in print, can have no effect which is worth regarding. In all circumstances, therefore, it is useless, and consequently absurd, to treat this species of exhortation as an offence. If, on the other hand, it were clearly recognized, that every man had a licence to exhort the people to the general resistance of the government, all such exhortations would become ridiculous, unless on those rare and extreme occasions in which no prohibitions and no penalties can or ought to prevent them. The doctrine of this paragraph, which will appear somewhat startling and paradoxical to minds accustomed only to a certain train of ideas, will receive illustration, and we trust will be amply confirmed as we proceed.

Having mentioned this as a grand exception, we now return to the cases in which not only physical force applied to obstruct the operations of government, but the publishing of exhortations to that obstruction, ought to be treated as an offence. These relate solely, as above remarked, to the operations of government in detail. Obstructions, it is evident, may be offered to the operations in detail of a government which possesses and deserves the fullest confidence of the community at large, and the press may be employed in directly and efficiently exciting to these obstructions. A hand-bill, for example, may be distributed in a morning, which, operating upon an inflamed state of mind, in a narrow district, may excite a mob to disturb the proceedings of a court of justice, to obstruct the officers of law, police, or government, in the execution of their duties, or to disturb, on this or that occasion, the deliberations of the legislature itself.

These are clearly hurtful acts; they may be very accurately defined; and penalties, of moderate severity, would be sufficient to deter from the performance of them. The obligation of the offending party to make satisfaction to the party injured, would often, in offences of this description, be excluded, because there would be

no definite party to whom an injury would be occasioned. It would only be necessary to ascertain the sorts of motives by which such offences would be liable to be produced, and to apply skilfully, as in other cases, motives of an opposite tendency, sufficient to counteract them. This would not be more difficult in this than in other cases, and it is not, therefore, necessary to explain at any length the mode of performing it. One principle is to be carefully and most religiously observed, that of not imposing an atom of punishment for the purposes of *vengeance*. This is a principle, the justness and importance of which are so completely recognized, that we might have expected to be relieved ere now from the necessity of recommending attention to it. The fact, however, is, that so long as there are abuses in governments, so long will the men who have the means of profiting by those abuses, exert themselves to multiply the list of offences against government, and to apply to them punishments of the greatest severity. Punishments for contempt of court; punishments to vindicate the honour of the court, of the government, of the magistracy; punishments for the support of dignity; punishments severe in proportion as the dignity of the party offended is supposed to be high, and so on, are punishments almost always applied for purposes of vengeance, or the protection of the instruments of abuse. They are punishments, therefore, which will be rigidly excluded from a code which wisely and steadily pursues the general good.

What the *sort of acts* are, to which the exhortations of the press ought not to be applied, has been so far ascertained. The next point is, to determine with accuracy what *sort of exhortation* it is that ought to be forbidden. To all those who profit by the abuses of government, that is, more especially to all those who, in a defective government, wield any of its powers, it is of great importance to leave, as undefined as possible, the sort of exhortation that ought to be forbidden. The point of greatest importance to them is, to keep the people at large from complaining, or from knowing or thinking that they have any thing of which to complain. If this grand object is fully attained, they may then, without anxiety, and without trouble, riot in the pleasures of misrule. There is no limit to the degree in which the few may pursue their own advantage at the expence of the many. There can be nothing, therefore, in which they have a greater interest, than preventing the press from being employed in any such way, as will lead the people to think that they have any thing, on the part of their rulers, of which to complain. All artifices possible will be sure to be employed to effect that prevention. And if it is enacted, that exhortations to acts which obstruct the operations of government in detail should be punished, *without defining accurately what sort of exhortations*, they will easily find expedients which, to a great extent, will accomplish their purpose.

Under the sort of constructions which it will be their interest to apply, every thing which can be done by the press, to make the people know or believe that there is any thing in the system of their government, or the conduct of their rulers, of which they have to complain, may be treated as an exhortation to obstruct the operations of government. Of these constructions, our experience affords innumerable examples. Does not the imputing of defects to the government, or misconduct to those who wield the powers of government, tend to bring both "into hatred and contempt?" And if the people hate and condemn the institutions and rulers of their country, will they not oppose their operations? The imputing of these faults, therefore, is it not, in essence and effect, an exhortation to oppose the operations of government? And are we to be governed, in our legislature, by the mere forms in which a set of words may appear, and not by our knowledge of their nature and consequences?

This is not only exceedingly plausible, but almost all the propositions which it involves are perfectly true. It is thus, therefore, the more easy to establish such a mode of interpreting an indefinite law of the press, as will prevent, or where the people cannot yet bear a total prevention, will go far towards preventing whatever can lead the people to believe that any thing is amiss in the manner in which they are ruled.

There are two species of exhortations, one the explicit and direct, the other implied and constructive. In the one, a particular act is pointed out, and the party, or parties, addressed are called upon to perform it. In the other, certain grounds only are laid, from which the opinion of the addresser may be inferred, more or less certainly, that the act ought to be performed.

With respect to the first, there is no occasion for doubt. A direct and explicit exhortation to commit one of those acts described above, as obstructing the operations of government in detail, should be treated as an offence. The precise question is, whether any exhortation, which is only implied and constructive, should be considered an offence? In the answer to this question, almost every thing which relates to the use of the press in matters of government, will be found to be involved.

We have already divided the subject of resistance to government into two parts; first, that general resistance, the object of which is, some great change in the government at large; and, secondly, resistance to this or that of its operations in detail.

We have already adduced an argument, which appears to us to be conclusive, to show, that no exhortation, whether explicit or

implied, direct or indirect, the object or tendency of which is to produce the first species of resistance, ought to be subject to legal restraint.

It is necessary here to enter a little more fully into the grounds of that opinion.

We think it will appear, with sufficient evidence, that in the way of indirect exhortation to resistance, that is, in laying the grounds of dissatisfaction with the government, there is no medium between allowing every thing and allowing nothing; that the end, in short, which is sought to be gained, by allowing any thing to be published in censure of the government cannot be obtained, without leaving it perfectly free to publish every thing.

The end which is sought to be obtained by allowing any thing to be said in censure of the government, is to ensure the goodness of the government, the most important of all the objects, to the attainment of which, the wisdom of man can be applied. If the goodness of government could be ensured by any preferable means, it is evident that all censure of the government ought to be prohibited. All discontent with the government is only good, in so far as it is a means of removing *real cause* of discontent. If there is no cause, or if there is better means of removing the cause, the discontent is, of course, an evil, and that which produces it an evil.

So true it is, however, that the discontent of the people is the only means of removing the defects of vicious governments, that the freedom of the press, the main instrument of creating discontent, is, in all civilized countries, among all but the advocates of misgovernment, regarded as an indispensable security, and the greatest safeguard of the interests of mankind.

For what is meant by a vicious government? or wherein do the defects of government consist? Most assuredly they all consist in sacrificing the interests of the many to the interests of the few. The small number, in whose hands the powers of government are in part directly, in part indirectly placed, cannot fail, like other men, to have a greater regard for what is advantageous to themselves, than what is advantageous to other men. They pursue, therefore, their own advantage, in preference to that of the rest of the community. That is enough. Where there is nothing to check that propensity, all the evils of misgovernment, that is, in one word, the worst evils by which human nature is cursed, are the inevitable consequence. (See the article Government.)

There can be no adequate check without the freedom of the press. The evidence of this is irresistible. In all countries, the people

either have a power legally and peaceably of removing their governors, or they have not that power. If they have not that power, they can only obtain very considerable ameliorations of their governments by resistance, by applying physical force to their rulers, or, at least, by threats so likely to be followed by performance, as may frighten their rulers into compliance. But resistance, to have this effect, must be general. To be general, it must spring from a general conformity of opinion, and a general knowledge of that conformity. How is this effect to be produced, but by some means, fully enjoyed by the people, of communicating their sentiments to one another? Unless where the people can all meet in general assembly, there is no other means known to the world of attaining this object to be compared with the freedom of the press.

It is, no doubt, true, that in countries where the liberty of the press is unknown, evil governments are frequently overthrown. This is almost always accomplished by the military force, revenging some grievance of their own, or falling in with some heat and animosity of the people. But does it ever enable them to make a new government, in which any greater security is provided for their interests than there was before? In such cases, the people get rid of one set of rulers, whom they hate, only to obtain another set, with equal powers of doing them injury.

There are, however, we believe, some people who say, that though the liberty of the press is a necessary instrument to attain good government, yet, if it is fairly attained, and if legal and peaceable means are in the hands of the people of removing their governors for misconduct;—if the people of England, for example, really chose the members of the House of Commons, and renewed their choice so frequently as to have the power of removal after a short experience of misconduct, the freedom of the press would be unnecessary.

So far is this from being true, that it is doubtful whether a power in the people of choosing their own rulers, without the liberty of the press, would be an advantage.

It is perfectly clear, that all chance of advantage to the people from having the choice of their rulers, depends upon their making a good choice. If they make a bad choice—if they elect people either incapable, or disinclined, to use well the power entrusted to them, they incur the same evils to which they are doomed when they are deprived of the due control over those by whom their affairs are administered.

We may then ask, if there are any possible means by which the people can make a good choice, but the *liberty of the press*? The very foundation of a good choice is knowledge. The fuller and more perfect the knowledge, the better the chance, where all sinister interest is absent, of a good choice. How can the people receive the most perfect knowledge relative to the characters of those who present themselves to their choice, but by information conveyed freely, and without reserve, from one to another?

There is another use of the freedom of the press, no less deserving the most profound attention, that of making known the conduct of the individuals who have been chosen. This latter service is of so much importance, that upon it the whole value of the former depends.

This is capable of being rigidly demonstrated. No benefit is obtained by making choice of a man who is well qualified to serve the people, and also well inclined to serve them, if you place him in a situation in which he will have motives sufficient to serve himself at their expence.

If any set of men are chosen to wield the powers of government, while the people have not the means of knowing in what manner they discharge their duties, they will have the means of serving themselves at the expence of the people; and all the miseries of evil government are the certain consequences.

Suppose the people to choose the members of the Legislative Assembly, with power of rechoosing, or dismissing, at short intervals: To what desirable end could these powers be exercised, without the liberty of the press? Suppose that any one of those whom they have chosen has misconducted himself, or promoted, as far as depended upon him, the ends of misgovernment, how are the people to know that the powers with which they had entrusted him had been treacherously employed?

If they do not know, they will rechoose him, and that as cordially as the man who has served them with the greatest fidelity. This they are under a deplorable necessity of doing, even to be just; for, as they know no difference between him and the best, it would be on their part iniquity to make any. The consequences would be fatal. If one man saw that he might promote misrule for his own advantage, so would another; so, of course, would they all. In these circumstances, we see laid the foundation on which, in every country, bad government is reared. On this foundation it is impossible that it should not be reared. When the causes are the same, who can expect that the effects will be different? It is

unnecessary to dwell upon these fundamental truths, because they have already been developed in the article Government.

Without the knowledge, then, of what is done by their representatives, in the use of the powers entrusted to them, the people cannot profit by the power of choosing them, and the advantages of good government are unavailable. It will surely not cost many words to satisfy all classes of readers that, without the free and unrestrained use of the press, the requisite knowledge cannot be obtained.

That an accurate report of what is done by each of the representatives, a transcript of his speeches, and a statement of his propositions and votes, is necessary to be laid before the people, to enable them to judge of his conduct, nobody, we presume, will deny. This requires the use of the cheapest means of communication, and, we add, the free use of those means. Unless every man has the liberty of publishing the proceedings of the Legislative Assembly, the people can have no security that they are fairly published. If it is in the power of their rulers to permit one person, and forbid another, the people may be sure that a false report,—a report calculated to make them believe that they are well governed, when they are ill governed, will be often presented to them.

One thing more is necessary, and so necessary, that, if it is wanting, the other might as well be wanting also. The publication of the proceedings tells what is done. This, however, is useless, unless a correct judgment is passed upon what is done.

We have now brought the inquiry to this important point: In the article Government, we have seen that, unless the people hold in their own hands an effectual power of control on the acts of their government, the government will be inevitably vicious. We have now seen, that they cannot exercise this control to any beneficial purpose without the means of forming a correct judgment upon the conduct of their representatives. We have likewise seen, that one of the means necessary to enable them to judge correctly of the conduct of their representatives, is the liberty to every body of publishing reports of what they do. It remains to inquire, by what other acts the press can be made to contribute to the same desirable end.

What is wanted is, that all the people, or as many of them as possible, should estimate correctly the consequences of the acts proposed or done by their representatives, and also that they should know what acts might have been proposed, if the best were not proposed, from which better consequences would have



followed. This end would be accomplished most effectually, if those who are sufficiently enlightened would point out to those who are in danger of mistakes, the true conclusions; and showing the weight of evidence to be in their favour, obtain for them the universal assent.

How is this to be accomplished? In what manner are those wise men to be chosen? And who are to be the choosers? Surely it is evident the object cannot be attained. There are no distinct and indubitable marks by which wisdom, and less by which integrity, is to be known. And who is to be trusted with the privilege of pointing them out? They whose judgment requires to be directed are not well qualified to determine who shall direct them. And if the rulers are to choose, they will employ those only who will act in uniformity to their views, and enable them to benefit themselves by the pillage and oppression of the people.

As there is no possible organ of choice, no choice whatever ought to be made. If no choice is to be made, every man that pleases ought to be allowed. All this is indubitable. The consequences of denying any part of it are so obvious, that hardly any man, we suppose, will risk the imputations to which such a denial would justly expose him.

They who say that no choice ought to be made, say, in effect, that no limit whatsoever ought to be imposed upon the liberty of the press. The one of these propositions is involved in the other. To impose any restraint upon the liberty of the press undoubtedly is to make a choice. If the restraint is imposed by the government, it is the government that chooses the directors of the public mind. If any government chooses the directors of the public mind, the government is despotic.

Suppose that, by the restraint imposed upon the liberty of the press, all censure of the government is forbidden, here is undoubtedly a choice. The government, in this case, verbally says, the people who might attempt the task of directing the public mind are of two sorts; one that of those who would censure, another that of those who would not censure: I choose the latter.

Suppose that not every censure, but only such and such kinds of censure, are forbidden, here, again, is still a choice, while confessedly there is no party to whom the power of choosing for the rest can with safety be given.

If not every censure, but only some censures, are to be forbidden, what are those to which the prohibition should extend? The answer

to this question will elucidate nearly all that yet remains in any degree obscure, of the doctrine of the liberty of the press.

It will not be said that any censure which is just should be forbidden; because that would undoubtedly be to detract from the means of enabling the people to form correct judgments; and we have, we trust, rendered it indisputable that no source of benefit to society is at all to be compared with that of correct judgments on their government and its functionaries, formed among the people, and determining their actions.

But what censures are just and what are unjust; in other words, what are the conclusions which ought to be formed respecting the properties and the acts of the government, is exactly the point to be determined. If you say that no man is to pass an unjust censure upon the government, who is to judge? It is surely unnecessary to repeat the proof of the proposition, that there is nobody who can safely be permitted to judge. The path of practical wisdom is as clear as day. All censures must be permitted equally, just and unjust.

Where various conclusions are formed among a number of men, upon a subject on which it would be unsafe, and therefore improper, to give to any minor portion of them a power of determining for the rest, only one expedient remains. Fortunately, that is an expedient, the operation of which is powerful, and its effects beneficial in the highest degree. All the conclusions which have formed themselves in the minds of different individuals, should be openly adduced; and the power of comparison and choice should be granted to all. Where there is no motive to attach a man to error, it is natural to him to embrace the truth; especially if pains are taken to adapt the explanation to his capacity. Every man, possessed of reason, is accustomed to weigh evidence, and to be guided and determined by its preponderance. When various conclusions are with their evidence, presented with equal care and with equal skill, there is a moral certainty, though some few may be misguided, that the greater number will judge aright, and that the greatest force of evidence, wherever it is, will produce the greatest impression.

As this is a proposition upon which every thing depends, it is happy that the evidence of it should be so very clear and striking. There is, indeed, hardly any law of human nature more generally recognized, wherever there is not a motive to deny its existence. "To the position of Tully, that if Virtue could be seen, she must be loved, may be added," says Dr Johnson, "that if Truth could be heard, she must be obeyed." (*Rambler*, No. 87.)—"Je vous plains, mes Peres," says Mons. Pascal to the Jesuits, "d'avoir recours à de

tels remedès. Vous croyez avoir la force et l'impurité: mais je crois avoir la vérité, et l'innocence. C'est une étrange et longue guerre que celle où la violence essaie d'opprimer la vérité. Tous les efforts de la violence ne peuvent affaiblir la vérité, et ne servent qu'à la relever davantage: toutes les lumières de la vérité ne peuvent rien pour arrêter la violence, et ne font que l'irriter encore plus. Quand la force combat la force, la plus puissante détruit le moindre: quand l'on expose les discours aux discours, ceux qui sont véritables et convainquants confondent et dissipent ceux qui n'ont que la vanité et le mensonge." (*Lett. Provinc.* 12.)—"Reason," says Burke, "clearly and manfully delivered, has in itself a mighty force; but reason, in the mouth of legal authority, is, I may fairly say, irresistible." (*Lett. on Regicide Peace.*)

It is of importance to show how many of the greatest men, of all ages and countries, have borne testimony to the prevalence of true over false conclusions, when both are fairly offered to the human mind. "Truth," says Mr Locke, "certainly would do well enough, if she were once left to shift for herself. She seldom has received, and I fear never will receive, much assistance from the power of great men, to whom she is but rarely known, and more rarely welcome. She is not taught by laws, nor has she any need of force to procure her entrance into the minds of men." (*Letter on Toleration.*) The following is the emphatical language of Montesquieu: "La raison a un empire naturel; elle a même un empire tyrannique: on lui résiste, mais cette résistance est son triomphe, encore un peu de temps, et l'on sera forcé de revenir à elle." (*Esp. de Loix*, l. 28, ch. 38.)—"It is noted out of Cicero, by Machiavel, that the people, though they are not so prone to find out truth of themselves, as to follow customs, or run into error; yet if they be shown truth, they not only acknowledge and embrace it very suddenly, but are the most constant and faithful guardians and conservators of it." (*Harrington.*)—"The labour of a confutation," says Chillingworth, "I have not in any place found such labour or difficulty, but that it was undertakeable by a man of very mean abilities; and the reason is, because it is *Truth* I plead for; which is so strong an argument for itself, that it needs only light to discover it." (*Religion of Protestants.*)—"About things on which the public thinks long," says Dr Johnson, "it commonly attains to think right." (*Life of Addison.*)—"The adversary," says Dr Campbell, "is both subtle and powerful. With such an adversary, I should on very unequal terms enter the lists, had I not the advantage of being on the side of truth. And an eminent advantage this doubtless is. It requires but moderate abilities to speak in defence of a good cause. A good cause demands but a distinct exposition, and a fair hearing; and we may say, with great propriety, it will speak for itself." (*Campbell on Miracles*. Introd.)

We have then arrived at the following important conclusions,—that there is no safety to the people in allowing any body to choose opinions for them; that there are no marks by which it can be decided beforehand, what opinions are true and what are false; that there must, therefore, be equal freedom of declaring all opinions, both true and false; and that, when all opinions, true and false, are equally declared, the assent of the greater number, when their interests are not opposed to them, may always be expected to be given to the true. These principles, the foundation of which appears to be impregnable, suffice for the speedy determination of every practical question.

All censure thrown upon the government, all censure thrown either upon the institutions of the government, or upon the conduct of any of the functionaries of government, supreme or subordinate, has a tendency to produce resistance to the government. Of the censures thrown upon government, some may have a tendency to produce resistance to the operations of government in detail; others to produce that general resistance which has in view some great alteration in the government.

Of the first sort would be any such accusation of the conduct and disposition of a judge, as might excite the people, whose sympathies were roused in favour of the individual against whom his sentence was to operate, to rescue him from the officers of justice. We have already shown that such a rescue ought to be punished, and any direct exhortation to it ought to be punished. It will now be evident, we trust, that no censure on the judge, though capable of being treated as an indirect exhortation, ought to be punished.

The reason is conclusive. The people ought to know, if possible, the real qualities of the actions of those who are entrusted with any share in the management of their affairs. This they have no chance of knowing, without the unlimited power of censure upon those actions, both in gross and detail. To see the full force of these propositions, it is only necessary to apply the principles which have been already established.

If the people have not the means of knowing the actions of all public functionaries, they have no security for the good conduct even of their representatives. Suppose it is the duty of their representatives to watch the conduct of the judges, and secure the perfection of judicature, the people cannot know whether their representatives perform their duty, unless they know what the conduct of the judges is. Ignorance of this would of itself suffice to vitiate the government. A door would be left open, through which the rulers might benefit themselves at the expence of the people.

All the profit to be made by an abuse of the power of justice, would thus become the profit of the representatives, by whom it would be allowed, and encouraged as far as the knowledge, which they could not withhold from the people, would permit.

That the people ought, therefore, to know the conduct of their judges, and when we say judges we mean every other functionary, and the more perfectly the better, may be laid down as indubitable. They are deprived of all trust-worthy means of knowing if any limit whatsoever is placed to the power of censure.

All censure consists in the delivery of an unfavourable opinion, with or without the grounds of it. This is the essence of censure. But if the conduct of the judge deserves that an unfavourable opinion should be entertained of it, the more perfectly that is known to the people the better.

The conduct of the judge, on this occasion, says a defender, does not deserve an unfavourable opinion: A public expression of such an opinion ought, therefore, to be prohibited. But the conduct of some judge, on some occasion, deserves an unfavourable opinion. When it is deserved, there is no security for good government, unless it is allowed to be made known. How can you allow an unfavourable opinion to be delivered in the one case, and not delivered in the other? To have the benefit of it in the one case, you must submit to the evil of it in the other.

As the real point of importance is, to establish correct opinions in the minds of the people, it is as mischievous to inculcate a favourable opinion, when an unfavourable is deserved, as an unfavourable when a favourable is deserved; and, in the eye of reason, it is incontrovertible, that, if the one deserves to be prevented by punishment, so does the other. But, if an unfavourable opinion is pronounced of any public functionary; of a judge, for example, would you have it left uncontradicted? Would you not grant the liberty of calling in question the truth of the allegations, and of supporting a different opinion? In that case, it is abundantly evident, that the character of no public functionary would be safe, and that any man, however deserving, might be made to appear the proper object of the most unfavourable sentiments.

It is perfectly certain, that it is not in the power of law to mark out, by antecedent definition, any sort of men, of whom it can say, all opinions favourable to such men shall be punished. It can never be affirmed of any men beforehand that they will certainly perform such and such injurious actions. If they do perform them, all declarations conformable with the matter of fact are good. But the question is, whether they have performed them? One man affirms

that they have. Is that to be taken for granted? And is no man to be allowed to affirm the contrary, and to sift the grounds upon which the allegations of the other man are supported? It is by weighing well the evidence on both sides, that a well-founded opinion is capable of being formed. This is perfectly certain. It is equally certain, that the best security for having the evidence on both sides fully adduced, and the strength and weakness of it perfectly disclosed, is by permitting all those who are attached to different opinions to do what they can for the support of their own.

If it is evident that it ought not to be permitted to speak evil of public functionaries without limit, while any limit is put to the power of speaking well of them; it is equally evident that, for the purpose of forming a correct opinion of their conduct, it ought not to be permitted to speak well of them, and oppose any limit whatsoever to the power of speaking ill of them. It ought not to be permitted to speak evil of them without an equal liberty of speaking well; because, in that case, the evidence against them might be made to appear much stronger than it was. It ought not to be permitted to speak well of them without an equal liberty of speaking ill; because, in that case, the evidence in favour of them might be made to appear much greater than it really was. In either case, the people would be misguided, and defrauded of that moral knowledge of the conduct of their rulers, the paramount importance of which has so fully appeared.

It may be said (as by the short-sighted, if we did not anticipate them, it would be said), that if, by limiting the power of censure, the people are made to judge more favourably of their rulers than they deserve, the evil is small; but if they are permitted to form a very unfavourable opinion, the consequences are alarming.

We believe it may be rigidly demonstrated, that no evils are greater than those which result from a more favourable opinion of their rulers, on the part of the people, than their rulers deserve; because just as far as that undue favour extends, bad government is secured. By an opinion of their rulers more favourable than they deserve, is implied an ignorance on the part of the people of certain acts of their rulers by which the people suffer. All acts by which the rulers have any motive to make the people suffer, are acts by which the rulers profit. When the ignorance of the people extends to material points, all the evils of bad government are secured. These are the greatest of all possible evils. To this it will not be said that the ignorance of the people ought to extend. On all material points, it is admitted, then, that the freedom of censure ought to be complete. But if it is to be allowed on great points, on those where it is calculated to exact the greatest disapprobation, what can be thought of their consistency who would restrain it on those where it

is only calculated to excite a small? If it is proper to protect the people from great injuries at the hands of their rulers, by exciting a strong, it is good to protect them against small injuries by exciting a weak disapprobation.

To public functionaries may be imputed either acts which they have not performed, or a want of certain qualifications, moral or intellectual, which they do possess.

With respect to acts, and even dispositions, which do not, either directly or indirectly, concern their public function, the same protection may be safely extended to them as to private men.

Acts in their public capacity which they have not performed, may be imputed to them either by mere forgery, and without any appearance of ground, or they may be imputed with some appearance of ground. From permitting the former, no good can be derived. They ought, therefore, to be prevented, in the same way as false imputations, injurious to individuals in their private capacity. That there should be no restraint in imputing actions to any public functionary which he may appear to have done, flows immediately from the principles already established, and requires not that any thing should here be added to its proof. Any appearance sufficient to lay the foundation of the slightest suspicion, renders it useful to call the attention of the public to the suspected part, which can only be done by making the suspicion known. A man may, indeed, publish, as a matter of fact, what is supported by appearances which would only justify the slightest suspicion. In that case, he is sure of incurring the disgrace of temerity, if not of malignity; and this is all the penalty which needs or can safely be inflicted upon him.

In imputing inaptitude to a public functionary, on the score either of intellectual or moral qualities, scarcely any limitation would be safe. Every man ought to have liberty to declare upon this subject any opinion which he pleases, and support it by any evidence which he may think adapted to the end. If, in supporting his opinion of the inaptitude of any public functionary, he imputes to him actions which there is not even an appearance of his having performed, that limited prohibition, the propriety of which we have just recognised, will strictly apply. With this exception, freedom should be unimpaired.

We have now, therefore, explained, we hope sufficiently, in what manner the principles which we have established require that the use of the press should be regulated in speaking of the action of public functionaries, and their fitness for the duties which they are appointed to discharge; whether those functionaries are the

immediate representatives of the people, or others whom it is the business of their representatives to control.

We have next to inquire in what manner those principles require that the use of the press should be regulated in speaking of the *institutions* of government. The illustrations already adduced will supersede the use of many words upon this part of the subject.

Institutions of government are good in proportion as they save the people from evil, whether it be evil created by the government, or not prevented by the government. Institutions of government are bad in proportion as they are the cause of evil to the people, either by what they create, or fail in preventing.

According to this statement, which it is impossible to controvert, institutions of government may, in strict propriety of speech, be said to be the cause of all the evil which they do not save the people from, and which any other institutions would save them from.

It is therefore of the highest importance that the people should know what are the institutions which save them from the greatest quantity of evil, and how much their own institutions want of being conformable to those best institutions.

Institutions of government are bad, either because those in whose hands the powers of government are placed do not know that they are bad, and though willing, cannot improve them; or they are bad, because those who have in their hands the powers of government do not wish that they should be improved.

Where the rulers are willing, but do not know how to improve, every thing which leads to a knowledge of these defects is desirable to both rulers and people. That which most certainly leads to such knowledge is, that every man who thinks he understands any thing of the subject, should produce his opinions, with the evidence on which they are supported, and that every man who disapproves of these opinions should state his objections. All the knowledge which all the individuals in the society possess upon the subject is thus brought, as it were, to a common stock or treasury, while every thing which has the appearance of being knowledge, but is only a counterfeit of knowledge, is assayed and rejected. Every subject has the best chance of becoming thoroughly understood, when, by the delivery of all opinions, it is presented in all points of view; when all the evidence upon both sides of every question is brought forward, and all those who are most interested in showing the weakness of what is weak in it, and the strength of what is strong, are, by the freedom of the press, permitted, and by



the warmth of discussion excited, to devote to it the keenest application of their faculties. False opinions will then be delivered. True; but when are we most secure against the influence of false opinions? Most assuredly when the grounds of these opinions are the most thoroughly searched. When are the grounds of opinions most thoroughly searched? When discussion upon the subject is the most general and the most intense; where the greatest number of qualified persons engage in the discussion, and are excited by all the warmth of competition, and all the interest of important consequences, to study the subject with the deepest attention. To give a body of rulers, or any other body of men, a power of choosing for the rest opinions upon government without discussion, we have already seen, upon good evidence, is the way to secure the prevalence of the most destructive errors.

When institutions are bad, and the rulers would gladly change them if they knew they were bad, discussion, it will not be disputed, would be good for both parties, both rulers and ruled. There is, however, another case, and that by far the most common, where the rulers are attached to the bad institutions, and are disposed to do all in their power to prevent any alteration. This is the case with all institutions which leave it in the power of them who are entrusted with the powers of government, to make use of them for their own advantage, to the detriment of the people; in other words, which enable them to do injury to the people, or prevent the people from good. This is the case with by far the greater number of those institutions by which the people suffer. They are institutions contrived for benefiting the few at the cost of the many.

With respect, therefore, to the greater number of defective institutions, it is the interest of the rulers that true opinions should not prevail. But with respect to these institutions, it is of still greater importance to the people that discussion should be free. Such institutions as the rulers would improve, if they knew that they were defective, will be improved as the rulers themselves become sensible of their defects. Such defective institutions as the rulers would not wish to see improved, will never be improved, unless the knowledge of these defects is diffused among the people, and excites among them a disapprobation which the rulers do not think it prudent to disregard.

That the prevalence of true opinions among the people, relative to those defects in their political institutions, by which the rulers profit at their expence, is of the utmost importance to the people, is therefore a proposition which no improbity will dare openly to controvert. That freedom of discussion is the only security which the people can have for the prevalence of true opinions has already

been proved. It is therefore proved that freedom of discussion, in its utmost perfection, they ought to enjoy.

What is included in the term *freedom of discussion*, is evident from what has already been said.

Freedom of discussion means the power of presenting all opinions, equally, relative to the subject of discussion; and of recommending them by any medium of persuasion which the author may think proper to employ. If any obstruction is given to the delivering of one sort of opinion, not given to the delivering of another; if any advantage is attached to the delivering of one sort of opinion, not attached to the delivery of another, so far equality of treatment is destroyed, and so far the freedom of discussion is infringed;—so far truth is not left to the support of her own evidence, and so far, if the advantages are attached to the side of error, truth is deprived of her chance of prevailing.

To attach advantage to the delivering of one set of opinions, disadvantages to the delivering of another, is to make a choice. But we have already seen, that it is not safe for the people to let any body choose opinions for them. If it be said, that the people themselves might be the authors of this preference, what is this but to say, that the people can choose better before discussion than after; before they have obtained information than after it? No, if the people choose before discussion, before information, they cannot choose for themselves, They must follow blindly the impulse of certain individuals, who, therefore, choose for them. This is, therefore, a pretence, for the purpose of disguising the truth, and cheating the people of that choice, upon which all their security for good government depends.

If these deductions are as clear and incontrovertible as to us they appear to be, the inquiry respecting the principles which ought to regulate the use of the press is drawn pretty nearly to its close. We have shown, that as far as regards the violation of the rights of individuals in respect to both persons and things, no definition on account of the press is required. We have shown in what manner the rights of individuals, in regard to reputation, should be defined by the civil code, and the violation of them prevented by the penal. We next proceeded to what may be considered as the main branch of the inquiry, namely, the use of the press in speaking of the institutions and functionaries of government. We have found, that in this respect the freedom of the press is of such importance, that there is no security for good government without it. We have also found, that the use of it, in respect to these subjects, admits but of two useful restrictions;—that of a direct exhortation to obstruct any of the operations of government in detail, and that of imputing to a

functionary of government a criminal act, which there was no ground, nor even any appearance of ground, to impute to him. These restrictions, of course, it would be very easy to define in the criminal code, and to find appropriate motives to sanction. In all other respects, we have seen that the press ought to be free; that if there is any limit to the power of delivering unfavourable opinions, either of the functionaries or the institutions of government, and of recommending those opinions by any media, with the single exception of false facts, under the circumstances mentioned above, the benefits which may be derived from the freedom of the press are so greatly infringed, that hardly any security for good government can remain.

In the administration of English law, or rather of what is called law, upon this subject, without being any thing better than the arbitrary will of the judges, it is said, that though discussion should be free, it should be “decent;” and that all “indecent” in discussion should be punished as a libel. It is not our object in this discourse to give an exposition of the manifold deformities of the English law of libel. If we have been successful in developing the true principles which ought to regulate the freedom of the press, every reader may, by an application of those principles, determine what he ought to think of the several particulars which may there attract his attention. We shall confine ourselves to a short notice of those *dicta*, or doctrines, which seem most likely to be pleaded in opposition to the principles which we have endeavoured to establish.

The question is, whether *indecent* discussion should be prohibited? To answer this question, we must, of course, inquire what is meant by indecent. In English libel law, where this term holds so distinguished a place,—is it not defined? English legislators have not hitherto been good at defining; and English lawyers have always vehemently condemned, and grossly abused it. The word “indecent,” therefore, has always been a term under which it was not difficult, on each occasion, for the judge to include whatever he did not like. “Decent,” and “what the judge likes,” have, therefore, been pretty nearly synonymous.

Indecency of discussion cannot mean the delivery either of true or of false opinions, because discussion implies both. In all discussion there is supposed at least two parties, one who affirms, and one who denies. One of them must be in the wrong.

The delivery, though not of all true opinions, yet of some, may be said to be indecent. All opinions are either favourable or unfavourable. True opinions that are favourable to government and its functionaries will not be said to be indecent; nor will all opinions that are true and unfavourable be marked out for prohibition under

that name. Opinions unfavourable may either be greatly unfavourable or slightly unfavourable. If any unfavourable opinions are exempted from the charge of indecency, it must be those which are slightly so. But observe, what would be the consequence of prohibiting, as indecent, those which are greatly unfavourable. A true opinion, greatly unfavourable to a functionary, or institution of government, is an opinion that the functionary, or institution, is greatly hurtful to the people. You would permit the slight evil to be spoken of, and hence removed; you would not permit the great evil to be spoken of.

If no *true* opinion can be regarded as indecent, meaning by indecent, requiring *punishment*, we must inquire if any *false* opinion on matters of government ought to be treated as such. If all false opinions are indecent, all discussion is indecent. All false opinions, therefore, are not indecent. The English libel law does not treat any favourable opinions, how much soever false, as indecent. If all opinions that are false and unfavourable are said to be indecent, who is to judge if they are false? It has been already proved, that the people can confide the power of determining what opinions are true, what are false, to none but themselves. Nothing can resist this argument. Either the people do know, or they do not know, that an opinion is false. If they do not know, they can permit nobody to judge for them, and must leave discussion its free course. If they do know, all infliction of evil for the delivery of an opinion which then can do no harm, would be purely mischievous and utterly absurd.

If all opinions, true and false, must be allowed to be delivered, so must all the *media* of proof. We need not examine minutely the truth of this deduction, because it will probably be allowed. It will be said, however, that though all opinions may be delivered, and the grounds of them stated, it must be done in calm and gentle language. Vehement expressions, all words and phrases calculated to inflame, may justly be regarded as indecent, because they have a tendency rather to pervert than rectify the judgment.

To examine this proposition, it must be taken out of that state of vagueness in which so many things are left by the English law, and made, if possible, to speak a language, the meaning of which may be precisely ascertained.

We have just decided, as appeared, on very substantial grounds, that the statement of no opinion, favourable or unfavourable, true or false, with its *media* of proof, ought to be forbidden. No language, necessary for that purpose, can be indecent, meaning here, as before, nothing by that term, as nothing can be meant, but simply *punishable*, or proper for punishment.

But the only difference between delivering an opinion one way and another way is, that in the one case it is simply delivered, in the other it is delivered with indications of passion. The meaning of the phrase in question then must be, that an opinion must not be delivered with indications of passion. What! not even a favourable one? "Oh, yes! a favourable one. Merited *praise* ought to be delivered with warmth." Here, then, is inequality, and therefore mischief at once. An opinion, meaning here a true opinion, if it is favourable, you allow—if unfavourable, you do not allow—to be delivered in a certain way. Why? Because in that way, you say, it is calculated to make an undue impression. Opinions favourable, then, you wish to make an undue impression, and by that confess the wickedness of your intention. You desire that the people should think better of the institutions and functionaries of their government than they deserve; in other words, you wish the government to be bad.

If opinions, to what degree soever unfavourable, may be freely and fully delivered, there are two conclusive reasons why the terms in which they are delivered should not be liable to punishment. In the first place, the difference between one mode of delivery and another is of little consequence. In the second place, you cannot forbid the delivery in one set of terms, without giving a power of preventing it in almost all.

1. *The difference is of little consequence.* If I say barely that such a functionary of government, or such an institution of government, is the cause of great injury and suffering to the people, all that I can do more by any language is, to give intimation, that the conduct of such functionary, or the existence of such institution, excites in me great contempt, or great anger, or great hatred, and ought to excite them in others. But if I put this in the way of a direct proposition, I may do so, because then it will be a naked statement with regard to a matter of fact, and cannot be forbidden, without overthrowing the whole of the doctrine which we have already established. If, then, I give indication of certain sentiments of mine, and of my opinion of what ought to be the sentiments of others *explicitly*, I ought, you say, to be held innocent; if *implicitly*, guilty. Implicitly, or explicitly, that is the difference, and the whole of the difference. If I say, that such a judge, on such an occasion, took a bribe, and pronounced an unjust decision, which ruined a meritorious man and his family, this is a simple declaration of opinion, and ought not, according to the doctrine already established, to meet with the smallest obstruction. If I also state the matter of fact with regard to myself, that this action has excited in me great compassion for the injured family, and great anger and hatred against the author of their wrongs, this must be fully allowed. I must further be allowed to express freely my opinion, that this action ought to excite similar sentiments in

other members of the community, and that the judge ought to receive an appropriate punishment. Much of all this, however, I may say in another manner. I may say it much more shortly by implication.—Here, I may cry, is an act for the indignation of mankind! Here is a villain, who, invested with the most sacred of trusts, has prostituted it to the vilest of purposes! Why is he not an object of public execration? Why are not the vials of wrath already poured forth upon his odious head?—All this means nothing, but that he has committed the act; that I hate him for it, and commiserate the sufferers; that I think he ought to be punished; and that other people should feel as I do. It cannot be pretended, that between these two modes of expression the difference, in point of real and ultimate effect, can be considerable. For a momentary warmth, the passionate language may have considerable power. The permanent opinion formed of the character of the man, as well as the punishment which, under a tolerable administration of law, he can sustain, must depend wholly upon the real state of the facts; any peculiarity in the language in which they may have been originally announced soon loses its effects. If that language has expressed no more indignation than what was really due, it has done nothing more than what the knowledge of the facts themselves would have done. If it has expressed more indignation than what was due, the knowledge of the facts operates immediately to extinguish it, and, what is more, to excite an unfavourable opinion of him who had thus displayed his intemperance. No evil then is produced; or none but what is very slight and momentary. If there should be a short-lived excess of unfavourable feeling, we have next to consider what is the proper remedy. Punishment should never be applied, when the end can be attained by more desirable means. To destroy any excess of unfavourable feeling, all that is necessary is, to show the precise state of the facts, and the real amount of the evil which they import. All excess of feeling arises from imputing to the facts a greater efficacy in the way of evil than belongs to them. Correct this opinion, and the remedy is complete.

*2. You cannot forbid the use of passionate language, without giving a power of obstructing the use of censorial language altogether.*

The reason exists in the very nature of language. You cannot speak of moral acts in language which does not imply approbation and disapprobation. All such language may be termed passionate language. How can you point out a line when passionate language begins, dispassionate ends? The effect of words upon the mind depends upon the association which we have with them. But no two men have the same associations with the same words. A word which may excite trains of emotion in one breast, will excite none in another. A word may appear to one man a passionate word, which does not appear so to another. Suppose the legislature were

to say, that all censure, conveyed in passionate language, shall be punished, hardly could the vices either of the functionaries or institutions of government be spoken of in any language which the judges might not condemn as passionate language, and which they would not have an interest, in league with other functionaries, to prohibit by their condemnation. The evil, therefore, which must of necessity be incurred by a power to punish language to which the name of *passionate* could be applied, would be immense. The evil which is incurred by leaving it exempt from punishment is too insignificant to allow that almost any thing should be risked for preventing it.

*Religion*, in some of its shapes, has, in most countries, been placed on the footing of an institution of the state. Ought the freedom of the press to be as complete, in regard to this, as we have seen that it ought to be, in regard to all other institutions of the state? If any one says that it ought not, it is incumbent upon him to show wherein the principles which are applicable to the other institutions fail in their application to this.

We have seen, that, in regard to all other institutions, it is unsafe for the people to permit any but themselves to choose opinions for them. Nothing can be more certain, than that it is unsafe for them to permit any but themselves to choose for them in religion. If they part with the power of choosing their own religious opinions, they part with every power. It is well known with what ease religious opinions can be made to embrace every thing upon which the unlimited power of rulers, and the utmost degradation of the people, depend. The doctrine of *passive obedience* and non-resistance was a *religious doctrine*. Permit any man, or any set of men, to say what shall and what shall not be religious opinions, you make them despotic immediately. This is so obvious, that it requires neither illustration nor proof.

But if the people here, too, must choose opinions for themselves, discussion must have its free course; and the same propositions which we have proved to be true in regard to other institutions, are true in regard to this.

(f. f.)

[\[Back to Table of Contents\]](#)

## NATIONS, LAW OF.

In the meaning of the word Law, three principal ideas are involved; that of a Command, that of a Sanction, and that of the Authority from which the command proceeds.

Ideas involved in the term Law.

Every law imports, that something is to be done; or to be left undone.

But a Command is impotent, unless there is the power of enforcing it. The power of enforcing a command is the power of inflicting penalties, if the command is not obeyed. And the applicability of the penalties constitutes the Sanction.

There is more difficulty in conveying an exact conception of the Authority which is necessary to give existence to a law. It is evident, that it is not every command, enforced by penalties, to which we should extend such a title. A law is not confined to a single act; it embraces a class of acts: it is not confined to the acts of one man; it embraces those of a community of men. And the authority from which it emanates must be an authority which that community are in the habit of obeying. An authority to which only a temporary obedience is paid, does not come up to the notion of that authority which is requisite to give existence to laws; for thus, the commands of a hostile army, committing plunder, would be laws.

The conditions, which we have thus described, may all be visibly traced, in the laws which governments lay down for the communities to which they belong. There we observe *the command*; there *the punishment* prescribed for its violation; and there *the commanding authority* to which obedience is habitually paid.

Of these conditions how many can be said to belong to any thing included under the term Law of Nations?

These ideas how modified in the term Law of Nations.

By that term is understood, something which either does, or which, it is supposed, ought to bind the conduct of one nation towards another.

But it is not understood, that one nation has a right to command another. When one nation can be commanded by another, it is dependent upon that other; and the laws of dependence are different

Law of Nations.





from those which we are at present considering. An independent nation would resent, instead of obeying, a command delivered to it by another. Neither can it properly be said, that nations, taken aggregately, prescribe those laws to one another severally; for when did they ever combine in any such prescription? When did they ever combine to vindicate the violations of them? It is therefore clear, that the term Command cannot be applied, at least in the ordinary sense, to the laws of nations.

In the next place, it would not seem, that any thing, deserving the name of Sanction, belongs to them. Sanction, we have already seen, is punishment. Suppose nations to threaten one another with punishment, for the violation of any thing understood to be a law of nations. To punish implies superiority of strength. For the strong, therefore, the law of nations, may perhaps have a sanction, as against the weak. But what can it have as against the strong? Is it the strong, however, or is it the weak, by whom it is most liable to be violated? The answer is obvious and undeniable.—As against these from whom almost solely any violation of the laws of nations need be apprehended, there appears, therefore, to be no sanction at all.

If it be said, that several nations may combine to give it a sanction in favour of the weak, we might, for a practical answer, appeal to experience. Has it been done? Have nations, in reality, combined, so constantly and steadily, in favour of the law of nations, as to create, by the certainty of punishment, an overpowering motive, to unjust powers, to abstain from its violation? For, as the laws against murder would have no efficacy, if the punishment prescribed were not applied once in fifty or a hundred times, so the penalty against the violations of the law of nations can have no efficacy, if it is applied unsteadily and rarely.

On the mode in which it has been applied, we may appeal to a great authority. Montesquieu says—“Le droit public est plus connu en Europe qu’en Asie: cependant on peut dire que les passions des princes—la patience des peuples—la flatterie des ecrivains, en ont corrompu tous les principes. Ce droit, tel qu’il est aujourd’hui, est une science qui apprend aux princes jusqu’à quel point ils peuvent violer la justice, sans choquer leurs intérêts.”—(*Lett. Persanes*, XCIV.)

To go a little deeper, we may consider, whether the interest of nations, that which, in the long run, governs them all, can ever produce combinations, from which an effectual sanction, of the nature in question, can be expected to proceed. That they would derive some advantage from the general observation of those maxims which have been called laws of nations, frivolous as are the

points upon which the greater part of them turn, cannot be denied. These advantages, however, are seen at a distance, and with the mind's eye; they are speculative, rather than sensible. The inconveniences, on the other hand, which must be felt, from any movement to lend effect to the law of nations, are immediate and formidable; the whole train of the evils of war are almost sure to arise from them. The latter class of impressions must, in general, be far more powerful than the former; and thus the interposition, in favour of the law of nations, will generally be shunned. A nation is often but too easily stimulated to make war in resentment of injuries done to itself. But it looks with too much coolness upon the injuries done to other nations, to incur any great chance of inconvenience for the redress of them.

Besides, the object is to be gained by the means of combination. But the combinations of nations are very difficult things. Nations hardly ever combine without quarrelling.

Again, all nations ought to combine for an object common to all. But for all nations to combine in any one enterprise is impossible. Suppose a prince to have violated the law of nations, it would be absurd to suppose that all the countries on earth should conspire to punish him. But if not all, what is to be the selection? Who shall come forward; who stand excused? By those who are condemned to the sacrifice, in what proportion are the contributions to be made? Who is to afford the greatest, and who may come with the least?

It is unnecessary to pursue any farther the analysis of this extraordinary hypothesis. It is evident from what has been said, that it is full of impracticabilities.

Are we, then, obliged to consider the maxims or rules, which pass under the name of Laws of Nations, as utterly without force and influence; and the discourse which is made about them, as mere affectation and impertinence?

Not wholly so. It is of use, that the ordinary intercourse of nations should be conducted according to certain forms, generally known and approved; because they will be observed on all occasions, when there is no particular motive to violate them, and will often prevent disputes which might arise on frivolous occasions. They resemble, in this respect, the ceremonial of a court, or the established forms of polished society.

The only sanction applicable to the Law of Nations is the popular sanction.

The objects, however, which are understood to be embraced by the law of nations, are of two sorts. The first are those minor objects,

which partake more of form than of substance. The other are objects which deeply affect humanity. That there are certain interests of nations, which it were good to have considered as their rights, and of which it is infinitely to be desired that the violation could be prevented, is most true. But if national law has no penalty annexed to it; if the weaker party, who is wronged, has no means of redress, where, it may be said, is the advantage of such a law? Or where the propriety of calling that a law, which is only a declaration respecting rights; violated by the more powerful party with impunity, as often, and to as great an extent, as he pleases?

There is still, however, a power, which, though it be not the physical force, either of one state, or of a combination of states, applied to vindicate a violation of the law of nations, is not without a great sway in human affairs; and which, as it is very nearly the whole of the power which can be applied to secure the observation of that law, deserves to be carefully considered, that, by duly appreciating its efficacy in this important affair, we may neither trust to it where it will disappoint our expectation, nor neglect the use of it where it may be turned to advantage.

That the human mind is powerfully acted upon by the approbation or disapprobation, by the praise or blame, the contempt and hatred, or the love and admiration, of the rest of mankind, is a matter of fact, which, however it may be accounted for, is beyond the limits of disputation. Over the whole field of morality, with the exception of that narrow part which is protected by penal laws, it is the only power which binds to good conduct, and renders man agreeable and useful to man. It is evident, also, that where there is not great inequality, it is a power, the binding force of which must be necessarily great. Because every individual, considered in himself, is weak and helpless as compared with the rest of the community. Unless, therefore, he can prevail upon them to abstain from injuring him, he must be exposed to unlimited suffering. And if, on the other hand, he can prevail upon them to combine in doing, or in desiring to do him good, he is put in the way of receiving perpetually the greatest advantages. His motive, therefore, to obtain the favourable, and to avoid the unfavourable regards of the members of the society, in which he lives, is of the highest order. But he can obtain their favourable, and avoid their unfavourable sentiments, only by abstaining with scrupulous anxiety from doing any injury to them, and observing all such modes of conduct as are calculated to be useful and agreeable to them.

The value which men set upon these favourable regards of the persons among whom they live, is strikingly manifested by some of the most ordinary forms of their discourse and behaviour. What is

more esteemed than character? What injury reckoned more deep and unpardonable than that of the man who exerts himself to take away unworthily any part of the reputation of his neighbours? But what is character, if not the title to the favourable sentiment of other men? And what is the loss of character, but the opinion of other men, that we do not deserve those favourable sentiments, with which they have been accustomed to regard us?

Honour and shame, those emotions, the intensity of which is proved by so many phenomena of human life, are but the feelings which attend upon those different situations. When a man finds himself in possession of the love, the esteem, and admiration of those by whom he is surrounded, he is filled with that delight which the belief of the secure possession of a great source of benefit, cannot fail to inspire: he is fearless, elated, and confident; the principal characteristics of that state of mind which we denominate pride. When he is conscious, on the other hand, of having forfeited in any degree the favourable sentiments of those among whom he lives, he suffers that depression which the loss of a highly valued possession is calculated to create; he ceases, in some degree, to look forward to his fellow men for good, and feels more or less the apprehension of evil at their hands; he fears to prove how far their disapprobation of him reaches, or to excite them to define it too accurately for themselves; he hangs down his head, and dares not so much as look them in the face.

When men are favourably situated for having those impressions deeply struck; or more correctly speaking, when those combinations of ideas have consistently and habitually been presented to their minds, the association becomes at last so indissoluble and strong, as to operate, even where the connection among the things themselves may not exist.

When persons, who have been educated in a virtuous society, have, from their infancy, associated the idea of certain actions with the favourable sentiments, and all the advantages which flow from the favourable sentiments of mankind; and, on the other hand, have associated the idea of certain other actions with the unfavourable sentiments, and all the disadvantages which flow from the unfavourable sentiments of mankind; so painful a feeling comes in time to be raised in them at the very thought of any such action, that they recoil from the perpetration of it, even in cases in which they may be perfectly secure against any unfavourable sentiments of mankind, which it might be calculated to inspire.

It will, we apprehend, upon the most accurate investigation, be found, that this is the only power to which we can look for any considerable sanction to the laws of nations;—for almost the only

species of punishment to which the violation of them can ever become amenable; and the only security, therefore, which mankind can ever enjoy for the benefit which laws, well contrived for this purpose, might be calculated to yield.

It is in the next place incumbent upon us to inquire, what dependence can be placed upon this security, in the set of cases now under consideration; and in what circumstances it is calculated to act with the greatest, in what with the least efficacy, toward this important end.

What dependence may be placed upon the popular sanction.

A power, which is wholly derived, from the good which may follow the favourable, the evil which may follow the unfavourable sentiments of mankind, will act most efficaciously upon him who is the most, least efficaciously upon him who is the least exposed to receive good and evil from the immediate inclination of his fellow men.

It seems to be evident, that he who is most weak, as compared with the rest of the community, is the most exposed to receive good or evil in consequence of their favourable or unfavourable sentiments; and that he, on the other hand, who is the most powerful, as compared with them, is the least exposed to receive good or evil in consequence of those sentiments.

When men are nearly upon equality, no one has any chance of inducing other people to abstain from hurting him, but by his abstaining from doing hurt in any way to them. He has no means of inducing them to do him any acts of service, but by their expectation of receiving similar acts of service from him. He is, therefore, intensely interested in its being generally believed of him, that he is a man who is careful to abstain from injuring, and ever ready to exert himself to do services to others.

The case is exceedingly different, where one man is lifted high above others. In that case he has powerful means of protection against their hurtful acts, powerful means of obtaining their services, altogether independent of his conduct, altogether independent of his disposition either to abstain from injuring them, or to render them service.

So far, therefore, as good conduct arises from a man's dependence upon the sentiments of others; and from this is derived the moral power, to which alone the term moral sanction or obligation can properly belong; the security for good conduct is apt to be lessened, in exact proportion as any one is raised above the level of those composing the mass of the community. If any man possesses

absolute power over the rest of the community, he is set free from all dependence upon their sentiments. In this, or nearly in this situation is every despot, having a well established authority. So far as a man is educated as a despot, he can therefore have but few of those associations, on which a conduct, beneficent to others, depends. He is not accustomed to look—for the services which he needs, or the evils which he apprehends, from others—to the opinion which they may entertain of the goodness or badness of his conduct; he cannot, therefore, have that salutary train of associations from an evil act to the condemnatory sentiments of mankind, and from the condemnatory sentiments of mankind to the forfeiture of all those delights and advantages which spring to him from the operation of their favourable regards;—associations which in men favourably situated become at last habitual, and govern the conduct, as it were, mechanically, without any distinct recurrence to the consequences, upon the thought of which, nevertheless, this salutary and ennobling sentiment ultimately depends, and from which it has been originally derived.

If such is the situation of the despot with regard to these important associations, it is in a proportional degree the situation of all those who partake of that species of elevation. In an Aristocratical country, for example, a country in which there is great inequality of wealth, those who possess the large fortunes, are raised to a great degree above any chance of receiving evil, or of standing deprived of any good, because the great mass, the lower orders, of their countrymen, think unfavourably of them. They are, no doubt, to a considerable degree dependent upon what the people of their own class may think of them; and it is accordingly found, that those qualities and acts, which are useful to that class, are formed into a particular, an Aristocratical code of morality, which is very effectually sanctioned by the favourable and unfavourable sentiments of the Aristocratical body, at the same time that it is exceedingly different from that more enlarged and all comprehensive code, on which the happiness of the greatest number depends, and to which alone the epithet moral in propriety belongs.

Such being the state of the facts connected with this important case, it remains to see what are the inferences, bearing upon it, which we are entitled to draw from them. We have already ascertained, that the only power which can operate to sanction the laws of nations; in other words, to reward or punish any nation, according as it obeys, or disobeys them, is the approbation and disapprobation of mankind. It follows, that the restraining force is, in this case, determined by the associations which they who govern it may have formed with the approbation and disapprobation of mankind. If they have formed strong associations, of a pleasurable

kind, with the approbation, strong associations, of the painful kind, with the disapprobation of mankind, the restraining force will be great; if they have not formed such associations, it will be feeble and insignificant. It has, however, appeared, immediately above, that the rulers of a country, of which the government is either monarchical, or aristocratical, can have these associations in but a very low degree; as those alone, who are placed on a level with the great body of other men, are placed in circumstances calculated to produce them. It is only then in countries, the rulers of which are drawn from the mass of the people, in other words, in democratical countries, that the sanction of the laws of nations can be expected to operate with any considerable effect.

Having thus ascertained, what is the power which restrains from violating the laws of nations, and what the description of rulers upon whom its restraining force is the greatest, we are next to inquire, by what expedients the force of it may be raised to the greatest pitch, and the greatest amount of benefit may be derived from it.

What is required to give to the Law of Nations its greatest perfection.

It is sufficiently recognized, that whatever is intended to produce any effect as a punishment, produces it in a greater degree, in proportion as it operates with greater precision and certainty. The inquiry, then, regards the means of giving precision and certainty to those sentiments of the world, on which the binding power of the laws of nations so greatly depends.

Two things are necessary to give precision and certainty to the operation of laws within a community. The one is, a strict determination of what the law is, the second, a tribunal so constituted as to yield prompt and accurate execution to the law. It is evident, that these two are indispensable requisites. Without them no penalties can operate with either precision or certainty. And the case is evidently the same, whether we speak of the laws which regulate the actions of individual and individual within the state, or those which regulate the actions of one state towards another.

It is obvious to remark, in the first place, that with regard to the laws of nations, not one of these two indispensable requisites has ever yet had any existence. It has neither been determined what the laws in question are, nor has any common tribunal for cognizance of the violations of them ever been constituted. With respect to the last, not so much as the idea of it seems to have been entertained. And with respect to the first, though much has been written, it has been almost wholly in the way of vague and general

discourse. Hardly a single accurate definition has yet been applied to any part of the subject.

Here, then, we come to what is obviously the grand inquiry; namely, *first*, What can be done towards defining the laws of nations? and, *secondly*, What can be done towards providing a tribunal for yielding prompt and accurate decisions in conformity with them? in other words, for applying with the greatest possible efficacy the opinion of the world for restraining the violation of them?

In the Article Jurisprudence, to which it is necessary for us here to revert, we have sufficiently made it appear, that the foundation of all law is the constitution of rights. Of two parties, unless it is previously determined what each shall enjoy, it can never be determined whether one has improperly disturbed the enjoyment of the other. To determine, however, what a party is to enjoy, is to determine his rights.

Necessity for a Code of International Law.

Now, then, with regard to nations, the question is, what ought to be constituted rights? or in other words, what would it be desirable, for the good of mankind upon the whole, that the several nations should respect as the rights of each other?

This, it is pretty obvious, is one of the most extensive of all inquiries, far exceeding the limits of an article in the present work. We can attempt little more than to show the way in which the inquiry may be carried on.

In the Article Jurisprudence, we have endeavoured to clear up the meaning which in legislation can, without leading to confusion, be alone attached to the term *Rights*; and we have there likewise seen, that there are but two classes of objects, in which individuals can have rights; namely, Things, and Persons.

Rights of Nations.

The case, we believe, will be found the same with respect to nations. They also can have rights, in nothing but Persons, and Things. Of course, it follows, that they can receive injury in nothing but in Persons, or Things.

The inquiry, however, with respect to the rights of nations, is not so simple, as that with respect to the rights of individuals; because between individuals, subject to the same system of laws, the legislature recognizes no state of hostility; but between nations there is the State of War, and the State of Peace, and the rights which are understood to belong to nations are different in these



two different states. In the state of war, nations recognize in one another very few rights respecting either persons or things; they kill the one, and take and destroy the other, with little other limit than the want of ability. In the state of peace, they respect as rights belonging to one another, nearly the same things which are constituted rights of individuals, by the ordinary systems of national law.

We shall begin with the consideration of those things which it would be desirable that nations should respect as the rights of one another, in the time of peace.

What should be recognized as Rights in time of Peace.

And, *first*, of rights with respect to things. As the subject of the rights of nations, things may be divided into two sorts; things belonging to some individual member of the nation, and things belonging to the nation in its collective, or corporate, capacity.

Those rights in things which the nation guarantees to its individual members, within the nation, it would be desirable, with hardly any exception, that nations should respect in regard to one another; that those things, for example, which the government of the country to which a man belongs, would regard, and would compel all its subjects to regard, as his property, the governments of all other countries should respect, and compel all their subjects to respect as his property.

The Property of Individuals.

There are two states of circumstances in which questions may arise between nations, respecting the property of their respective subjects. The first, where the property in question, when the cause of dispute arises, is within the country of the individual to whom it belongs: The second, where the property has, by its owner, been previously removed into the country, with which, or some of the inhabitants of which, the dispute has arisen.

1. The first set of circumstances exists between two conterminous countries; the bordering inhabitants of which are neighbours to one another, and may, as any other neighbours, infringe the properties of one another. The proper mode of settling these disputes seems to be sufficiently obvious. The rights of the party complaining should be adjudged, according to the laws of the country to which he belongs. But the party sued or prosecuted, should be amenable only to the tribunals of the country to which he belongs; that is to say, the question should be tried before the tribunals of the country of the defendant; but the definition of the right in question should be taken from the law of the country to which the plaintiff belongs. It might in some cases be convenient for countries in this situation, to agree in constituting a common judicature, appropriated to these

disputes, to consist, for example, of two judges, one of each country, with power to chuse a third, when they could not agree.

The injury complained of may be capable of redress by a remedy of the nature of a civil suit merely; or it may be of that more atrocious sort, theft or robbery, for which the remedy of punishment is required.

It would appear that punishment ought to be apportioned according to the laws of the country to which the party who has incurred it belongs. Whatever would be the punishment decreed for the offence, if committed against a man of his own country, such a punishment he ought to sustain, for the offence against the man of the other country. The question of punishment is here understood, as extraneous to that of compensation. This ought always to be made to the party injured, where it is capable of being made, and in a case of property it is always capable; if not by the author of the injury, from want of property, or other cause, at least by the government of the country to which he belongs.

2. Where a man has removed his property from his own into another country, there seems no peculiar reason why it should be regulated by any other laws than those of the country into which he has removed it; why the rights which it confers should be otherwise determined; or the violation of them otherwise punished.

We have now considered, though in a very general manner (and our limits preclude us from attempting any thing more), the mode in which nations should agree about the rights of one another (in other words, the laws they should establish), in as far as the property of individuals, belonging to them, is concerned. After the *property* of individuals, their *persons* are to be considered as requiring the protection of laws.

There is more difficulty in determining what is desirable, as international law, upon this part of the subject, than in that which regards the property of individuals. It is desirable that the persons of the inhabitants of every country should receive protection, according to the laws of their own country. But it is also desirable that each man should sustain punishment according to the laws of his country; and these two objects are to a certain extent inconsistent with one another.

The Persons of  
Individuals.

The inconvenience, however, seems to be greater, in permitting the inhabitants of one country to be punished, according to the laws of another; than in leaving the inhabitants of one country to the same measure of protection against injury to their persons from the

inhabitants of other countries, as is afforded to the inhabitants of those countries by their own laws. Many cases, indeed, may be conceived, in which this is a measure of protection which all reasonable men would allow to be inadequate. In such cases, however, the only remedy seems to be the formation of a compact, by which a mode of proceeding, agreeable to the sentiments of both parties, may be positively prescribed. This latter expedient is of course extraneous to that equitable construction which ought to be uniformly applied by the tribunals of one country to the injuries perpetrated, by those whom they may have to judge, upon the inhabitants of another country. If an inhabitant of Persia, for example, should force cow-broth down the throat of an inhabitant and native of Hindostan, the tribunals of Persia should not punish this outrage, as they would punish one Persian for making another swallow the same liquid. To the Persian it would be a trifling injury, and more than a trifling punishment would not be required. To the Hindu, it would be one of the greatest of all conceivable injuries. It ought to be, therefore, put upon the same footing, with an injury of an equal degree, done to a Persian; the nature of the injury, not the external act, should be the object of consideration: and whatever the punishment which would be awarded against a Persian for one of the greatest injuries of which he could be guilty to a Persian, the same ought to be inflicted upon him, for this, one of the greatest which he could occasion to a Hindu.

Besides the cases in which a government, as representative of the country, may be injured through the individuals who live under its protection, there are cases in which it may be injured more directly. Certain things belong as property to the government, without belonging to any individual; and there are persons who are members of the government, or agents of the government, and who may receive injuries in that capacity, distinct from those which affect them, as private individuals. These are the cases to which it now remains that we direct our attention.

Those things which belong to government as goods and chattels; its moveables, for example; or the lands which it holds, as any individual holds them, in the way of an estate; there seems to be no reason for considering as subject to any other rules, than those applicable to the goods and chattels which belong to individuals.

The Property or Dominion of the State.

Of other things, those to which any government can claim a right, as representative of a nation, must be, either, first, Portions of Land, or, secondly, Portions of Water.

1. The questions which relate to the rights which any nation may claim in any portion of land, are

Dominion in Land.

questions regarding boundaries; and these involve the whole of the questions respecting the acquisition of dominion.

To have any standard for determining questions with regard to dominion, the different modes of acquiring dominion, must be recognized; those which are proper to be allowed and respected by other nations must be distinguished from those which are improper, must be accurately defined, and the definitions made known.

For this purpose it is easy to perceive, that the same process is necessary, as that for the definition of rights, described, at some length, in the Article in this work, entitled Jurisprudence, to which we must again refer.

It is necessary, according to that example, that the events which are to be considered as giving commencement to a right of dominion, and those which are to be considered as putting an end to it, should be fully enumerated, and accurately defined.

This is the first part of the process. The other part is, to distinguish the different degrees of dominion. There is a dominion which is perfect, which includes every power over the subject in question, and leaves nothing farther to be acquired, a *dominium plenum*: there is also a dominion, which is but the commencement, as it were, of dominion, and includes the smallest possible fragment of a full dominion. These are the two extremes; and between them are various distinguishable degrees. All these should be fully depicted, and accurately defined.

When any of those events occurs which are to be considered as giving commencement to rights, it often happens that they are accompanied by circumstances which limit the right they would otherwise convey, and render the dominion less than full. These circumstances ought, also, to be completely enumerated; and the power of each to be accurately defined.

If this were done, an international code would be composed, in which the rights of dominion would be accurately defined; and to determine any question about boundaries, or about the degree of dominion, nothing farther would then be necessary than an adequate inquiry respecting the state of the facts.

The questions would exactly resemble those, which we have already described, in the Article Jurisprudence, in analyzing what is called pleading in judicature. In a question about boundaries there is, let us suppose, a district, over which one country affirms that it has a right of dominion, a dominion more or less complete; and

another country denies that it has that right. The first question is, Whether any of those events has occurred, which would give the affirming country a right of dominion? The second question is, Whether, if such an event had occurred, it was accompanied with any of those circumstances which limit dominion, and render it less than full, and if so, under what degree of limiting power they are classed? The third question is, Whether, if an event, thus giving commencement to a right of dominion had occurred, any other event, putting an end to that right, had subsequently occurred?

We need not here enlarge upon these several topics; because they will be sufficiently understood by those readers who bear in mind the expositions already given in the article referred to; and to those, who do not, we suggest the propriety of recurring to that article, as a preparation for the perusal of this.

It is evidently disproportionate to the limits which we must here prescribe to ourselves, to enumerate the events which it would be agreeable to the interests of mankind in general, that nations should regard as giving, and alone giving, commencement and termination to rights of dominion; because, in order to afford an enumeration which would be in any degree instructive, the reasons must be given why one set of events, and not another, should have the privilege in question conferred upon them.

It may be proper, however, in the mean time, to observe, that the events in question will not be found to be numerous, nor very difficult to discover. In fact, they are, and among civilized nations, almost always have been, pretty nearly agreed upon; and they are the questions of modification, and questions of fact, upon which, chiefly, differences have arisen. For example, there is no dispute, that Occupancy, where there is no prior right, is an event which should be considered as giving commencement to a right of dominion. Neither is there any doubt, that the Consent of those who have a right, may transfer that right to others: or in other words, that such consent is an event which gives commencement to a right in those others. Conquest, also, made in a lawful war, is recognized as an event of the same description; and, it will be found upon inquiry that these do, in fact, contain the whole. For on every occasion on which dominion is acquired, the territory so acquired must, before hand, either have belonged to some body, or have belonged to no body. If it belonged to no body, occupancy is the only event which can be supposed to give commencement to the right. If it belonged to some body, it must be taken from him, either willingly, or by force. If it is taken from him willingly, we have his consent. If it is taken by force, it is by conquest in war, that the new right is created.

It is evidently, however, farther necessary, that the different species of consent should be distinguished; and those to which it would be proper to attach this investitive power, separated accurately from those from which it should be withheld. It is here accordingly, that the doctrine of contracts, would need to be introduced; that the different species of them applicable to this subject, in which all treaties would be included, should be enumerated; that the effects proper to be given to each of them should be defined; and the mode of interpreting them, or fixing the sense which they ought to bear, accurately laid down.

It would also be expedient, after the principal contracts, applicable to international concerns, are ascertained, to exhibit in the international code, *formulæ*, with blanks to be filled up, which should be employed by nations on all occasions of such contracts, and being framed with the greatest possible accuracy, would go as far as it would be possible by words to go, in excluding ambiguity, and the grounds of dispute.

With respect to conquest, the last event, calculated to give commencement to rights of dominion, mentioned in the above general enumeration, it is allowed, that as there are some conquests which ought not to be considered as conferring rights of dominion, there are others which ought to be considered as doing so. It is evidently necessary, therefore, that the line of separation should be drawn.

Whether a conquest, however, should or should not be considered as conferring a right of dominion, depends very much upon the nature of the war, through which it is made. If the war be what is regarded as just, and the mode of warfare conformable to the recognized rules, the conquest is apt to be regarded as conferring a legitimate title; if the war, and mode of war, be of a contrary description, the validity of the title conferred by the conquest may be liable to dispute.

It is evident, therefore, that in order to define the species of conquest on which the investitive power in question should be conferred, the circumstances which render a war justifiable, and the mode in which it is justifiable to carry it on, must first be ascertained. This forms the second part of our inquiry: and the question regarding the investitive power of conquest must be deferred, till that inquiry is performed.

Having thus far considered the mode in which should be determined the rights which nations acquire over portions of territory, or Land, it remains that we consider the mode in which their rights should be determined with regard to Waters.

Waters, as concerns the present purpose, are, either rivers or the sea.

Dominion in Water.

As the sea involves the questions of greatest extent and importance, we shall attend to that part of the subject first.

Even in the language of ordinary discourse, the sea is denominated the common domain of nations.

The first principle with regard to the sea is this, that all nations have an equal right to the use of it. The utility of recognizing this principle, is so apparent, that it has never been the subject of any dispute. And all the rights assigned to nations severally, in the enjoyment of this common domain, ought to rise out of this principle; and to be limited by it. Whatever use any nation makes of it, should be such as not to prevent a similar and equal use from being made by other nations. And every use which cannot be shown to have that effect, should be recognized as a right by the law of nations.

The principal use which nations make of the sea, is that of a passage for their ships. Agreeably to the principle which we have recognized, the ships of one nation should pass in such a manner as not to obstruct the passage of those of another. The rules according to which the possible cases of interference should be regulated, are very simple; and are, in fact, laid down and acted upon, with considerable accuracy. They resemble, in all respects, those according to which the vessels of the same country are made to avoid and to regulate their interferences in the rivers of the country, or upon its coasts. There would be no difficulty, therefore, in making accurate definitions of the requisite rights, for insertion in the international code.

The rights being established, the violations of them should be punished, on the same principles, as those which we have laid down in regard to the preceding cases. Either property has been injured, or persons. In either case, compensation is an indisputable part of the remedial process, wherever it is practicable. In loss of property, it is fully practicable. It is also practicable in many of the injuries done to the person. As in the case of offences committed on land, the rights of the individual who has suffered should be estimated according to the laws of the country to which he belongs; but the punishment of the offender should be measured according to the laws of the country to which he belongs. In the case of piracy, which is robbery, or murder, committed by persons whom no country recognizes, and upon whom, therefore, justice can be demanded from no foreign government, it has hitherto been the practice that the nation suffering has taken the punishment into its

own hands. Accordingly, the punishment of piracy has always been extremely severe. It would be, no doubt, better, if a mode were adopted, by which it would not be necessary for a nation to be judge in its own cause. A rule does not seem impossible to be framed, according to which the punishment of piracy might be provided for, by referring those accused of it, either to some general tribunal, constituted for that purpose, or to the tribunals of some nation other than that against which the offence has been perpetrated. A general law, on this subject, to be observed by all nations, would be highly desirable.

Rules, therefore, seem not difficult to be laid down, for regulating the proceedings of nations on the high seas. A distinction, however, is drawn between what is called the *high*, and what is called the *narrow seas*. By the narrow seas is commonly meant some portion of sea, to a greater or less extent, immediately surrounding a particular country; and in which that country claims peculiar privileges. The question is, whether any such privileges should be allowed, and if allowed, to what extent?

The regulating principle in this, as in other cases, is the general advantage, the principle of utility. There are cases, in which certain privileges, in the waters surrounding a particular country, are of so much importance to that country; and the exercise of those advantages occasions so very little inconvenience to other nations, that what is lost, by all of them taken together, bears no comparison with what is gained by that particular nation. In these cases, the exercise of such privileges should be allowed; they should, however, be defined, in as many instances as possible, and promulgated by insertion in an international code.

Of the privileges in question, are all those which are essential, or to a considerable degree subservient, to the national security. In some cases, the exclusive right of fishing might perhaps come under the same rule. But this is in general provided for, by the necessity of drawing the nets, or curing the fish upon the land, a privilege which, of course, it is in the power of any nation to give or to withhold.

In obedience to this equitable principle, it appears, that such foppish privileges, as have sometimes been insisted upon, and afford no advantage to one nation, which is not wholly at the cost of others—lowering the flag, for example, and such like impositions—should not be recognized by the code of nations.

It appears, also, that those tolls which have been, sometimes, and are levied at the narrow inlets of some seas, deserve to fall under the same condemnation. The passage through these inlets is a



common good to all the nations of the earth which may have a motive to use them; a good of the highest importance to the nations which are situated within, and to which it is the only means of maritime communication; and, while it imparts no evil to the conterminous nation, the toll which that nation levies is an advantage obtained wholly at the cost of others; and imposing upon them a burthen, in the way of obstruction and trouble, which is compensated for by advantage to nobody.

The waters, we have said, in respect to which rights should be assigned to nations, are rivers and the sea. Having stated what appears necessary on the present occasion with respect to the sea, it remains that we offer the few observations required, on the subject of rivers.

Rivers are either the boundary between two countries, or they are wholly within a particular country.

Those which are wholly within a particular country, it seems most agreeable to the principle of utility to regard as wholly belonging to that country. In the case of navigable rivers which pass through several countries, it would indeed be desirable for those countries which are situated higher up than that at the mouth of each, as well as for all those who might thus have intercourse with them, that the navigation of such rivers should be free; but it would be difficult so to regulate this right, as not to affect the security of the country through which a free navigation should thus be allowed; and a slight diminution in its security would be so great a loss to that country as would require, to compensate for it, a very great advantage to those by whom the navigation was enjoyed. Unless where this advantage were very great, it would not, therefore, be agreeable to the principle which should dictate the laws of nations, that the freedom of the navigation should be regulated on any other principles than those of mutual agreement.

In regard to those rivers which flow between two countries, the principle of regulation is sufficiently plain. The benefits derivable from the river should be shared equally between them. Its principal benefits arise from the fishing and from the navigation. The right of fishing in most cases may be fitly distributed, by each party fishing from its own bank to the middle of the stream. The right of navigating of each must be so exercised as not to obstruct the right of the other. In this case the same sort of rules are required, to prevent the ships of the two nations from obstructing one another, in a common river, as are found available to prevent the ships of different individuals from obstructing one another, in a river belonging to one country. There is no difficulty, therefore, here, which it is worth stopping to show how to remove.

We have now adduced, what our limits admit to be said, upon the first great branch of the inquiry relative to the law of nations; namely, the rights which they should recognize in one another in the state of peace. We proceed to the second branch, relating wholly to the state of war.

What should be recognized as Rights in time of War.

The questions which present themselves for solution relating to the state of war, are either those which respect its commencement, or those which respect the mode of carrying it on.

With respect to the commencement of a war, the principal question is, What are the conditions which should be regarded as necessary to render it just?

What should be regarded as necessary to render the commencement of a War just.

As men, in a situation where laws, and the protection derived from them, do not exist, are left to their own protection, and have no means of deterring other men from injuring them, but making them dread injury in return, so nations, which, with respect to one another, have, as we have seen before, but little protection from the legal sanction, are left to supply its place by this dread of injury in return, which, in the case both of individuals and of nations, may be called the *retributive sanction*, and of which, in the case of nations, war is the principal organ.

From this view of the essence and end of war, we lay down immediately one pretty extensive proposition with regard to the conditions necessary to render it just.

As the legal sanction, or punishment for the offences of individuals ought to operate only where some right has been violated, and the violation has been such as to require it, so the retributive sanction of nations, which is war, ought to operate only where some right of the nation, or something which ought to be treated as a right, has been violated, and where the violation has been such as to require that desperate remedy.

But as not all violations which may possibly be committed of the rights of a nation will justify it in inflicting war, the next object is, to draw the line of separation, and distinguish between those violations of the rights of nations which justify, and those which do not justify, the extremity of war.

As the evils which war produces are exceedingly great, it is, first of all, evident, that no violation of rights which is not very great, will, upon the principle which we have so often recognized, suffice to

justify it. Of two evils, the least, is the choice of all sound legislation.

Of the violation of the rights of individuals, in the same country, the cases meet for punishment are capable of being pointed out, with a degree of accuracy, not wanting much of perfection. Of the violation of the rights of nations, committed by one nation against another, the cases which would justify the remedial operation of war are much more difficult to define. The difficulty, indeed, is not universal; for there are cases which may be very satisfactorily defined; and as far as definition can go, it is of the utmost importance that it should be carried. Uncertainty, then, pervades only one part of the field; which the more we are able to lessen, the greater the advantage in favour of humanity which we gain. If a proper code of international law were formed, there would be certain defined violations of the rights of nations which would be pointed out, not only as deserving the indignation and hatred of all the world, but as justifying the injured nation before all the world, in inflicting upon its injurer the calamities of war. There would also be certain other injuries pointed out, of a more doubtful character; which might, or might not, according to circumstances not easy to define, be such as to justify recourse to war. The injuries of this secondary character, also, which might, or might not, according to circumstances, justify a war, are capable of being pointed out with a certain degree of accuracy. To a certain degree, likewise, the circumstances which would convert them into justifying causes, are capable of being foreseen. So far definition is capable of extending, and so far, of course, it ought to be carried.

In illustration of this latter class of injuries, we may select the most remarkable, perhaps, and important of all the instances; preparations for a threatened attack. A sense of security is one of the most valuable treasures of a nation; and to be deprived of that sense of security, is one of the greatest of injuries. But what state of preparation shall, or shall not be considered as justifying the threatened nation in striking the first blow, in order not to give its enemy the advantage of completing his preparations, and making his attack just at the moment when it would be most destructive, it is perhaps impossible to determine, for all cases, beforehand; though, no doubt, a certain progress may be made towards that determination, and the bounds of uncertainty may be greatly reduced.

We are aware how general, and therefore how unsatisfactory, these observations are, on the important subject of defining those violations of the rights of nations which ought to be regarded as justificatory causes of war; but at the same time it is to be observed, that not much more could have been done without

framing the code, by actually enumerating and defining the violations for which that remedy should be reserved.

Another consideration is now to be weighed. It is evident that whatever injuries are done by one nation to another, compensation may almost always be made for them. It is equally evident, that whatever injury may have been sustained, if compensation is made for it, the justificatory cause of war is removed.

The doctrine of compensation, therefore, is an important part of international jurisprudence. Before recourse is had to war, for any violation of rights, compensation ought first to be demanded; and no war, except in cases fit for exception, should be regarded as just, which this demand had not preceded; a demand which should be made through a constituted organ, and in a predetermined mode, as we shall more fully describe in a subsequent page, when we come to treat of an international tribunal.

As there can be no reason why the demand of compensation should not always precede the use of arms, except in cases of such a necessity as will not allow time for demanding compensation—a necessity for the immediate use of arms, in order to prevent an evil immediately impending—those cases of urgent necessity should, as far as possible, be sought out, and defined.

Other circumstances may be enumerated, as belonging to this first stage of the remedy, against a nation, which places itself in an attitude, affecting the sense of security of any of its neighbours. If a nation is making preparations, or executing any other measures, calculated to excite alarm, it may be called upon to desist from them; or it may be called upon to give security, that it will not make a hostile use of them. Of these securities, hostages are one of the most familiar instances. Various other instances will easily present themselves to the consideration of our readers. Upon this part of the subject, therefore, it is unnecessary for us to enlarge.

It thus appears, that we may lay down, with a considerable degree of precision, the conditions upon which the commencement of a war ought to be regarded as just. It remains, under this head of inquiry, that we show how it may, as far as possible, be determined, what ought to be regarded as just and unjust in the modes of carrying it on.

What should be regarded as just and unjust in the modes of carrying on a War.

This is an inquiry of more complexity, a good deal, than the first. In looking out for a guiding principle, it is evidently necessary to keep in view the end to which every just war is of necessity restricted. That is, compensation for an injury received, and security that a

fresh injury shall not be committed. Combining this with the grand principle of humanity and utility, in other words, of morality; namely, that all evil, wilfully occasioned, and not calculated to produce a more than equivalent good, is wicked, and to be opposed, we obtain one comprehensive and highly important rule; which is this: That in the modes of carrying on war, every thing should be condemned by the law of nations, which, without being more conducive, or more in any considerable degree, to the attainment of the just end of the war, is much more mischievous to the nation against whom it is done.

As the end is to be gained, in most cases, only by inflicting a loss of men and property, upon the opposing nation, it would be desirable that the distinction should be drawn between the modes of inflicting this loss, which are the most, and those which are the least calculated, to inflict pain and suffering, without being more conducive to the end.

One distinction is sufficiently remarkable; namely, the distinction between the men who are in arms or actually opposed to the designs of the belligerent, and the men who are not so; also between the property which belongs to the government of the opposing nation, and that which belongs to private individuals composing the nation.

With respect to the first class of objects, the men in arms, and the property of the government, there is not much difficulty. To produce the loss of them, as rapidly as possible, till the end or purpose of the war is obtained, appears to be a privilege which cannot be separated from the right of warring at all.

With respect to the loss of the men, indeed, there is an important restriction. It means the loss of them for the purposes of the war, and no more. If it be practicable to put them in a situation in which they can no longer be of any service to the war, all farther injury to them should be held unjustifiable. Under this rule falls the obligation, so generally recognized, of making our enemies, as often as possible, prisoners, instead of killing them, and of treating them with humanity, while retained in that condition.

That part of the subject, therefore, which relates to men in arms, and to such property as belongs immediately to the government, it is not impossible to include in rules of tolerable precision. The difficulty is, with respect to those individuals who, composing the body of the nation, form no part of the men in arms, and with respect to the property of such individuals.

Though it would not be correct to say, that these do not contribute, or rather that they may not be made to contribute, to the means with which the government carries on the war; yet it would be absurd not to recognize a very broad distinction between them, and the men and things which are immediately applied, or applicable to the war. A difference, therefore, equally broad, ought, in reason, to be made in the mode of treating them. The mode of treating the one ought to be very different from that of treating the other. As the rule of destruction must be the rule with regard to the first, only limited by certain restrictions; so the rule of forbearance and preservation ought to be the rule with regard to the latter, only to be infringed upon special and justifying circumstances.

Thus far we seem to have travelled with the advantage of light to our path. We may go a little farther, with equal certainty, and say, that as far as regards the persons of those who are not engaged in the immediate business of hostility, very few occasions can occur, in which it would be allowable, upon any just principle of international law, to do them any injury. Leaving them out of the question, we narrow it to the case of the property belonging to individuals; and shall now proceed to see how far the protection of it can be embraced within general rules.

We must suppose the case, which is the strongest, that of an invading army. The advantage which is capable of being derived to such an enemy, by seizing and destroying the property of individuals, bears, unless in certain very extraordinary instances, no sort of proportion, to the evil inflicted upon the individuals. This, we presume, cannot admit of a dispute. Upon the principle, therefore, so often recognized, as that, the dictates of which ought in this affair to be solely obeyed, no such destruction, unless in such instances, ought to be sanctioned by the law of nations. Such property, it is well known, can rarely be counted upon, as any considerable resource; because it is to a very great extent in the power of the people invaded to drive their property away, or to destroy it. The property of individuals, in an invaded country, would in general be a much more certain resource to an invading army, if that army were to purchase from them the articles which it desired. And, perhaps, this would be the most advantageous compromise of which the circumstances admit; namely, that the invading army should abstain from the violation of private property; but that it should in return have the benefit of an unrestricted market; that nothing should be done on the part of the government of the invaded country to prevent its subjects from buying and selling with the invaders, as they would with any other parties.

It may no doubt be true, that the plunder and devastation of a province, or other portion of a country, must have an effect in

diminishing the resources of the government for carrying on the war. In this point of view it must be allowed that the destruction of private property is of some importance to the invading nation with regard to the result of the war. But the question, in settling the difficulties of international jurisprudence, is not whether an advantage is gained, but whether the advantage, such as it is, be not gained, at too great a cost of evil.

If it be certain that the losing party, in consequence of the destruction in question, loses more than the gaining party gains, it is certain that the two parties, taken together, are losers by the proceeding; and of course that nations, in the aggregate, are losers upon the whole. Nay, it is certain that each nation, taken by itself, is a loser, upon the balance of the cases in which it is liable to lose, and those in which it is liable to gain. If it loses more in the cases in which it bears, than it gains in the cases in which it inflicts invasion; and if it is as liable to bear, as to inflict, which is the usual condition of nations, it follows clearly that it is its interest to concur in a rule which shall protect the property of individuals, in cases of invasion.

Even in that more civilized mode, which has been adopted by invading armies, of availing themselves of the property of individuals; by exacting contributions through the instrumentality of the local authorities; contributions which these authorities are left to partition among the people, as they may deem equitable; though it is admitted that this is a much less hurtful proceeding than military rapine, still we think, it will easily appear, that the evil inflicted upon the contributors is greater than the benefits derived to the receivers.

Unless the amount thus received by an invading army is very considerable, the benefit which is derived, the aid which is gained towards accomplishing the end of the war, must be considered as trifling. But if a contribution, the amount of which can be of any considerable avail towards attaining the object of the war, is levied suddenly upon a particular district, a comparatively small portion of the invaded country, it must operate upon the contributors with a dreadful weight of oppression. Upon an equitable estimate of the circumstances, it can, therefore, hardly fail to appear, that, whether the contribution exacted is heavy or light (it must always be heavy to those who sustain it), the loss to those who suffer must greatly outweigh the advantage to those who receive. If it be so, this mode of exaction should, it is evident, be forbidden by the law of nations.

If these are the principles, upon which an international code, regarding this branch of the subject, ought to be constructed, they will enable us to determine the question with regard to the

property of individuals in another set of circumstances, to which the rules of civilized society have hardly yet begun to be applied. Whatever rules apply to the property of individuals found upon the land, the same rules ought, by parity of reason, it should seem, to apply to it when found upon the sea.

The conduct of nations, however, has hitherto not been conformable to the parity which appears to belong to the two sets of cases. Some tenderness, more or less, according to the progress in civilization, appears to have been shown, by all but savages, to the property of individuals upon the land. To this hour the property of individuals upon the sea is made prize of without mercy by the most civilized nations in the world.

The notions of piracy, in fact, have, on this subject, unhappily prevailed, and governed the minds of men. Pirates make prey of every thing. Sailors, originally, were all pirates. The seafaring state was a belligerent state, of almost every vessel against every other vessel. Even when nations had gradually advanced into a more civilized state, and when their vessels abstained from injury to one another in a period of peace, they appear, when the ties of peace were dissolved, and they were placed with respect to one another in a state of war upon the seas, to have felt the force of none but their old associations, and to have looked upon the state of war as a state of piracy. Two nations at war with one another continue to act towards the property of individuals belonging to one another, exactly as two nations of pirates would do.

Assuredly this is a state of things to which the present intelligence and morality of the world ought speedily to put an end. The very same reasoning which we have applied to the case of the property of individuals upon the land, is not less conclusive when applied to the property of individuals upon the sea. The loss to the party losing is more than an equivalent for the gain to the party that gains.

There is another consideration of great importance. All nations gain by the free operations of commerce. If then we were to suppose that the losses and gains of the two belligerent parties balanced one another, which yet they never do, there is an advantage derived from their commerce to every nation on the earth to which, in any degree, either directly or indirectly, that commerce extends; which advantage is either lost or diminished, by their preying upon the property of the individuals belonging to one another. This, therefore, is an unquestionable balance of loss, to the general community of nations, which the law of that community ought to endeavour to prevent.



If, then, we should suppose that it were enacted as the law of nations, that the property of individuals passing on the seas should be equally respected, in peace and in war, we may proceed to consider whether any disadvantage, nearly countervailing the general good, would thence accrue to the belligerents.

It may be alleged, that a nation at war with another is retarded in reducing its antagonist, by the riches which the commerce of that antagonist, if undisturbed, will place at its disposal. But it is evident that an advantage to one of two antagonists, when compensated to the other, by a power to overcome that advantage, exactly equivalent, is in reality no advantage at all. Such is the case with the advantage accruing to the nation with which another is at war, when the property of individuals upon the sea is allowed to pass unmolested. If its riches are increased by freedom of commerce, so are those of its antagonist. The advantages are equal, where the circumstances are equal, which, in the majority of cases, they undoubtedly are.

If it be still objected, that there may be cases in which they are not equal, the answer is obvious, and incontrovertible. There is no general rule without its exceptions, but partial evil must be admitted for general good. Besides, if the case were very remarkable, it might be excepted from the general rule.

If this were adopted as part of the law of nations, all those questions respecting the maritime traffic of *Neutrals*, questions which have been the source of so much troublesome inquiry, so much animosity, and so much mischief, would be immediately at an end. If the traffic of the belligerents, so far as concerned the property of individuals, were free, so would be that of all neutral nations.

Places actually blockaded, that is surrounded with an hostile force for the immediate purpose of being reduced, either by arms, or by famine, would still form exceptions; because the admission of ships into them, with supplies either of food, or munition of war, would be directly at variance with the very object of the blockade.

In all other cases, the admission either of provisions or of instruments of war into a belligerent country, ought, undoubtedly, upon the principle of utility, not to be disturbed. The benefit, except in rare and remarkable cases, could not be material to the country into which they might enter, nor hence the injury to its antagonist; on the other hand, that antagonist would enjoy the same privilege of the free admission of those commodities, and thus they would be equal in all respects. The inconvenience, however, which would thus be saved to the neutrals—the annoyance of search, the loss by

detention, the occasions of quarrel—are known to be evils of no ordinary magnitude.

The desertion of sailors from the ships of a belligerent to those of a neutral has given rise to disputes in one instance only, that of Great Britain and the United States of America. The question to be determined, in laying down the principles of international jurisprudence, is, whether this desertion ought to be considered as constituting a ground for the general right of search; in other words, whether the evil to which a belligerent is exposed by desertion, or rather by that portion of desertion which can be prevented by the right of search, is an equivalent for all the evil which is unavoidably produced by it.

Desertion must take place either from the ships of war of the belligerent, or from its merchant ships.

In respect to ships of war, it is so easy for a belligerent to prevent desertion to neutrals, at least in any such degree as to constitute a great evil, that it would be altogether absurd to speak of it as an evil to be compared with those arising from the right of search. The only occasions on which ships of war can be exposed to desertion to neutrals, must be, on those occasions on which they go into a neutral port. But on those, comparatively rare, occasions, they can so easily take precaution against desertion, that the danger to which they are exposed is hardly worth regarding.

When the sailors belonging to merchant ships transfer their services to the ships of a neutral, it is not to be called desertion. It can only take place, in very considerable numbers, when seamen's wages in the neutral country are much higher than in that of the belligerent. The sailor, in this case, leaves his own for another country, only because he improves his situation by so doing. This is a liberty, which, as it ought to belong to every body, so it ought not to be withheld from the sailor. If, indeed, any nation thinks proper to forbid any class of its people to leave their country, as England with regard to its artificers, other countries cannot help that, but they ought not to be called upon to lend their aid to such an antisocial regulation, by allowing their vessels to be searched, as security against its infringement. Besides, it is evident, that there is a much greater security, arising from the very nature of the case, against the chance of a nation's being, to any considerable degree, deprived of its sailors by any such means. If the sailors go into the neutral country because wages are higher there, a small number only will have gone, when wages, from diminution of the numbers, will begin to rise in the country which they have left, and from increase of the numbers, will begin to fall in the country to which they have been tempted to repair. When the wages of seamen have

thus sufficiently risen, in the belligerent country, which they are sure to do if the demand for them rises, the sailors will not only come back from every country in the world, but the sailors of other countries will hurry along with them; and the evil of desertion cures itself.

Only two questions, of any great importance, appear to remain; that relating to the march of troops, for a hostile purpose, through a neutral country, and that relating to the extent to which the operations of a successful war ought to be pursued.

According to the principles which we have already laid down for regulating the proceedings of a hostile army even in the invaded country, namely, that of committing no plunder, and enjoying the right of market, it appears that the right of passing through a neutral country on similar terms should be refused to no party. This rule, while it holds out equal advantages to all belligerents, admits, less than any other rule, grounds of dispute.

The end, which we have already described as that alone the pursuit of which can render any war justifiable, sufficiently defines the extent to which the operations of a successful war ought to proceed. The end of every justifiable war is to obtain compensation for an injury sustained, and security against the repetition of it. The last point, that of security, alone contains any uncertainty. Nations are apt to exaggerate the demand for security, to require too much; very often unconsciously, from the mere cravings of self-love; sometimes fraudulently, as a cover for ambitious views. As the question, however, respecting what may or may not, in each instance, be sufficient security, is a question of fact, not of law, it must be determined, if determined at all, by a tribunal empowered to take cognizance of the facts.

We have now then laid down the principles by which, in our opinion, the rights of nations, in respect to one another, ought to be determined; and we have shown in what manner those principles should be applied, in order to come to a decision, in the most remarkable cases. The minor points it is, of course, not in our power to illustrate in detail; but that will not, we should hope, be difficult, after the exemplification exhibited, and the satisfactory solutions at which we seem to have arrived, of all the more considerable questions which the subject presents.

Of the construction of an International Code, and an International Tribunal.

From what has been shown, it is not difficult to see, what would be the course pursued by nations, if they were really actuated by the

desire of regulating their general intercourse, both in peace and in war, on the principles most advantageous to them all.

Two grand practical measures are obviously not only of primary importance toward the attainment of this end, but are of indispensable necessity toward the attainment of it in any tolerable degree. These are, first, the construction of a Code; and, secondly, the establishment of a Tribunal.

It is perfectly evident, that nations will be much more likely to conform to the principles of intercourse which are best for all, if they have an accurate set of rules to go by, than if they have not. In the first place, there is less room for mistake; in the next, there is less room for plausible pretexts; and last of all, the approbation and disapprobation of the world is sure to act with tenfold concentration, where a precise rule is broken, familiar to all the civilized world, and venerated by it all.

How the nations of the civilized world might concur in the framing of such a code, it is not difficult to devise. They might appoint delegates to meet for that purpose, in any central and convenient place; where, after discussion, and coming to as full an understanding as possible upon all the material points, they might elect some one person, the most capable that could be found, to put these their determinations into the proper words and form, in short, to make a draught of a code of international law, as effectually as possible providing for all the questions, which could arise, upon their interfering interests, between two nations. After this draught was proposed, it should be revised by the delegates, and approved by them, or altered till they deemed it worthy of their approbation. It should then be referred to the several governments, to receive its final sanction from their approbation; but, in the mean time, it should be published in all the principal languages, and circulated as extensively as possible, for the sake of two important advantages. The first would be, that, the intelligence of the whole world being brought to operate upon it, and suggestions obtained from every quarter, it might be made as perfect as possible. The second would be, that the eyes of all the world being fixed upon the decision of every nation with respect to the code, every nation might be deterred by shame from objecting to any important article in it.

How the nations might concur in framing an International Code.

As the sanction of general opinion is that upon which chiefly, as we have already seen, such a code must rely for its efficiency, not a little will depend upon the mode in which it is recognized and taught. The recognition should in each country have all possible publicity and solemnity. Every circumstance which can tend to

diffuse the opinion throughout the earth, that the people of each country attach the highest importance to such a code, is to themselves a first-rate advantage; because it must be of the utmost importance to them, that all the nations of the earth should behave towards them upon the principles of mutual beneficence; and nothing which they can do can have so great a tendency to produce this desirable effect, as its being generally known that they venerate the rules which are established for its attainment.

If nations, then, were really actuated by the desire of regulating their mutual intercourse upon principles mutually beneficent, they would adopt measures for having a code of international law constructed, solemnly recognized, and universally diffused and made known.

But it is not enough that a code should exist; every thing should be done to secure a conduct conformable to it. Nothing is of so much importance for this purpose as a tribunal; before which every case of infringement should be tried, the facts of it fully and completely explored, the nature and degree of the infringement ascertained; and from which a knowledge of every thing material to the case should be as rapidly as possible diffused through the world; before which also all cases of doubt should regularly come for determination: and thus wars, between nations which meant justly, would always be avoided, and a stigma would be set upon those which justice could not content.

The analogy of the code, which is, or ought to be, framed by each state for regulating the intercourse of its own people within its own territory, throws all the illustration which is necessary upon the case of a tribunal for the international code. It is well known, that laws, however carefully and accurately constructed, would be of little avail in any country, if there was not some organ, by means of which it might be determined when individuals had acted in conformity with them, and when they had not; by which also, when any doubt existed respecting the conduct which in any particular case the law required, such doubt might be authoritatively removed, and one determinate line of action prescribed. Without this, it is sufficiently evident, that a small portion of the benefit capable of being derived from laws would actually be attained. It will presently be seen how much of the benefit capable of being derived from an international code must be lost, if it is left destitute of a similar organ. We shall first consider in what manner an international tribunal might be constructed; and, next, in what manner it might be appointed to act.

As it is understood that questions relating to all nations should come before it, what is desirable is, that all nations should have equal security for good judicature from it, and should look with equal confidence to its decisions.

How an International Tribunal should be constructed.

An obvious expedient for this purpose is, that all nations should contribute equally to its formation; that each, for example, should send to it a delegate, or judge. Its situation should be chosen or its accessibility, and for the means of publicity which it might afford; the last being, beyond comparison, the advantage of greatest importance. As all nations could not easily, or would not, send, it would suffice if the more civilized and leading nations of the world concurred in the design, with such a number of the less considerable as would be sure to follow their example, and to be desirous of deriving advantage from an instrument of protection, which to them would be of peculiar importance.

As it is found by specific experience, and is, indeed, a consequence of the ascertained laws of human nature, that a numerous assembly of men cannot form a good judicatory; and that the best chance for good judicial service is always obtained when only one man judges, under the vigilant eyes of interested and intelligent observers, having full freedom to deliver to the world their sentiments respecting his conduct; the whole of these advantages may be obtained, in this case, by a very effectual expedient. If precedent, also, be wanted, a thing which in certain minds holds the place of reason, it is amply furnished by the Roman law; according to which a great number of judges having been chosen for the judicial business generally of the year, a selection was made out of that number, according to certain rules, for each particular case.

Every possible advantage, it appears, would be combined in the international tribunal, if the whole body of delegates, or judges, assembled from every country, should, as often as any case for decision came before them, hold a conference, and, after mature deliberation, choose some one individual of their body, upon whom the whole duty of judge should, in that case, devolve; it being the strict duty of the rest to be present during the whole of his proceedings, and each of them to record separately his opinion upon the case, after the decision of the acting judge had been pronounced.

It would be, no doubt, a good general rule, though one can easily foresee cases in which it would be expedient to admit exceptions, that the judge, who is in this manner chosen for each instance of the judicial service, should not be the delegate from any of the

countries immediately involved in the dispute. The motive to this is sufficiently apparent.

We apprehend, that few words will be deemed necessary to show how many securities are thus provided for the excellence of the judicial service.

In the first place, it seems impossible to question, that the utmost fairness and impartiality are provided for, in the choice of the judge; because, of the two parties involved in the dispute, the one is represented by a delegate as much as the other, and the rest of the delegates are indifferent between them. In general, therefore, it is evident, that the sinister interest on the two sides being balanced, and there being a great preponderance of interest in favour of nothing but a just decision, that interest will prevail.

The best choice being made of a judge, it is evident that he would be so situated, as to act under the strongest securities for good conduct. Acting singly, he would bear the whole responsibility of the service required at his hands. He would act under the eyes of the rest of the assembled delegates, men versed in the same species of business, chosen on account of their capacity for the service, who could be deceived neither with respect to the diligence which he might exert, nor the fairness and honesty with which he might decide; while he would be watched by the delegates of the respective parties, having the power of interest stimulating them to attention; and would be sure that the merits or demerits of his conduct would be made fully known to the whole, or the greater part of the world.

The judicatory being thus constituted, the mode of proceeding before it may be easily sketched.

Form of  
procedure before  
the International  
Tribunal.

The cases may be divided into those brought before it by the parties concerned in the dispute; and those which it would be its duty to take up, when they were not brought before it by any of the parties.

A variety of cases would occur, in which two nations, having a ground of dispute, and being unable to agree, would unite in an application to the international tribunal for an adjustment of their differences. On such occasions, the course of the tribunal would be sufficiently clear. The parties would plead the grounds of their several claims; the judge would determine how far, according to the law, they were competent to support those claims; the parties would adduce their evidence for and against the facts, on which the determination of the claims was found to depend; the judge would receive that evidence, and finally decide. All this is so perfectly

conformable to the course of pleading, and receiving proof, in the case of suits between individuals, as analyzed and explained in the Article Jurisprudence, that it is unnecessary to be more particular here. If farther exposition is required, it will be found upon a reference to the article to which we allude. Decision, in this case, it is observable, fully accomplishes its end; because the parties come with an intention of obeying it.

Another, and a numerous class of cases, would probably be constituted, by those who would come before it, complaining of a violation of their rights by another nation, and calling for redress.

This set of cases is analogous to that, in private judicature, when one man prosecutes another for some punishable offence.

It should be incumbent upon the party thus applying to give notice of its intention to the party against which it is to complain, and of the day on which it means that its complaint should be presented.

If both parties are present, when the case comes forward for trial, they both plead, according to the mode described in the Article Jurisprudence; evidence is taken upon the decisive facts; and if injury has been committed, the amount of compensation is decreed. When it happens that the defendant is not present, and refuses to plead, or to submit, in this instance, to the jurisdiction of the court, the inquiry should notwithstanding go on; the allegations of the party present should be heard, and the evidence which it adduces should be received. The non-appearance of the party defendant should be treated as an article of evidence to prove the truth of its opponent's allegations. And the fact of not appearing should, itself, be treated as an offence against the law of nations.

It happens, not unfrequently, when nations quarrel, that both parties are in the wrong; and on some of these occasions neither party might think proper to apply to an equitable tribunal. This fact, namely, that of their not applying to the international tribunal, should, itself, as stated before, be marked in the code as an international offence, and should be denounced as such by the international tribunal. But even when two offending parties do not ask for a decision from the international tribunal, it is not proper that other nations should be deprived of the benefit of such a decision. If these decisions constitute a security against injustice from one another to the general community of nations, that security must not be allowed to be impaired by the refractory conduct of those who dread an investigation of their conduct.

Certain forms, not difficult to devise, should be laid down, according to which, on the occurrence of such cases, the tribunal



should proceed. First of all, it is evident, that the parties in question should receive intimation of the intention of the court to take cognisance of their disputes, on a certain day. If the parties, one or both, appeared, the case would fall under one of those which have been previously as above considered. If neither party appeared, the court would proceed to estimate the facts which were within its cognisance.

It would have before it one important article of evidence, furnished by the parties themselves, namely, the fact of their non-appearance. This ought to be considered as going far to prove injurious conduct on both sides. The evidence which the court would have before it, to many specific facts, would be liable to be scanty, from the neglect of the parties to adduce their pleas and evidence. The business of the court, in these circumstances, would be, to state correctly such evidence, direct or circumstantial, as it had before it; giving its full weight to the evidence contained in the fact of non-appearance; and to pronounce the decision, which the balance of the evidence, such as it was, might be found to support.

Even in this case, in which the practical effect of a decision of the international court may be supposed to be the least, where neither party is disposed to respect the jurisdiction, the benefit which would be derived would by no means be inconsiderable. A decision solemnly pronounced by such a tribunal, would always have a strong effect upon the imaginations of men. It would fix, and concentrate the disapprobation of mankind.

Such a tribunal would operate as a great school of political morality. By sifting the circumstances, in all the disputes of nations, by distinguishing accurately between the false colours and the true, by stripping off all disguises, by getting at the real facts, and exhibiting them in the true point of view, by presenting all this to the world, and fixing the attention of mankind upon it by all the celebrity of its elevated situation, it would teach men at large to distinguish. By habit of contemplating the approbation of such a court attached to just proceeding, its disapprobation to unjust; men would learn to apply correctly their own approbation, and disapprobation; whence would flow the various important effects, which these sentiments, justly excited, would naturally and unavoidably produce.

As, for the reasons adduced at the beginning of this article, the intention should never be entertained of supporting the decisions of the international court by force of arms, it remains to be considered what means of another kind could be had recourse to, in order to raise to as high a pitch as possible the motive of nations respectively to yield obedience to its decisions.

We have already spoken of the effect which would be produced, in pointing the sentiments of mankind, giving strength to the moral sanction, and by the existence of an accurate code, and by the decisions themselves of a well constituted tribunal.

To increase this effect to the utmost, publicity should be carried to the highest practicable perfection. The code, of course, ought to be universally promulgated and known. Not only that, but the best means should be in full operation for diffusing a knowledge of the proceedings of the tribunal; of the cases investigated, the allegations made, the evidence adduced, the sentence pronounced, and the reasons upon which it is grounded.

The book of the law of nations, and selections from the book of the trials before the international tribunal, should form a subject of study in every school, and a knowledge of them a necessary part of every man's education. In this manner a moral sentiment would grow up, which would, in time, act as a powerful restraining force upon the injustice of nations, and give a wonderful efficacy to the international jurisdiction. No nation would like to be the object of the contempt and hatred of all other nations; to be spoken of by them on all occasions with disgust and indignation. On the other hand, there is no nation, which does not value highly the favourable sentiments of other nations; which is not elevated and delighted with the knowledge that its justice, generosity, and magnanimity, are the theme of general applause. When means are taken to make it certain that what affords a nation this high satisfaction will follow a just and beneficial course of conduct; that what it regards with so much aversion, will infallibly happen to it, if it fails in the propriety of its own behaviour, we may be sure that a strong security is gained for a good intercourse among nations.

Besides this, it does not seem impossible to find various inconveniencies, to which, by way of penalties, those nations might be subjected, which refused to conform to the prescriptions of the international code.

Various privileges granted to other nations, in their intercourse with one another, might be withheld from that nation which thus demeaned itself in a way so contrary to the general interests. In so far as the withholding of these privileges might operate unfavourably upon individuals belonging to the refractory nations,—individuals who might be little, or not at all, accessory to the guilt, the effect would be the subject of proportional regret. Many, however, in the concerns of mankind, are the good things which can only be attained with a certain accompaniment of evil. The rule of wisdom, in such cases, is, to be sure that the good

outweighs the evil, and to reduce the evil to its narrowest dimensions.

We may take an instance first from trivial matters. The ceremonial of other nations might be turned against the nation, which, in this common concern, set itself in opposition to the interests of others. The lowest place in company, the least respectful situation on all occasions of ceremony, might be assigned to the members of that nation, when travelling or residing in other countries. Many of those marks of disrespect, implying neither injury to person nor property, which are checked by penalties in respect to others, might be free from penalties in respect to them. From these instances, adduced merely to illustrate our meaning, it will be easy to see in what manner a number of considerable inconveniencies might, from this source, be made to bear upon nations refusing to conform to the beneficial provisions of the international code.

Besides the ceremonial of other nations, means to the same end might be derived from the law. A number of cases might be found in which certain benefits of the law, granted to other foreigners, might be refused to them. They might be denied the privilege of suing in the courts, for example, on account of any thing except some of the higher crimes, the more serious violations of person or property.

Among other things it is sufficiently evident, that this tribunal would be the proper organ for the trial of piracy. When preponderant inconvenience might attend the removing of the trial to the usual seat of the tribunal, it might delegate for that purpose the proper functionaries to the proper spot.

By the application of the principles, which we have thus expounded, an application which implies no peculiar difficulty, and requires nothing more than care in the detail, we are satisfied that all might be done, which is capable of being done, toward securing the benefits of international law.

(f.f.)

[\[Back to Table of Contents\]](#)

## PRISONS AND PRISON DISCIPLINE.

The arrangements, necessary to adapt prisons to the ends for which they are designed, seem to require little more than the exercise of practical good sense; and yet the manner in which the practice of the world blunders on from one absurdity, and very often from one atrocity, to another, shows pretty distinctly, how little the public affairs of mankind have hitherto had the benefit of that practical faculty, or of any thing that resembles it.

Prisons and  
Prison Discipline.



Prisons have been applied to three purposes; *1st*, That of safe custody; *2dly*, That of punishment; *3dly*, That of reformation.

Ends of  
Imprisonment.

It is very evident, that each of these purposes requires an arrangement of means peculiar to itself.

Though each requires a combination of means peculiar to itself, it does not follow that, of the means required for each, a portion may not be the same in all. Every body will acknowledge that this is the case.

The means of safe custody, for instance, are equally required for those who are imprisoned in order to be punished and those who are imprisoned in order that they may be reformed, as for those who are imprisoned to the sole end of being made present at a particular time and place.

The arrangements, then, for safe custody, form a basis, on which every combination of means for attaining any of the other ends of imprisonment must always be erected. Other means for the attainment of these ends are to be considered as accessions to those required for the first.

It is a corollary from this position, that the same house may, at one and the same time, be employed for all the three purposes. Those properties in the building which make it fittest, at the least expense, for safe custody, make it fittest also for the purposes either of punishment or of reformation. This will be rendered abundantly apparent in the sequel; and from the single circumstance, that the means of punishment and reformation are only additions to those of safe custody, it wants not much of its demonstration already. If the arrangements needed, for those who are to be punished, and those who are to be reformed, interfere not

with one another, or with those needed on account of the persons in safe custody merely, the truth of the corollary is indisputable; for nobody will deny that, in point of economy, there must be very great advantage.

I. We shall consider, first of all, what is the best combination of means for safe custody. Dungeons and fetters are the expedient of a barbarous age.

Means of safe  
Custody.

And in respect of prisons, as of every thing which comes within the precincts of law, the expedients of a barbarous age are, with great industry, retained in those which are civilized; they are, indeed, not only retained with great industry, but preserved with a success which, if it were not experienced, would be altogether incredible. As the expedients of a barbarous age are still preserved in many more of the arrangements for the purposes of law, so it is but of yesterday that the prisons of our forefathers have been regarded as fit for reform, or the means which in their ancestral wisdom those sages devised for attaining the ends of imprisonment were supposed capable of being altered for the better, by their less instructed sons.

It is at last, however, allowed, that inspection is a means for safe custody, which renders unnecessary all but very ordinary means of any other description. Thus, so long as a man is, and knows that he is, under the eyes of persons able and willing to prevent him, there is very little danger of his making an attempt, which he sees would be vain, to effect a breach in the wall, or force open the door, of his cell. Any great strength, therefore, in such wall or door, as well as fetters upon any part of his body, the object of which is to make provision against such attempts, are wholly unnecessary; since the attempts are sure of not being made, or of being instantly frustrated.

The plan of a prison, in which the power of inspection is rendered so complete, that the prisoner may be, and cannot know but that he is, under the eyes of his keepers, every moment of his time, and which we owe to General Bentham, so universally known for his mechanical genius, is described by his brother, in his work entitled *Panopticon, or Inspection House*; where also a system of management is delineated, and its principles are so perfectly expounded, and proved, that they who proceed in this road, with the principle of utility before them, can do little else than travel in his steps.

An idea of the contrivance may be conveyed in a few words. It is a circular building, of the width of a cell, and of any height; carried round a space, which remains vacant in the middle. The cells are all open inwards, having an iron grating instead of a wall, and, of

course, are visible in every part to an eye properly placed in the vacant space. A narrow tower rises in the middle of that space, called the inspection tower, which serves for the residence of the keepers, and in which, by means of windows and blinds, they can see without being seen; the cells, by lights properly disposed, being capable of being rendered as visible by night as by day.

We have thus provision for safe custody; and along with it, five other important purposes are gained. First of all, there is great economy; the vast expense of thick, impenetrable walls, being rendered unnecessary. Secondly, All pretence for subjecting prisoners to the torture and degradation of irons is taken away. Thirdly, No misbehaviour of the prisoners can elude observation, and instant correction. Fourthly, No negligence, or corruption, or cruelty, on the part of the subordinate agents in the prison, can escape the view of their principals. And, Fifthly, No misconduct towards the prisoners, on the part of their principals, can remain unknown to the public, who may obtain a regulated admittance into the inspection tower, and regulated communication with the prisoners.

The persons who are liable to be in prison, for sure custody merely, are of three classes. First, Persons apprehended, and about to be put on their trial, for the commission of a crime. Secondly, Persons convicted of a crime, and about to receive their punishment; and, Thirdly, Debtors.

Under a good system of law, very little provision would need to be made for these cases. It is one of the essential properties of a good system of law to permit as little time as possible to intervene between the apprehension and trial, and between the conviction and punishment, of a person for a crime. There would never, therefore, be many such persons in any prison at a time. And under a good system of law, there never would be any body in a prison on account of debt.\* This is mentioned merely to show how little, under a good system of law, the apparatus and expense of a separate prison, for this set of cases, would be wanted.

These persons being inmates of a prison, for insuring their presence merely, the question is, What treatment they ought to receive?

Persons in prison before trial, and debtors, are persons of whom nothing is certainly known, but that they are unfortunate. They are, therefore, entitled to all the benevolence which is due to the unfortunate.

What is done for them in a prison must, however, be done at the expense of the community, that is, by sacrifices demanded of those who are not in prison; and those sacrifices ought, undoubtedly, to be the smallest possible. The question is, therefore, to be settled by a compromise between the principle of benevolence, and the principle of economy.

The principle of benevolence undoubtedly requires that the health of the prisoners should not be impaired; for this, importing the premature loss of life, is in reality the punishment of death, inflicted upon those to whom no punishment is due.

That health may not be impaired, three things are indispensable:—1. A wholesome apartment; 2. A sufficiency of wholesome food; 3. Sufficient clothing.

The principle of economy, with equal certainty, exacts, that all those should be of the cheapest possible kind.

All this is abundantly clear. It is equally clear that, with respect to those who are in prison for safe custody merely, the principle of benevolence requires, and the principle of economy does not forbid, that they should be free to use any indulgence, which costs nothing, or which they provide for themselves; and that no farther restraint should be placed upon their liberty than the custody of their persons, and the rule of economy, which prescribes the limits and accommodations of the place, may demand.

Few words will be necessary to show what is appropriate to the case of the man, who is in prison during the interval between his sentence and his punishment.

By the supposition, in this case, his punishment is something distinct from his imprisonment; because, if not, it is a case which comes under another head, namely, that of persons who are in prison for the sake of punishment; and will be fully considered in another part of this discourse.

If he is in prison for detention merely, his punishment, as meted out and fixed by the judge, being something wholly separate; every particle of hardship, imposed upon him, not necessary for his detention, is something without law, and contrary to law; is as much injustice and a crime, when inflicted upon him, as if inflicted upon any other member of the community. The same considerations, which, as we found above, ought to regulate the imprisonment of debtors, and persons in custody before trial, namely, the compromise between the principle of benevolence and the principle of economy; apply, without the smallest difference, to

the case of persons who, during the interval between their sentence and its execution, are in prison for the mere purpose of preventing their escape.

We foresee a difficulty, or rather an objection, for there is really no difficulty in the case.

Persons come into prisons, who have been accustomed, in the preceding part of their lives, to all degrees of delicate and indulgent living; to whom, therefore, the hard fare prescribed by the principle of economy will occasion very different degrees of uneasiness.

Such persons, when in prison for safe custody merely (what is required when persons are in prison for punishment, or for reformation, will be seen hereafter), may be allowed to make use of any funds which they may possess for procuring to themselves all unexceptionable indulgences. They may be also allowed the exercise of any lucrative art, consistent with the nature of the prison, for procuring to themselves the means of such indulgences. This the principle of benevolence dictates, and there is nothing in the principle of economy which forbids it.

We shall be told, however, that there are persons, who have been accustomed to a delicate mode of living, and who come into prison without the command of any funds, or the knowledge of any art, by which they may soften the hardship of their lot: and we shall be asked what is the course which our philosophy recommends for the treatment of them? The course which it recommends is very clear. Such persons are paupers, and whatsoever treatment is fit for paupers of the description to which they belong, is fit also for them. If there are any funds, to which as paupers they can apply, the application should be open to them. If there are none, and there is no person to whose benevolence they can resort, the effects of such a destitute situation must be sustained, the same way in a prison, as they must be, when any person falls into it, out of a prison.

II. Having stated what appears to us necessary for illustrating the principles which ought to regulate the imprisonment of those, in respect to whom safe custody is the end in view, we come, in the next place, to the case of those, in respect to whom, in addition to safe custody, punishment is to be effected through the same medium.

Means of  
Punishment.

This subject we shall unfortunately be under the necessity of treating superficially; because, in order to explain it fully, we ought to have before us the whole doctrine of punishment; and, for this



purpose, a developement, too extensive for the present purpose, would be required.

This we may assume as an indisputable principle; that whatever punishment is to be inflicted, should be determined by the judge, and by him alone; that it should be determined by its adaptation to the crime; and that it should not be competent to those to whom the execution of the sentence of the judge is entrusted, either to go beyond the line which he has drawn, or to fall short of it.

We have already established, on what seemed sufficient reasons, that for persons confined, on account of safe custody merely, the cheapest accommodation, not importing injury to health, in respect to apartment, food, and clothing, should alone be provided at the public expense.

Unless in the case of those whom the judge might condemn to lose a portion of their health, as the punishment due to them, by the sufferings of an unwholesome prison, unwholesome food, or improper clothing, this accommodation ought to be afforded even to those who are placed in prisons for the sake of punishment. And if it should be thought that the loss of health never can be a proper punishment, if it has never been regarded as such even by savages, and is repudiated by every principle of reason, then it follows, that the accommodations which we have described in the former part of this discourse, as required in the case of prisoners detained for safe custody, are required in the case of prisoners of every description.

This is a basis, therefore, upon which every thing is to rest. In every rational system of prison management, this is an essential condition. We are now to see in what manner, upon this footing, punishment, by means of imprisonment, is to be effected.

One mode is sufficiently obvious and sufficiently known. The punishment may be rendered more or less severe by its duration. Want of liberty is, in almost all cases, a source of uneasiness; want of liberty, added to the denial of all pleasures of sense, can hardly ever fail to be a source of great uneasiness. A long imprisonment therefore, with the cheapest accommodation not importing injury to health, must be a severe punishment. This, it is evident, may be graduated to more or less of severity, not only by degrees of time, but the use of such means as the prisoner might command for procuring accommodations and indulgences.

To this imprisonment may be added solitude. But though we mention this, as a practicable addition to simple imprisonment, it is

well known how little, unless for short periods, and on very particular occasions, it is to be recommended.

The modes, which lately have been most in repute, of adding to the severity of simple imprisonment for the purpose of punishment, have been two; 1st, Hard labour; and, 2dly, Bad prisons, and bad management in those prisons.

1. The species of labour which appears to have obtained the preference is that of treading in a wheel.

If a criminal in a prison is ever to be let out again, and to mix in society, it is desirable that nothing should be done, and least of all done on purpose, to make him a worse member of society than when he went in. There cannot be a worse quality of a punishment, than that it has a tendency to corrupt and deteriorate the individual on whom it is inflicted; unless, indeed, he is a prisoner for life; in that case, people of a certain temper might say, that making worse his disposition is a matter of little importance; and to them we have no time to make any reply.

Most of those persons who come into prison as criminals, are bad, because they have hated labour, and have had recourse to other means than their industry of attaining the supply of their wants and the gratification of their desires. People of industry, people who love labour, seldom become the criminal inmates of a prison.

One thing, however, is pretty certain, that men seldom become in love with their punishments. If the grand cause of the crimes which have brought a man to punishment is his not having a love but hatred of labour; to make labour his punishment, is only to make him hate it the more. If the more a man hates labour, the more he is likely to act as a bad member of society; to punish a man with labour, and then to turn him out upon society, is a course of legislation which savours not of the highest wisdom.

Besides, in treating labour as an instrument of punishment, call it *hard* labour, if you will, what sort of a lesson do you teach to the industrious and laborious class, who form the great body of your people? to those whose lot is labour, whose lot is hard labour, harder than any which it is in your power to impose? What compulsory labour is so hard as many species of voluntary labour?

As an instrument of reformation, labour, as we shall presently see, is invaluable. As an instrument of punishment, hardly any thing can be conceived more exceptionable. That which is the source of all that mankind enjoy, that which is the foundation of every virtue in the most numerous class of the community, would you stamp with

ignominy and dishonour, by inflicting it as a punishment upon the worst and basest of your people? Is this your expedient for rendering it, what every wise legislator would wish to render it, honourable, and thence desirable?

There are other objections, perfectly decisive, against labour as a punishment. It operates with more inequality than almost any other instrument of punishment that ever has been invented. The same degree of labour would kill one man, that to another would be only a pastime. From this source we may apprehend the most horrid abuses, in the continuance of those tread-mills. We may be very sure, that the most atrocious cruelty will often be inflicted upon those who, with strength below the average standard, are placed in those penal engines; while, in the case of those whose strength is much above that standard, they will hardly operate as a punishment at all.

It is impossible that the judge can measure out this punishment; because the judge has not the means of ascertaining the relative strength of the parties who come before him. It must, therefore, be left to the jailor. The jailor, not the judge, will mete out and determine the degree of suffering which each individual is to undergo. The jailor, not the judge, is the man who adapts the punishment to the crime. Hence one of the stains which mark a careless and stupid legislation.

It is a far inferior, though still no inconsiderable proof of a blundering legislation, that the labour, if labour it must be, is not of such a sort as to be useful. The turning of a wheel, by human labour, when so many better means of turning it are possessed in abundance, is destitute of even this recommendation. It stands upon a similar footing with the contrivance of the jailor, whom Mr Bentham celebrates: "We are told somewhere," he says, "towards the close of Sully's *Memoirs*, that for some time after the decease of that great and honest minister, certain high mounts were to be seen at no great distance from his house. These mounts were so many monuments of his charity. The poor in his neighbourhood happened to have industry to spare, and the best employment he would find for it was, to remove dirt from the place where it lay to another where it was of no use. By the mere force of innate genius, and without having ever put himself to school to learn economy of a French minister, a plain English jailor, whom Howard met with, was seen practising this revived species of pyramid architecture in miniature. He had got a parcel of stones together at one end of his yard, and set the prisoners to bring them to the other: the task achieved, Now, says he, you may fetch them back again. Being asked what was the object of this industry, his answer was, 'To plague the prisoners.' "—In a note on this passage, Mr Bentham

says, "I beg the jailor's pardon; what is above was from memory; his contrivance was the setting them to saw wood with a blunt saw, made blunt on purpose. The removers of mounts were a committee of justices."

2. Bad prisons, and bad management in these prisons, is a mode of punishment, the recommendation of which has lately been revived, after we might have hoped that, in this country at least, it was exploded for ever. The language of such recommendation has, on several recent occasions, been heard in Parliament; and an article on Prison Discipline, which lately appeared in the *Edinburgh Review*, cannot be interpreted in any other sense. Even the Committee of the *Society for the Improvement of Prison Discipline* have not been able to withstand the force of what they may have supposed to be fashionable doctrine. In their *Fourth Report*, lately published, which we are sorry to say evinces more of good intention, than of enlightened views for its guidance, they say; "No charge can be more mistaken and unfounded, than that the plans recommended by this institution are calculated to introduce comfort into gaols. The committee are of opinion, and have always contended, that severe punishment must form the basis of an effective system of prison discipline;" thereby confounding two things, punishment, and prison discipline; which are totally distinct; and between which, it is of so much importance to preserve the distinction, that without it not a rational idea can be entertained about either.

No doubt crimes must be punished. Who needs instruction upon that head? But when the judge has prescribed, that, in a particular way, which he points out, a particular measure of pain shall be inflicted upon an individual; and when the individual is taken, and made to sustain the operations through which the pain is generated; what has this to do with the discipline of the prison? It is an act or series of acts, *sui generis*; acts not forming any part of the ordinary course of prison management; acts which would not have taken place, which ought not to have taken place, if the judge had not commanded them, and which were performed solely and exclusively in obedience to his commandment. This is the nature of punishment,—other punishment than this there ought to be none.

The Committee would make severe punishment the basis of prison discipline! What business have the Committee with punishment? The assigning of punishment the legislature have given to other and fitter hands; to those who take cognizance of the offence, and alone ought to measure the punishment. Saying they would make punishment the basis of prison discipline, what do they intend by this ill contrived expression? Do they mean, that their jailor shall hold the scales, and weigh out the proper quantity? If not, how are

they to be understood? for if not the jailor but the judge is to weigh, and the jailor is to do nothing but punctually carry the prescription of the judge into execution, then is punishment, in no proper sense of the word, any part of prison discipline. It is a separate operation, performed on a particular occasion, because prescribed by the judge, and in the exact manner in which the judge has prescribed it. If it is, on the other hand, a part of prison discipline, then all the horrid consequences, inseparable from making the jailor the judge and meter of punishment, present themselves to the imagination; and he who can endure to look at them may dwell upon the picture of a prison, wherein the poor will not be more comfortable than at home, nor by the charms of imprisonment enticed to the commission of crimes.

Nothing can more clearly indicate that state of mind, which consists in confusion of ideas, than the vague language which we hear about the necessity of making prisons the seats of wretchedness, that crimes, they say, may not receive encouragement.

We have already seen, that, unless it is part of a man's punishment, expressly ordained, that he shall lose a portion of his health; that is, that his life shall be out short; that is, that after a period of torture, he shall receive a capital punishment; a wholesome apartment, a sufficiency of wholesome food, proper clothing, all of the cheapest kind, must be provided for every body. When people talk about making prisons seats of wretchedness, do they mean something worse than this?

Many of them will no doubt answer; Yes, we mean hard labour in addition. We ask again, Do you mean hard labour, according to the prescription of the judge, or without the prescription of the judge? If according to the prescription of the judge, the case is the same with that which we have previously examined. This instrument of punishment is exceptionable, only because it is a bad instrument.

The whole matter evidently comes to this. If more wretchedness is desired than what is implied in confinement under the worst accommodation which the preservation of health admits, it must be meted out, either at the pleasure of the jailor, or the pleasure of the judge. The writer in the *Edinburgh Review*, and the Committee of the Society for the Improvement of Prison Discipline, speak as if they had never reflected upon the difference.

We do not mean to bestow a word upon that theory, which, for the prevention of offences, would make prisons scenes of wretchedness at the pleasure of the jailor.

The only question which can deserve a solution is, what mode of inflicting evil in a gaol can the judge make use of for best attaining the ends of punishment? The answer is not difficult. Unless, where that course of reformatory discipline, which we shall delineate under the next head, suffices; and we allow, that, though it may be made to involve no small degree of punishment, there are cases in which it would not suffice; it will certainly appear, that prisons are not the best instruments of punishment.

A single consideration suffices for the proof of this proposition. Punishment in a prison loses the grand requisite of a punishment, that of engendering the greatest quantity of terror in others, by the smallest quantity of suffering in the victim. The principal, perhaps the sole end of punishment, is to restrain by the example; because, with respect to the individual whom you have got, if you think society in any danger from him, you can keep him in sight, and no more is required. Yet, the language we hear about the tread-mill, and hear from the mouths of high persons, implies, that hardly any thing more is in their minds, than the effect upon the individual sufferers. "Nothing finer than the tread-mill; a fellow who has been in the tread-mill never comes back again." Be it so; but by your leave, this is a very insignificant part of the question.

The choice of expedients, for obtaining the punishment best adapted to the several cases for which a course of reformatory discipline does not suffice, belongs to another head of inquiry, and must, for the present purpose, be regarded as determined. All that it is necessary for us to show here is, that a prison is not the proper scene for it, nor the instruments of a prison the proper instruments. To render a punishment the most efficacious in accomplishing the great end of punishment, it must be a punishment calculated to make the strongest impression upon the senses, and, through the senses, upon the imagination, of the public at large; more especially of that part of the public who lie under the strongest temptations to the commission of similar crimes. But the punishments inflicted in a prison are withdrawn from the senses of the public, and seem as if they were intended to make the smallest possible, not the greatest possible, impression upon the imaginations of those who are to be deterred from crime. They are defective, therefore, in the most essential quality of a punishment, and can always be supplied by better means of attaining the same end.

The proper idea of a prison is that of a place of custody, and that alone. This idea ought to be clearly, and distinctly, and steadily preserved in the mind, in all disquisitions respecting prison discipline. Punishment and reformatory discipline may be annexed to safe custody; and in as far as they consist of a series of

operations, requiring time for their performance, it is essential to them. As reformatory discipline consists wholly in such a series, imprisonment is a necessary condition of it. Since many, also, of the best kinds of punishment are not such as can be executed all at once, but require a period of time, imprisonment is equally necessary for these punishments. But though you must have safe custody to enable you to execute certain punishments, and also to enable you to carry into effect a course of reformatory discipline, safe custody is not the same thing with punishment, nor the same thing with reformatory discipline; and no conclusions can be depended upon, in which ideas so distinct are confounded.

III. Having thus considered prisons, as instruments of safe custody, and as instruments of punishment; two of the purposes to which they have been applied as means; it remains, that we consider them, as instruments of reformatory discipline, the third of the purposes to which they have been applied.

Reformatory  
Discipline.

It is necessary, first of all, to state a clear idea of reformatory discipline.

When offences, against which it is necessary that society should have protection, are committed, it is desirable that the punishment of the offender should have three properties; *1<sup>st</sup>*, That it should deter all other persons from committing a similar offence, which is its most important property. *2<sup>dly</sup>*, That it should have the effect of deterring the man himself from a repetition of the offence. *3<sup>dly</sup>*, That it should have the effect of removing his former bad habits, and planting useful habits in their stead. It is this last property which is sought to be communicated to his punishment by reformatory discipline.

As the creating and destroying of habits is the work of time, and as the restraint of safe custody, and restraint from all indulgences, except under certain conditions, are necessary to reformatory discipline, whatever punishment is involved in such protracted coercion, is a necessary part of reformatory discipline.

What is desired is, to create a habit of doing useful acts, in order to break the habit of doing hurtful acts. To accomplish this, means must be obtained of making the individual in question perform certain acts, and abstain from the performance of certain other acts.

The means to be employed for producing performance cannot be of more than two sorts; the pleasurable, and the painful. A man may be induced to perform certain acts, either by punishment, or

reward. He may be made to abstain from performing certain acts by an additional means, by withholding the power of performing them.

The latter is the means chiefly applicable for preventing the performance of hurtful acts in prisons; not only crimes, but acts of intemperance, gaming, or any others, the tendency of which is towards crimes. As this is nearly the universal practice, the reasons of it must be so generally known, as not to need development.

The inquiry which chiefly calls for our attention is, What are the best means of producing the performance of those acts, the habit of performing which we desire to render so perfect, that it may be relied upon for the effect, even in a state of freedom?

The persons on whom reformatory discipline is intended to operate, belong to the class of those who depend upon their industry for their support. So nearly, at least, do they belong to this class exclusively, that the immaterial exceptions may, in this general inquiry, be omitted.

The necessary foundation, in the case of such persons, not only for all virtues, but for abstinence from crime, is the habit of performing some one of those series of acts, which are denominated lawful industry, and for which the performers obtain payment or reward.

Labour, therefore, in some of its useful branches, is to be regarded as the foundation of all reformatory discipline. But as the object of this discipline is to train the man to love, not to hate labour, we must not render the labour in such a case any part of his *punishment*. The labour must, for this important purpose, be a source of pleasure, not of pain.

The way in which labour becomes agreeable to men out of a prison, is the way in which it can be made agreeable to them in a prison; and there is no other. Advantages must accrue from the performing of it.

The way of attaching to it advantages the most intensely persuasive, in a reformatory prison or *Penitentiary*, is exceedingly obvious.

There it is easy to prevent the attaining of any pleasure, except through the medium of labour.

What is provided in the prison, according to the principles already explained, is lodging, food, and clothing, all of the very cheapest kind not producing injury to health. In the monotony of a prison,



there is no one who will not intensely desire pleasure in addition to this.

In the sentence of a criminal, who is subjected to reformatory discipline, it may, and as often as the case requires, it ought, to be rendered a part, that he shall not be permitted to make any additions to this hard fare from any source belonging either to himself or others, except his labour; but that what he earns by his labour he may, in a certain way, lay out to procure to himself better food, or any other indulgence (certain hurtful ones excepted) which he may desire. Few cases, indeed, will be found in which this simple contrivance will not produce steadiness of application.

We have now then attained what is of principal importance. For if we have got the inmates of a prison to labour steadily in some useful branch of industry, to look to labour as the great or only source of their enjoyments, and to form habits of so doing, sufficiently confirmed to be depended upon for governing their conduct in a state of freedom, we have prepared them for being useful members of society, and our purpose is accomplished.

Here, then, comes the question, By what arrangements, in detail, can the business of confining, maintaining, and setting offenders to work, be most advantageously performed?

In other words, In what hands should the government of Penitentiaries be placed, and under what rules should it be ordained for them to act?

It is an universal axiom in morals, that no security is equally to be depended upon for any desirable result, as the interest of those upon whom its accomplishment depends. If, in devolving upon a man the task of bringing about a particular end, we make it his interest to bring it about in the best possible manner, especially if we make it his interest in any high degree, we can hardly be disappointed in counting upon his most strenuous exertions. On the other hand, if he has no interest, or a very inconsiderable interest, in the end which he is entrusted to bring about; if little cognizance will be taken of his proceedings, whether good or bad; if to attend to the business would be exceedingly troublesome, to neglect it will produce little inconvenience; we may be very sure that, by a great majority of men, the business of the task devolved upon them will be very imperfectly performed. If they can make a profit out of oppression, or if, as is the case, to so great a degree in prisons, they can consult their ease by imposing additional and mischievous restraints upon the prisoners, their interests are strongly set against their duties, and ill conduct is still more perfectly secured.

This last, how deplorable soever the confession, is the state of management of all British prisons, with hardly any exception. There is a Jailor, who receives a salary and power; and is told to manage the prison well; and there is a number of Justice, that is, gentlemen of the neighbourhood, who obtain not a little power, and a great deal of praise, for undertaking to do certain public duties of a local nature, with little interest in doing them well, and no little interest in doing them in many respects exceedingly ill, who have the charge of looking after him. Varieties we cannot afford to particularize. This is the general description.

The management, then, of the prison, is the joint concern of the jailor and the justices, or magistrates, including sheriffs, who, jointly or severally, have no such interest, as can be expected generally to produce any considerable effect, in any thing more than such a kind of management as will not excite attention and indignation by its badness. All the degrees of bad management, which are within those limits, having little or no interest to prevent, they have abundant interest to permit.

It is surely not necessary, that we should go far into the detail of this case, to show the causes which it places in operation, and their natural effects.

First of all, it is sufficiently evident, that the jailor has an interest in obtaining his salary, and other emoluments, with as little trouble to himself as possible.

It is not less evident, that the magistrates have an interest in getting the power and credit, attached to their office, with as little trouble to themselves as possible.

This is enough. The book of human nature is clear upon the subject. This principle, at uncontrolled work in a prison, is perfectly sufficient to generate all the evils which those abodes of misery can be made to contain.

It is undeniable, that so far as those, who thus have the superintendence of jailors, are disposed to consult their ease, and to perform negligently a troublesome duty, which they may perform well or ill, just as they please, so far they will be indisposed to listen to any complaints against the jailor. It saves them a good deal of trouble to confide in the jailor. They speedily come, therefore, to look upon confidence in the jailor, and to speak of it, as a good thing,—a duty. “Has not the jailor been most carefully and judiciously selected for his office, by wise and good men? (viz. ourselves). Would it not be an injury to a man of his character to distrust him? And to distrust him—for what? For the complaints of

prisoners. But prisoners are always complaining, always giving trouble. Jailors are a good set of men. Prisoners are a bad set of men; especially complaining prisoners. They are the very worst kind of men;—they are, therefore, to be silenced; and it is often very difficult to silence them; nothing but harsh measures will do it; when harsh measures, however, are absolutely necessary, it is the duty of jailors to use them, and the duty of magistrates to protect such men in the discharge of so important a duty.”

Such are the feelings and conclusions which are undeniably prompted, by the mere love of ease, in the bosoms of such men as English magistrates.

So far as the magistrates consult their ease (men generally do consult their ease when they have not a preponderating motive to the contrary), the jailor is at liberty to consult his ease.

In the jailor’s consulting his ease, every thing that is horrid in a prison finds its producing cause.

What the jailor has chiefly to guard against is, the escape of his prisoners, because that is a result which cannot be hidden, and will not escape animadversion. But the love of ease prompts him to take the easiest means for this purpose; locking up in dungeons, loading with irons, and prohibiting communication from without: in other words, all the measures which are the most tormenting to the prisoner. If the prisoner, confiding in his ingenuity or his strength, makes any attempts to free himself from this misery, by escaping, the disturbance which is thus given to the ease of the jailor, is a cause of pain, proportional to the love with which he cherishes his ease; this pain, excites resentment, resentment calls for vengeance, and the prisoner is cruelly punished. The demon despotism reigns in his most terrific form.

This is only one half of the evil. The servants of the jailor, the turnkeys, as they are called, and others who wait upon the prisoners, are as fond of their ease as the jailor is of his. If the jailor has not adequate motives to make him take care that the business of the prison is well done, he will repose the same confidence in his servants, which the magistrates so liberally exercise towards him. He will leave them to indulge their ease, as he could not do otherwise without disturbing his own.

From the servants of the prison indulging their ease, neglect of the prisoners is the immediate and unavoidable consequence. From neglect of prisoners, that is, of men placed in a situation destitute of all the means of helping themselves, all those evils, which, in

another situation, could be produced only by the most direful oppression, immediately ensue.

Upon the servants of a gaol, cherishing their ease, and left by their superintendents to do so, every call of a prisoner for help, for relief from any annoyance, is felt as an injury, and resented as such. Cruelty speedily comes, as a co-operator with neglect, to fill up the measure of the prisoner's calamity.

The prisoner, finding himself destitute of all remedy, except he can prevail upon the people who approach him to remove some of the causes of the misery which he endures, has recourse to bribery, when he can possibly command the means; and then pillage, without limit and without mercy, is added to all the evils of this den of horrors.

If such are the consequences of entrusting the management of prisons to persons who have no interest, or not a sufficiency of interest, in good management, we have next to consider the important question, By what means a sufficiency of interest in good management can be created? We need not have any doubt, that if a sufficiency of good accrues to the managers from every particle of good management, and a sufficiency of evil from every particle of bad, we shall have as much as possible of the good, and as little as possible of the evil.

1. The grand object, as we have stated, of reformatory discipline is, to create habits of useful industry.
2. A second object is, to preserve the health of the prisoners, and impose upon them no suffering, not implied in the conditions of their confinement, or prescribed by the judge.
3. A third is, by moral and religious tuition, to generate and strengthen good dispositions.
4. A fourth is, to attain those ends at the smallest possible expense.

It is not difficult to give the manager or keeper of a reformatory prison or Penitentiary, a very strong interest in all these important results.

We have already seen, that the mode of giving to the prisoner a motive to labour, is, by giving him a share in the produce of his labour.

It is evident that an equally certain mode of giving to the jailor a motive for obtaining as much of that labour as possible, that is, for doing all that depends upon him to make the prisoners labour as

much as possible, and as productively as possible, is by giving him also a share in the produce of their labour.

It may be said, however, that if the jailor receives a share of the labour of the prisoners, he will have a motive for making them labour too much: labour may be so excessive as to equal the severest torture.

Effectual expedients, however, for the prevention of this evil, are easy and obvious. In the first place, it does not seem necessary that the labour should be in any degree compulsory. If a prisoner is, according to the rule above laid down with respect to the cheapest fare, confined to the coarsest kind of bread, and water, if he does not labour, but has it in his power to add to his enjoyments by labouring, more especially if he may labour in company, but if he will not labour, must remain in solitude, the cases will be exceedingly few in which compulsion will be needful; and these might, if it were deemed of sufficient importance, be specially provided for by the legislature.

If a man may work, or not work, as he pleases, and much or little as he pleases, there is no need of any farther security against excessive labour. If there were, it would be afforded by the interest which it is easy to give to the jailor in the health of the prisoner.

Giving to the jailor a share in the produce of the labour of a prisoner has two happy effects; not only that of giving him an interest in rendering the value of that produce as great as possible, but that, also, of giving him an interest in the health of the prisoner, because the produce of a man's labour is greater when he is in health than when he is not.

This may be increased by giving to the jailor, through a very obvious channel, an interest, and an interest to any amount, in the life of each prisoner. It being ascertained what is the proportion of persons of a similar age that die annually, when not confined in a prison, all that is necessary is, to entitle the jailor to a sum of money for each of the individuals above that proportion whom he preserves alive, and to make him forfeit a sum for each individual above that proportion who dies. This sum, it is evident, may be sufficiently high, to ensure, on the part of the jailor, a strong desire for the life, and thence a proper attention to the health of the prisoners.

Another particular in this case requires attention. It is obvious, that the motive of the prisoner to render the quantity or value of his labour the greatest, is, when the share which he enjoys of it is the greatest. It is equally obvious, that the motive of the jailor to

promote the augmentation of this quantity or value is the greatest when his share is the greatest.

If the whole of the produce of the labour of each of the prisoners were left to be divided between himself and the jailor, the motives of the two parties, taken jointly, would be at the highest. And the question then would be, according to what proportion should the division be made?

The peculiar circumstances of this case permit the most decisive answer to be returned. No evil can accrue, and every good purpose is best gained, by allowing the jailor to take as much as he pleases. It being first established that he can employ no compulsory methods, that the prisoner must have as much of the coarsest fare and accommodation as he needs, whether he works or not, and that work can thus be obtained from him only by the operation of reward, it will be the interest of the jailor to make his reward sufficiently high to obtain from him all the work which he can perform, and, in his situation as a criminal, he ought, generally speaking, to receive no more. The propriety of this regulation, therefore, rests on conclusive evidence.

Here, however, an objection, worthy of attention, occurs. If the jailor receives so great a proportion of the produce of the labour of the prisoners, he may receive a much higher remuneration than the nature of his duties requires; and so far the public is deprived of a fund which ought to be available for the public service.

This observation is true; and the question is, in what manner can the separation of what is necessary in remuneration of the jailor, and what should be detached for the benefit of the public, be most advantageously made?

If the situation of the jailor affords more than an adequate reward, he will be willing to give something annually in order to retain that situation. And for measuring exactly what he ought to give, there is a sure and a well tried expedient: it is, to lay the thing open to competition.

By this expedient, a double advantage is gained: for both the public receives as great a share of the produce of the labour of the prison, as is compatible with the due remuneration of the jailor; and the jailor being entitled, in the first instance, to share the whole of the produce with the labourers, having both to pay what he owes to the government, and obtain his own remuneration out of his share, has a motive as strong as if the whole were his own, to render the produce as great as possible.

It will easily be seen that this contract between the public and the jailor, if sufficient securities can be taken for its being cancelled, as soon as misconduct on his part should render it desirable that it should be so, ought, for important reasons, to be concluded for a considerable number of years, or for his life. It is of importance that those individuals, who are to undergo the reformatory discipline, and who are unacquainted with any trade, should, especially if they are young, be taught the trade in which their labours can be turned to the greatest account; and, to make it the interest of the jailor to have them taught, it is evident that he must have the prospect of enjoying the benefit of their skilled labour for a sufficient length of time. This short illustration we hope will suggest to the reader sufficient reflections, for evidence on this point; and we must hasten to the remainder.

We have now shown, to how great an extent, upon the plan which we have thus briefly sketched, the interest of the jailor is rendered co-incident with the ends which are in view, and the most effectual of all securities is obtained for the goodness of his management. We proceed to show what additional securities this plan enables us to provide.

Let us, first of all, attend to the power of inspection, which may be afforded in a degree altogether unparalleled. By the admirable properties of the building which we have recommended, not only is the conduct of the prisoners rendered wholly transparent to the jailor, but the conduct of the jailor may be rendered equally transparent to his inspectors. And as the central lodge, or tower of inspection, may be entered by any number, without giving the least disturbance to the prisoners, without their even knowing that any body is there, the public may be admitted on such terms, as to afford the full benefit of public inspection,—the most efficient of all inspections,—over the whole economy of the prison. By means of whispering tubes, oral communication might be permitted with the prisoners, at such times, and under such regulations, as would prevent it from interfering with the working hours, or other parts of the discipline, to all persons who might have a wish to hear if they had any complaints.

Another very simple expedient would make an important addition to the list of securities. It ought to be an obligation on the jailor to keep a book, in which all complaints of the prisoners should be entered, and, as often as they could write, signed with their names. Along with the complaint should be entered a statement of what had been done for removing the ground of the complaint, or of the reasons for doing nothing. And this book should be open to the perusal of the public, and should lie in a place convenient for the inspection of all the visitors of the prison.

A still more important and indispensable security would be, the obligation of the jailor to present, annually, to the principal court of justice, such as the Court of King's Bench in England, a report on the management and state of the prison during the preceding year, containing, with all other points of useful information, exact accounts of the receipts and disbursements; to verify these statements by his oath; to print and publish them at his own expense; and to answer, upon oath, all interrogatories, made to him, in open court, by the judge, or by any other person, how much soever the answer might tend to his own crimination; and this as often as the judge might call upon him for such a purpose. By this means, with the obvious security afforded for other still more important ends, so perfect a knowledge would be communicated of the gains of the jailor, and the mode of obtaining them, as would ensure an accurate bargain, rigidly proportioned to the amount of them, as often as the contract came to be renewed.

The last thing which we think it necessary to recommend in the shape of a security, would operate as a test of the efficacy of the management in its character of a reformatory discipline. The jailor should be held bound to pay a certain sum, varying in proportion to the length of time during which the prisoner had been subject to his discipline, for each of the prisoners who, after liberation, should be convicted of a crime.

Connected with the important part of the subject relating to the labour of the prisoners, it is proper to bring to view the advantage of a subsidiary establishment for receiving and employing those who might be liberated from the prison. It is a well known ground of lamentation, that persons liberated from a prison, find often great difficulty in obtaining employment, and are constrained, by a kind of necessity, to betake themselves to their former evil courses, though with the inclination to have devoted themselves to honest industry, had the means not been denied them. The best mode of obviating this great evil would be, to have a subsidiary establishment, the architectural form the same as that of the prison, in which the jailor should be obliged to receive all persons who have been liberated from the prison, and who make application for admittance; and to employ them on the same terms as the prisoners, with the single exception of its being in their power to remove when they please, and to make, in respect to terms, all such stipulations with the jailor as may be for their mutual advantage.

The next part of the subject to which we proceed, is the plan according to which the prison shall be supplied with the articles which the prisoners are enabled by their labour to purchase.



As there are certain articles, such as intoxicating liquors, which ought to be altogether withheld, unless for special reason permitted, and as the jailor could not have a sufficient command over the articles conveyed into the prison, unless he had, in his own hands, the power of supply; as the intercourse, also, which would be created with strangers, if the prisoners were at liberty to purchase of whom they pleased, would be incompatible with the discipline of the prison, the power of supplying articles of purchase to the prisoners ought to be confined to the jailor.

If it be objected that the jailor would thus have the power of oppressing the prisoners, by selling bad articles, or good articles too dear, the answer is, That he could not. We have already seen, that in order to derive from the prisoners the greatest quantity of profit to himself, he must give to them a reward for their labour sufficient to make them labour to the most profitable account. But if he sells articles to them at more than the usual price, this is merely a reduction of the reward left to them for their labour: this he cannot reduce beyond a certain point, without reducing the amount of his profit; and any greater reward than up to this point, the nature of the case renders undesirable.

We have now then stated all that seems necessary to be said on the three great subjects; *1<sup>st</sup>*, Of the structure and form of the prison; *2<sup>dly</sup>*, The securities which may be applied for obtaining good conduct on the part of the jailor; and *3<sup>dly</sup>*, The first and principal part of reformatory discipline, namely, voluntary labour.

The remaining conditions of reformatory discipline will not require much explanation.

1. Separation, as far as concerns the sexes, and as far as concerns the good from the bad, is now so generally attended to as an object of importance, that the danger sometimes is of other things being too much overlooked in the comparison.

In a prison, such as we have described, in which, by means of moveable partitions, the cells may be enlarged or contracted at pleasure, and in which the prisoners are all under continual inspection, the power of separation, to any desired extent, is complete.

The two sexes, though inmates of the same prison, and simultaneously subject to the same inspection, may be as completely disjoined as if they were inhabitants of a different region. By a piece of canvas, and nothing more costly, extended in the form of a curtain, from the boundary on each side of the female cells, in the direction of a radius across the central area to the

inspection lodge, the females would be as completely cut off from seeing, or being seen by the male prisoners, as if they were separated by seas and mountains; the same effect would be obtained as to hearing, by merely leaving a cell vacant between those of the males and females; and thus the space appropriated to each of the two sexes might, in the easiest manner, be diminished or enlarged, as their relative numbers might require.

A much more complete and desirable separation, than that which is aimed at, as the utmost in other prisons, is easily attainable in this. The ordinary separation of young offenders from old, of the greatly corrupted from those who are presumed to be less deeply infected, is still apt to leave associations too promiscuous, and too numerous, not to be unfavourable to the progress of reformation.

The prisoners should be put together in companies of twos, and threes, and fours, seldom more; each company occupying a separate cell. It would be the interest of the jailor to put them together in such assortments as would be most conducive to the quantity and value of work they could perform, and to the goodness of their behaviour; that is, to the most perfect operation of the reformatory discipline: and his experience of their dispositions and faculties would of course fit him beyond any one else for making the selection.

It will have been all along understood, that, to attain the ends of inspection and economy, the same rooms or cells which form the day and working rooms on our plan, form also the sleeping rooms. Not the smallest inconvenience from confusion of things in the apartment can thence be derived; because the hammocks, which would be more convenient than beds, could be stowed away in little compass during the day.

It is also to be particularly observed, that whatever degree of seclusion might either be indulged to the feelings of an individual, or might be deemed conducive to his mental improvement, might still, upon this plan, be easily secured; because, by means of screens, a portion of the cell might be formed into as many private apartments as might be desired; and where experience of good conduct had laid a foundation for confidence, periods of seclusion, even from the eye of the inspector, might be allowed.

2. Nothing of great importance to be mentioned in this summary sketch seems now to remain, except schooling, and religious instruction.

The Sunday is the appropriate period for both. Sunday-schools are found by experience to be sufficient for communicating to children

the important arts of reading, writing, and accounts. It would be obligatory on the jailor to afford the means of instruction in these respects to every prisoner who might not have attained them; together with all other means, not incompatible with the case, of promoting their moral and intellectual improvement.

3. The religious services proper to the day, and such other devotional exercises as might be thought requisite on other days, would be conducted by the chaplain, the prison affording remarkable facilities for bringing all the prisoners into a situation conveniently to hear; and also, which would be a circumstance of great importance, bringing the public from without, to participate in the religious services of the prison, for whom temporary accommodation in the vacant central area might be provided, and to whom, by the charms of eloquence and music, and the power of curiosity, it would be the interest of the jailor, by letting the seats, to provide sufficient attraction.

It seems to be necessary, before concluding, to obviate an objection, which, though it has seldom been urged as a reason against reformatory discipline, is yet considered as requiring a great deduction to be made in the estimate formed of its advantages. The objection is, that, by affording the means of employment to prisoners, we take away those means from a corresponding number of persons who are not prisoners, and thus sacrifice the deserving to the worthless.

This objection is drawn from some of the conclusions of Political Economy. That which affords the means of employment to labour is capital; in other words, the means of subsistence to the labourer, the tools he works with, and the raw material on which he is employed. When labourers are too numerous for the means of employment, it is evident that, if any new ones are added to the number, you can give employment to them only by taking it away from the old ones. It is, therefore, said, that by giving employment to prisoners, we make an equal number of honest workmen paupers.

In this objection, however, as is generally the case with false reasoning, a part only of the essential circumstances, not the whole, is taken into the account. In the first place, with regard to the prisoners, one principal part of the capital which puts labour in motion, namely subsistence, is afforded to them of course, whether they labour or not.

In the next place, the objection proves too much; for, if it would be better, for the sake of affording employment to others, that the man should do nothing in prison, it would equally be better that he

should have done nothing out of prison; better that we should have a portion of our population useless than productive. According to this doctrine, the proper rule, whenever population exceeds the demand for labour, and wages are low, would be to give subsistence to a portion of the people, on the condition of their abstaining from labour.

Thus much of the allegation is true, namely, that when to the subsistence, which you would have given at any rate, you add tools and raw materials, you so far diminish the quantity of tools and raw materials which can be furnished to others. But, counting only this circumstance, another most important circumstance is left out of the computation. This deduction of tools and raw materials is made once for all. The productive labourer replaces the capital, which employs him, with a profit. Advance to him, for one year, the food and other articles which he needs, you never need to advance any thing more. What he produces in the course of the year, replaces the food and all other articles which he has used, with a profit. But if he has not laboured, he has produced nothing; you have to supply him, therefore, with the means of subsistence, not one year, but every year, from the produce of other men's labour. If he labours, you have to give him once, out of the general stock of means for the employment of labour, subsistence for a year, with tools and raw material, and you have no occasion to give him any more. If he is to be idle, you give him, it is true, only subsistence, without tools and raw material, the first year; but you have to give him subsistence, that is, so far to diminish the means of employing other men's labour, every year; whereas, if he is a productive labourer, for the advance which you make to him the first year, he not only exempts you from all farther deductions from the means of employing other men, but he every year adds to those means, by the whole amount of the profit made upon his labour. To make those persons, therefore, productive labourers, whom you must at any rate subsist, is to increase, not to diminish the means of employing others.

As to another objection which is sometimes offered, that the commodities produced in a prison glut the market, and injure other manufacturers, this is still more evidently founded upon the consideration of part of the determining circumstances, without consideration of the remainder. If it is meant to apply not to one class, or two classes of commodities, but to the mass of commodities in general, it may instantly be seen to be untrue. The men who become sellers of the articles produced in a prison, become buyers to the same amount. Whenever a man sells a greater amount of articles than before, he gets the means of buying an equally greater amount. He always brings as much of a new demand into the market as he brings of a new supply. If he

introduces more of some one commodity than the market requires, and reduces the profits on producing it, capital leaves that employment till the inequality is redressed. If the number of people is the same, and the quantity of commodities is encreased, it is a contradiction in terms, not to say that the circumstances of such a people are improved.

Having answered these objections, it does not occur to us that there is any thing more which in this outline it is necessary for us to add. The plan, both of construction and management, appears to us simple, and easy to be understood; and to offer securities for the attainment of the end, such as the imperfection of the human powers, seldom permit to be realised. In the delineation presented, the only merit we have to claim is that (if our endeavour has been successful) of adding perspicuity to compactness. There is not, we believe, an idea which did not originate with Mr Bentham, whose work ought to be the manual of all those who are concerned in this material department of public administration.

(f. f.)

[\[Back to Table of Contents\]](#)

### 3.

## **Parliamentary History And Review [London, 1826]**

*Parliamentary History and Review; containing Reports of the Proceedings of the Two Houses of Parliament during the Session of 1826: - 7 Geo. IV. With Critical Remarks on the Principal Measures of the Session.* (London: Longman, Rees, Orme, Brown, and Green, 1826).

- James Mill, “Summary Review of the Conduct and Measures of the Seventh Imperial Parliament” pp. 772-802.

[\[Back to Table of Contents\]](#)

## **Summary Review Of The Conduct And Measures Of The Seventh Imperial Parliament.**

In taking a view of the proceedings of the late parliament, and considering effects in conjunction with their causes, we shall presume, that our readers are aware of the acknowledged principle upon which all our reasoning, with respect to the actions of men, and our rules for modelling their conduct, are founded.

That principle is, that men are governed by motives: this is only saying, in other words, that they are governed by their interests; and it will best suit the expression of those reflections, which will occupy the subsequent part of this disquisition, to use the former of these terms in place of the latter; the interest being the primary thing—the motive only secondary and derivative; the interest, the actuating ingredient—the motive, but the view which the mind takes of the interest.

We desire to avoid all controverted points on this subject, and merely to explain distinctly the sense in which we wish to be understood. Thus, if any one should insist upon it, that men are not universally governed by their interests, and that many men, in many acts of their lives, act from sympathy, and the dictates of virtue, in opposition to their interests, we are not at all disposed to controvert their opinions, because there can be no doubt, that in the sense in which they understand the words, their proposition is true, how much soever it disguises the real nature of the phenomena.

It is not less true, with respect to every man, that, of the whole actions of his life, by far the greater number are determined by views of interest, in the ordinary sense of the word; the allurements of pleasure, the aversion to pain, the desire of wealth, power, reputation, and so on: nor, with respect to a large body of men of any description, that of their actions, upon the whole, interest, in this very sense, will be the governing principle.

When men are combined into an acting body, and have a kind of principle of unity bestowed upon them, it is universally recognized, that the interest of the body is the ruling principle of action. Their sympathies are with one another, not with those exterior parties whose interests come in competition with theirs. And as for virtue, in their case, who knows not, that in most minds, virtue consists in doing good to those with whom we sympathize? If there is any class

of sensitive creatures, totally removed from our sympathies, we little regard the effects which our actions may have upon them.

This doctrine, which it would be highly instructive to illustrate at greater length, we must take as conceded. In truth, to deny it, would be to deny the very principle upon which government is founded. The principle upon which government is founded, is, that men, generally taken, will not only prefer their own interests to those of other men, but, when they can, will sacrifice the interests of other men to their own. Government, in all its shapes, is but an organization of means for checking the operation of this propensity; in most instances, it is true, a wretched organization.

In considering, in a general point of view, any part of the proceedings of the parliament of England, the House of Commons, of course, is the first object of attention. It is not incumbent upon us here to explain in what manner the House of Commons has become the main spring in the government of England: it is sufficient for us to recognize it as the fact—a fact, neither disputable nor disputed.

From the mode in which the suffrage for members to the House of Commons is distributed, and in which the business of the election is performed, it has been found possible and easy, for the leading families in the country, to establish such an influence over the electors in all the counties, and in a great proportion of the towns, that they can return as members for those places, the persons of their choice. This they do for one parliament after another, without end. And this, it is evident, is nomination—hereditary nomination, under certain forms—which, though at times they are troublesome and expensive, are, nevertheless, deemed necessary, in order to disguise the reality under false appearance.

There may be some doubt as to the precise extent to which this virtual nomination is carried. But for the settling of this dispute, any portion of the time of our readers or ourselves would be unprofitably bestowed. There is no doubt that it extends to much more than a majority of the members; and this is all which it is material to know. Whether the minority consists of a few less or more, is not of the smallest consequence with regard to the general nature and tendency of the acts of the assembly.

Of that portion of the House of Commons, which is not returned by the leading families, the greater part consists of men of large fortunes, who can afford, by dint of money, to create a temporary influence in those places where no great family has established a permanent one; and, in a few places, the election is made under more or less of the real opinion of the electors; their opinion of the



fitness or unfitness of the individual to whom their votes are tendered.

Of those two portions of the House of Commons—that which is nominated by the leading families, and that which is not nominated by them—the latter is that alone about the nature and force of whose actions any doubt can exist.

The matter of fact and experience is, that of the members who do not sit by the nomination of the leading families, the greater number are prone to act along with them, and pride themselves in holding a place in their ranks. As far as these men are concerned, the interest which shapes the actions of those who are nominated by the leading families, does not experience opposition, but support.

When a legislative assembly is so composed, that one interest actuates one portion of it—another, another; but one of these portions is a great majority; it necessarily follows, that the interest of the major part is that which predominates in the whole. Whatever proposition, favourable to their own interest, the major part wish to carry, they always can carry, notwithstanding any injury it may import to the minor part, and the rest of the community, and notwithstanding any opposition which it may be in the power of the minor part to make to it. On the other hand, any proposition which the minor part may introduce, however conducive to public good, the major part, if it threatens any infringement of their advantages, have at once the motive and the power to throw out.

In a legislative assembly, in which the great majority are leagued in the aristocratical interest, the situation of the minority, who represent the general interest, whether, in point of numbers, they are considerable or inconsiderable, is not that of legislators. It is mere imposture to call it so. Their combined votes in favour of any measure, to which the aristocratical interest are opposed, are wholly ineffectual to carry it. Their votes, in favour of any measure to which the aristocratical interest are inclined, are useless, because the measure would be as certainly carried without their votes, as with them. Voting, in these circumstances, is wholly without effect. It is, therefore, a mere nullity. As well might a man act the farce of voting in a desert, where there is nobody to see or to hear him. But if the voting of the minor part in such an assembly be a mere nullity, their speaking is not. They may still advocate good measures. Their place, therefore, in the legislative assembly, is that of legislators in form only, and with a fraudulent effect. They have but one real function—that of advocates for the general interest; and they would be much more favourably situated for the

performance of this positive service if they were relieved from their mock character of legislators.

As the character, then, of the English House of Commons is, beyond all controversy, that of an aristocratical hereditary assembly, with a few advocates of the general interest, allowed to be heard among them, we are a little prepared to judge what sort of actions are to be expected from them; and, in reviewing the proceedings of the last parliament, to shew pretty accurately the connexion between causes and effects.

It must be supposed, that by a legislature, in which the aristocratical interest had so long and so largely predominated, the machinery of government, and all its workings, would long ago have been put into the state the most favourable to the interests of the aristocracy, which aristocratical wits, matched with the circumstances of the times, could bring them to; and that in this state they were found at the commencement of the last parliament.

This being the case, it is impossible not to see what must have been the predominating purpose of that assembly, throughout: that it must have been, to keep things as nearly as possible in the state to which they had been brought; and if an appearance of doing something must be kept up, to make as much of a little as possible; to put the advocates of improvement always on a wrong scent, and to listen to the proposition of no change that implied any real alteration.

When the powers of government are placed in the hands of a few—be it an aristocracy, or a despot and his satellites—these powers are rendered subservient to the interests of those who hold them, by the command which is thence obtained over the persons and properties of the rest of the community. The main object of such governments is to carry that command to as great a height as possible.

The ancient laws of England afforded protection to the persons of the mass of the people only to a certain extent; beyond that point every thing was open to the hand of power. Manners, however, in modern times, have done more than legislation for the protection of the lower orders from outrage in their persons. The man with power does not find his gratification in offering indignity or doing harm to the person of the man without power. What he desires, with respect to him, is command over his services. But command over his services is better obtained in the indirect, than the direct way; by first taking from the man his money, and after that, with his money, purchasing his services.

The aristocracy, then, have felt but little interest in recent times in deteriorating the state of the law in regard to the protection of the persons of the people. They have shewn enough, indeed, of reluctance to part with any portion of a power capable of being abused, though now seldom turned to a wicked account, and have resisted every proposition for the improvement of the law in this respect.

In modern times, the machinery of taxation has been found the most commodious instrument for making power useful to those who hold it. The power enjoyed by a particular class, of making laws to take so much annually from the property of every man, was the power to distribute a great part of the proceeds among themselves. This is a machinery which we may conclude has every where been worked to the utmost. But no where has the working been so prodigious as in England.

The great evil of this mode of satisfying the aristocracy with the property of the people is, that it takes from the people more than it gives to the aristocracy, and carries the oppression of the people to a much greater extent than the mere enriching of the aristocracy would require.

For taxation, pretexts are thought necessary. The people are not told that they must be taxed, because the aristocracy want more of their money. They are told that they must be taxed, because the wants of the state must be supplied. And then those wants must be turned to the best account, and exaggerated to the utmost. All the establishments of the state are pushed to the greatest extravagance which the spirit of the times will bear. Civil boards and civil officers are multiplied without end. Army and navy are kept at the highest amount, for which a pretence can possibly be invented. And colonies and distant possessions are multiplied, both because lucrative places may be made in them with profusion, and because they afford one of the best pretexis for keeping up an expensive army and navy.

It is through these establishments chiefly, that the aristocracy pocket what they do pocket of the public money. But for every pound which they get to themselves in this manner, many pounds are extorted from the people. A regiment of soldiers benefits the aristocracy only by the pocketings of a few of its highest officers: it grinds the people by the cost of the whole machine. In like manner, a ship has only a few good things for the aristocracy: a vast amount of charge and oppression to the people. A colony has several good places fit for the aristocracy: it almost always lays an enormous expense upon the nation.

No event in the annals of the human race ever enabled a government to carry expense to so extravagant a height, and so to glut the possessors of power with the property of the people, as the war waged against the French revolution. In the few years which had intervened from the termination of the war to the opening of the last parliament, patience had been demanded for the time necessary to wind up the affairs of the war. The grand spectacle during that parliament is, to see the struggle that was made to keep up establishments as nearly as possible to the scale even of the late destructive war, and to prevent the reduction of expense. In the year ending the 5th of January, 1820, the year in which the late parliament began to sit, the expenses of the civil list, military establishment, civil government, and collection, amounted to 26,600,519*l*. In the year ending the 5th January, 1826, the last of which the accounts can yet be adduced, the same expenses amounted to 29,157,171*l*.

The connexion here between causes and effects, is both obvious and instructive. The state of expense—that part of the working of the machinery from which more immediately the benefit of the aristocracy proceeds—had been carried, by the aid of a most extraordinary conjunction of events, to a degree of perfection altogether unexampled, and far beyond what the most sanguine hope could have anticipated. The situation of the aristocracy was the most advantageous possible: the grand concern was, to preserve it from deterioration. It is impossible for us to follow in detail the persevering efforts which were made by Mr. Hume, occasionally aided by a few others, only to curtail this expense, to cut off a few of its more monstrous deformities. Year after year did he make his expositions; year after year, not only were they met by an overwhelming opposition, but they and their author were treated with hostility. Every species of ill usage which experience had found the most successful in driving men from the post of duty in that House, and which few men indeed have had the magnanimity to withstand, was employed against him. After a time it was found, that a man had at last appeared, upon whom the ill usage of the House had little effect. This was a great point gained. This itself constitutes a new era. This is what they call a pregnant example. The spirit of Mr. Hume will pass into others. We shall have a race of Humes.

In the monstrous expense of this government, what is to be deplored, is not so much the amount of the property of the people which goes into the pockets of the aristocracy. This the people, without any very great diminution of their happiness and prosperity, could bear. This, great as it is, considered in itself, is small compared with the expense which is wasted upon establishments, rendered enormous, that the places which they

afford to the aristocracy may be as numerous as possible. The grand practical evil of our Government is this: that they who substantially wield the powers of it, have an interest in making its establishments too great. Establishments too great are, in modern times, and under the control of modern manners, the grand instrument of oppression to the people. It is in this, more than in any other way, that governments are bad; and that one is more or less bad than another. What was it that rendered Louis the Fourteenth the scourge of France, and before his death brought that kingdom to a state of exhaustion? Read his historians. They tell you with one voice. The extravagance of his establishments, military and civil, was the cause. The effects we know. The monarchy struggled on through a few years of languor and decrepitude; and expired in violent convulsions.

Such is the history of the late parliament, with regard to one branch of the public interests—the rate at which the people pay for the services of Government. The protection of the persons and properties of the people of England, is paid for at a cost of 57,000,000*l.* per annum: of which 29,000,000*l.* is for immediate charge; 28,000,000*l.* is for interest of the debt contracted for that protection at former times reputed extraordinary. Think of the end as it really is, in its own nature. Think next of the facility of the means,—justice, police, and security from foreign invaders. And then think of the oppression practised upon the people of England under the pretext of providing them. The expenses of Queen Elizabeth's government amounted to 500,000*l.* per annum. The comparison is said to be ridiculous. Why? Our courts of justice in England cost even now but 65,000*l.* per annum. Our police costs but a trifle. And why our shores should require a single man to guard them more than in the time of Elizabeth, we shall get not one good reason from those who will use the most swaggering asseverations on the subject.

Of the great interests of the country, that which stands first in importance is the administration of justice; the perfection of the means which are employed for giving certainty and security to the rights of individuals. The means conducive to this end are comprised under three heads: diminution, to the greatest practicable extent, of doubtfulness relating to rights; a correct and prompt solution, without burthen to the parties, of such doubts as cannot be precluded; and, as often as any infringement of a right is incurred, an effectual remedy for the evil.

There is something remarkable in the history of law. We can expect nothing else than that the benefits of law in a rude age should be very imperfectly enjoyed. First of all, little is done in an age of ignorance, for narrowing the ground of doubt with respect to

rights. Such an age cannot define. A few rude marks grow into authority by custom; and things are or are not recognized as rights, according as they do or do not bear the established indications. Little as a rude age is capable of defining, it is not less incapable of separating, by abstraction, the end from the means; and forming a clear and distinct conception of each. It is incapable of taking such a view of the *end*, as to comprehend it every thing which belongs to it; separate from it every thing which does not belong to it: and such a view of the *means*, as to distinguish the steps which are necessary from those which are not necessary; and to mark in what possible order the smallest number of steps will suffice. The people of such an age employ ill comprehended means for the attainment of an ill comprehended end. They proceed in the way which wise men of the present day call practical: they see only a bit of a thing at a time. Accordingly they have a little expedient for one bit, and another little expedient for another bit. The consequences are, a want of connexion, and mutual bearing to a common end, among their expedients; a frequent clashing and counteraction among them; and a most unnecessary multiplication and complexity; one narrow expedient being provided for one narrow purpose, and another for another; when, under a comprehensive view of means and ends together, one expedient would have been found to accomplish many purposes. Such is the mode of proceeding of a rude age in all things. There are abundant reasons why it should be such in the business of law to a remarkable degree, and should produce a more absurd and fantastical product than in any other department of human affairs.

The astonishing thing with respect to law, is, that in a concern in which improvement so deeply affected the interests of all, the barbarous product of a barbarous age should have been protected from change in almost all countries, and handed down to a late and civilized age in a state of more perfect preservation, than any other monument, not physical and indestructible, of rude antiquity. Of all countries, England stands foremost in the merit or demerit of this monstrous preservation. If any one desires to have an accurate, and as it were a living image of the mode of thinking and acting among our barbarous ancestors, he has only to look carefully into the law.

It is a remarkable case of a remarkable part of our nature, that when people have never known the time in which they were without a certain suffering, they regard it as a part of their lot, and cease to think of its removal.

That the expedients of law in England do answer their end most miserably, is proved by such astonishing results, as one would imagine could not but make an impression upon the minds of the most stupid and apathetic people on the face of the earth. Whereas

justice, to entitle it to the name, ought to be administered promptly, there is enormous delay in all cases: in a large class of cases such delay as amounts to a denial of justice. Whereas justice, to entitle it to the name of justice, ought to be cheap, (for dear justice is robbing justice,) the costs of law in England are ruinous, and exclude the great body of the people from its protection. And, whereas one of the great ends of law, is to remove uncertainty from rights, the uncertainty which attends them in England is such, that of the owners of land, a small proportion only know whether they hold their property by a good title or not.

The disgraceful manner in which the legislature of England have gone on from parliament to parliament, and from age to age, leaving all the load of evil, implied in such a system of law, to press upon the community, without a thought of its removal—nay, with an almost constant opposition to every attempt for relieving them of some of the more galling portions of it—has a more immediate connexion, we think, with the intellectual state of the two houses, than the moral. Though it cannot be denied that the leading classes have an interest, to a certain extent, in the badness of the law—for a perfect law by yielding protection to the poorest man, exempts him from the power of the rich, and an imperfect law which denies him protection, leaves him at their mercy—in England, in this case, manners have to a great degree supplied the place of law, and it is but rarely that such oppression, as it is always in the power of a rich man to perpetrate upon a poor man, is seen to take place. There is another feeling, however, to which we are inclined to attribute a considerable effect. When an aristocratical legislature, by the constant tendency of ages, have got the machinery of government into a state of working as favourable to themselves as circumstances will allow,—when of course the grand principle of their policy is to keep the working as it is, and prohibit change,—they are afraid that an alteration for the better in the law, though it could be made with many advantages to themselves, as well as to the community, might bring other changes after it which would be less agreeable. Not seeing any necessary connexion between changes in the law, and changes in that part of the working on which their advantages depend, they have yet so strongly associated the idea of the changes which they deprecate with that of change in any department of government, that it is never raised in their minds without calling up at the same instant the idea of the changes they detest, and all the horror with which it affects them. Nor is it in this shape alone that intellectual inaptitude has contributed to produce that aversion, manifested by the English legislature, to the discharge of one of its primary duties; that of relieving the community from the evils of a system of legal expedients, most wretchedly adapted to their end. The greater number of those who compose the legislative assemblies of

England, are not accustomed to the business of thought and reflection at all. Beyond the sphere of ordinary talk, and a very narrow and superficial observation, they are conscious of mere mental vacuity. A comprehensive view of the great subject of law—distinguishing accurately the ends which it is destined to attain, and of the means for effecting these ends selecting the best, and come bining them in the most perfect order—they find a task as little suited to their ability, as it is to their inclination. What is beyond their ability they are well inclined to believe is beyond every body's ability. They are exceedingly distrustful of all mental ability; and far from friendly to those in whom it is believed to reside. They cannot but be afraid of being deceived; being incapable of comprehending the good and evil of the schemes proposed to them, and of making a choice in any other way than that of a leap in the dark. In this state of mind, intellectual indolence is always an ingredient, and along with it moral apathy. And the complex feeling is summed up in the standing formula:—We are possibly not very well as we are; but we know not how we should be if we made a change: we, therefore, will rub on.

Under the mastership of this feeling, the state of the law at the end of the last parliament remained, with alterations hardly worth being mentioned, the same as at the beginning.

Sir James Mackintosh\* at an early period brought in six bills, founded upon the report of a committee of the preceding parliament, proposing that the punishment of death should be superseded by a milder one, in certain cases. He met with opposition, and accomplished but a part of that which he proposed. Had he accomplished the whole, the state of the law could hardly have been said to be changed. We have always felt a disposition to question the policy of motions for these minute alterations in the law: not because the change might not in some cases be an improvement; but because working in the small way is apt to be taken as a substitute for working in the great; and the show of doing something, weakens the force of the demand for doing all which is needful. It appears, also, to us, that a prodigious advantage is lost in proposing these petty reforms. To urge reluctant, to excite apathetic minds, the object must be large enough to give an interest. The conception swells with a great project of improvement. Contrariety of interest itself is often insufficient to subdue the impulse which it imparta: and no minor object has any chance of bringing to bear upon the contrariety of interest,—that to which alone it is destined to yield—the force of a strong public feeling.

The most remarkable thing which occurred in the debates on this subject, was the observation of Lord Liverpool\* , “That the great



defect in our criminal legislation in its present state, was, the want of a secondary punishment of sufficient efficacy. Several years ago, when transportation was a removal, either into a noxious climate in Africa, or to a state of servitude in the North American colonies, it excited some degree of terror. Now, however, the system was entirely changed; and the colonial office was besieged with applications without end, from persons wishing to settle in New South Wales. It was in vain, therefore, to talk of transportation, as carrying with it any degree of terror. The fact was, that to the class of offenders, to whom in general it was to be applied, it was an object of indifference, or even of desire, rather than of apprehension. The committees, with which these bills originated, had begun their inquiries at the wrong end. Before they rejected the penalty which the law now inflicted, they ought to have directed their attention to the discovery of some secondary punishment, calculated to inspire such a degree of fear, as would, in a number of cases, serve as a substitute for the punishment of death.”

Here, then, was a capital defect, fully recognized: a capital defect proclaimed by the prime minister himself. What followed? Of course the legislature proceeded immediately to remove an evil, thus known, thus acknowledged, of such magnitude! Here was a case to rouse even parliamentary apathy. From that time to this, the punishment which the prime minister declared to be wholly inefficacious, has continued to be applied to a large class of offences, only not the first in atrocity: in other words, the community have been left, as declared by the prime minister himself, left from that time to this—how much longer they are to be left we shall see—totally without protection, as far as the second great class of offences against person and property are concerned. This is a specimen of the English legislature.

There is still another thing which must be mentioned, to set this case in a proper light. At the same time that the English criminal law was declared to be destitute of a secondary punishment of any efficacy; from which it followed, on the one hand, that a great many persons were punished with death, who ought not to be so punished—an atrocious barbarity; and on the other, that a much greater number, the authors of those offences which most frequently, and, by their frequency, to the greatest extent disturb the security of ordinary life, pass without a punishment, other than a name, and while, along with this disgraceful acknowledgment, the further acknowledgment was made, by the mouth of the prime minister himself, that he was ignorant of any remedy for all this evil—there was before him, and before the legislature whom he addressed, an instrument of punishment, capable of being graduated, from the least to the greatest severity, and exquisitely

adapted to attain all the ends of punishment, without one exception, and with the smallest possible cost to the public—the Panopticon prison and Penitentiary House of Mr. Bentham—the nature and properties of which had been urged with perseverance upon the attention of parliament for a number of years.

The history and fate of Lord Althorp's bill for the county courts, would afford important illustrations of the turn of mind which predominates in our legislative assemblies. But, as it would require to give this history in the requisite development, a space which we cannot afford, and as we have touched upon the nature of the subject both in our former and our present volume, we shall here content ourselves with one or two very general observations.

This was one of the best aimed endeavours which had ever been made for a reform in the law—a reform, which, if it had been effected as it ought to have been, would have annihilated a great mass of the evils, with which the state of the law burthened and afflicted the community. The object was to afford a cheap mode of deciding pecuniary claims, of that moderate extent, which it was better to abandon, than incur the infamous costs, which follow a suit in the courts. It was no longer time to refuse absolutely to entertain such a project. But let any reflecting man first consider within himself, how a virtuous legislature would have acted on such an occasion; with what cordiality it would have embraced the object; how heartily it would have exerted itself to render the proposed remedy as perfect as possible, and to give its remedial operation the greatest possible extent; next let him contemplate, not merely the total absence of any thing like a disposition to aid the author of the bill, but the chicanery which was employed against it, the processes of mutilation and deformation performed upon it, and the rejection which it finally experienced,—and we leave him to draw the conclusion.

The other proceedings of the late parliament, on the subject of law, were either of so little importance, as not to deserve particular mention, or took place during those two last years, which fall within the period of our annual Review, and have been made the subject of separate articles. The debates on the question—whether counsel should be allowed to prisoners on trial for felony, afford the only particulars on which a remark or two appear to be required.

In civil cases, in cases of high treason, and in all the less highly penal of criminal cases, the defendant is allowed the benefit of counsel, not only in questioning witnesses, and affording advice, but in addressing the jury, and making his defence. To this latter purpose he is not allowed the aid of counsel in cases of felony, although counsel are employed to address the jury against him.

This is one of those gross anomalies in the law of England, at which Englishmen are not shocked, only because their law is made up of such things. The first motion for leave to bring in a bill to remove this anomaly, (for the motion was repeated before the end of the parliament,) was rejected by a majority of eighty to fifty. The mover announced that the body of lawyers was opposed to him, though two lawyers of eminence supported him. Sir John Copley (Attorney-General) was the prominent actor on the opposition side<sup>\*</sup>; and the reasons which he adduced, were those which, probably, with or without his suggestion, swayed the minds of the majority.

First of all, the number of members present, is a circumstance, the import of which deserves to be well understood. The Attorney-General began his speech by declaring, "That this was indeed no light or trivial question, but one of the gravest importance." Of the House of Commons only 130 members showed by their presence that they had the smallest concern, whether this important question was determined one way or another. Four-fifths of the House were pursuing their business, or their pleasure, elsewhere. It should seem also, that "a question of no light and trivial nature, but one of the deepest and gravest importance," required, and deserved, some time for consideration; yet 80 members out of the 130 present, decided that none should be bestowed upon it. After hearing a little vague and superficial talk, the House came to a determinate conclusion on the spot.

The argument of the Attorney-General, divested of its amplifications, and enforcements, was, that the defendant would suffer more by the reply of the prosecutor's counsel, than he would gain by the speech of his own. He declared that in civil cases, the speech of the defendant's counsel, by entitling the plaintiff's counsel to speak after him, was to such a degree an evil, that it greatly vitiated that branch of the law. And he asked, whether "it was to be desired that the defect of our civil should be introduced into our criminal system."

The first remarkable thing to be noticed in this argument is, that it passes condemnation on the speeches of counsel, and declares that in all cases, both civil and penal, unless for questions of law, they are hostile to justice. In penal cases it is the best course, he says, that the counsel for the prosecution should open the case, that is, state to the jury the question which is to be tried before them; and that there should, after this, be no speech; nothing but the hearing of the evidence, and the summing up by the judge. He also says, that this, in civil cases, would be a course better adapted to the ends of justice, than that which is at present pursued. The only speech, therefore, not detrimental to justice, according to Sir John Copley, is that opening speech of the counsel, for the party

demandant, in which the question to be decided, is stated to the jury. But the statement of the question to be decided is a function which ought not to be entrusted to the extemporary imperfection, or studied unfairness, of a party and his agent. This is an essential part of the duty of the judge, to be performed, as far as possible, by a proper instrument in writing, completed, when any thing farther is necessary, by the oral exposition of the judge.

That the speeches of counsel impede the course of justice, was, at any rate, a decision which it was not right to adopt without mature deliberation. It was not a question which ought to have been decided upon the mere *ipse dixit* of the Attorney-General, in opposition to all the evidence implied in the established practice of this and all other countries. The House of Commons did decide that the speeches of counsel are a nuisance in judicature. It is the duty of the House of Commons, if any thing which concerns the public be its duty, to remove nuisances from judicature. From that time to this, has any thing been done to relieve justice of what was thus voted a nuisance by the principal branch of the legislature? From that time to this, has that same branch of the legislature any farther troubled its head about the matter, than to reject the same motion, in the same manner, when brought forward once more by the same author?

One thing, at any rate, few will dare to dispute—that if speeches of counsel be good for justice, all cases ought to have the benefit of them; if bad, all ought to be delivered from them. The Parliament of England takes a course entirely its own. Till it can make up its mind upon the matter, it divides the field of law into two portions—not very equal ones, it is true—in the one of which it gives the use of speeches, as if they were good; in the other, denies the use of them, as if they were evil.

In the cases, however, in which we say, that it gives the use of speeches, we ought to say, that it gives a mutilated, lop-sided, unfair, and partial, use of them. It gives the full use to the plaintiff's side; the garbled use to the defendant's side. Not only two speeches are given to the plaintiff's side, while one singly is allowed to the defendant's side, but the plaintiff is allowed the benefit both of the first word and the last; the consequences of which are important. According to the Attorney-General, it is the last speech which decides the question. He did not indeed say, that it does so always, nor did he say how often. But unless it does so in a great proportion of cases, his argument, that the speech of defendant's counsel would do him harm, because it would allow the prosecutor's counsel to speak after him, was nothing to the purpose.

Because none but a lop-sided use of speeches was given by English law, in other cases, the Attorney-General concluded, with true lawyer's logic, that none but a lop-sided use could be given, if given at all, in cases of felony. Nobody asked—yet it was not a very recondite question—Why a lop-sided use of speeches in this case? If the counsel of the prosecutor has made his speech to support, and the counsel of the defendant has made his speech to invalidate the charge, why not do one of two things—either stop the speeches there; or, if the plaintiff's counsel be allowed a second speech, allow a second to the defendant's counsel also? There would be fair dealing in this. In the existing course there is the reverse.

If it be asked, how in our courts of justice, plaintiffs came to have so many indulgences, the answer presents itself immediately — The plaintiff was the customer. No wonder if it was thought right to give him encouragement. It was given to him to some purpose. The Attorney-General declared, that “the odds were *always* in favour of the plaintiff.”

On the great, the master subject—the right composition of the legislature—no proposition was discussed in the last parliament, which, even if carried, would have altered the relative state of the private and public interest in the House of Commons—would have given to the public interest that ascendancy which the private has hitherto enjoyed.

Two schemes of reform were proposed, one by Mr. Lambton, and one by Lord John Russell; and on the last there were four debates in four different years. There was, besides, the disfranchisement of Grampond.

The main provisions of Mr. Lambton's bill were three.—1. Instead of the present election by cities and boroughs, which was to be annulled, election districts were to be formed all over England, in each of which one member was to be chosen; and all householders paying rates and taxes were to have the right of voting. 2. The representation of the counties was not to be altered, farther than by admitting leaseholders and copyholders to the right of suffrage. 3. The duration of parliaments was to be reduced to 3 from 7 years.

The plan of Lord John Russell was shortly this: to take from one hundred of the smallest boroughs sending two members, the power of sending more than one; and to supply this defalcation, by one hundred additional members for the counties and great towns, in the proportion of 60 for the counties, and 40 for the towns.

The *principle* of sound decision on this great question, is obvious. Government is founded upon the necessity there is of preventing

one man from promoting his own interest, at the expense of other men's. That men will do so, is not matter of doubt, it is matter of experience. The propensity is not confined to a few men out of many; to this class, and not to another. It is so nearly universal, that all our conclusions, with respect to men in bodies, are correct only in so far as they are grounded upon this experience.

The real object to be aimed at in the composition of a legislature, is to prevent the predominance of the interest of any individual, or of any class; because, if such interest predominates, the very principle on which government is founded implies, that it will be promoted at the expense of the community.

In the former part of this article, we have seen, that, in the composition of the English legislature, the predominance of the aristocracy is so complete, that whatever they wish to do, they always have it in their power to do—whatever they wish to prevent, they always have it in their power to prevent; that, by the bearing and impulsion of an aristocratical legislature for ages, in one direction, the working of the machinery has been rendered as favourable as possible to the predominant interest; and that, now, they who are in this interest have little else to do than to prevent alterations.

It follows, with the force of demonstration, from these unquestionable premises, that no change can, directly, be any improvement whatsoever in the British legislature, which does not substitute the predominance of the general interest to the existing predominance of a particular interest; and that no change can, even indirectly, be of any advantage, but such a change as leads to that substitution.

It is evident at the first glance, that the plan of Lord John Russell would detract nothing from the power of the aristocracy, who would nominate just as many members, after such a change, as before it. The chance is, that they would nominate more. The sixty members given to the counties would be theirs, without the smallest trouble, because the counties are theirs already. And can any body doubt, that of the remaining forty they would have their usual share? We deem it unnecessary to enter into farther development of the case, because we cannot conceive a man who will dispute our conclusion.

With respect to Mr. Lambton's proposition, we think it may not less certainly be determined, that it would not diminish, but increase the power of nomination, in the hands of the aristocracy. The only part of his plan which requires consideration is the first—the constitution of election districts, in lieu of the boroughs; for, that

the annexation of leaseholders and copyholders to voters in the counties, would lessen the influence of the aristocracy in the counties, it would be ridiculous to imagine.

Now, the immediate effect of making election districts, in lieu of the boroughs and towns, would be, to add in each instance, a portion of the agricultural population to the town population. The agricultural population, the landed interest would command wholly; this would, therefore, be just so much added to that command over the town population which the aristocracy already possess. It may be said, that Mr. Lambton's plan gives a great extension of suffrage in the districts. But, besides that the suffrage in many of the towns and boroughs is already not much less extensive, it may be affirmed generally, that giving the suffrage to a more indigent class of people, without the safe-guard of the ballot, is only to place the election more completely in the hands of the powerful classes. And, with respect to the diminution of the time of parliaments, so long as a majority of members are nominated by a particular interest, what signifies diminution of time? If the same interest always predominates, will it not work as steadily in its own favor when the farce of election is performed every year, as when it is performed only once in seven years?

But, though a reform which would substitute the prevalence of the general interest to that of a particular interest in the legislature is the only reform which can *directly* be of the smallest advantage—it can hardly be affirmed of any change, which would not produce confusion, that it would not *indirectly* be of advantage; by leading the people to reflect more keenly upon the ends which are to be attained, and the means adapted to their attainment; by lessening the fanatical attachment to wrong combinations of means, venerable solely because they have long existed; by accustoming even the aristocracy themselves to perceive, that by such a change in the composition of the legislature as would give in it that ascendancy to the public interest, without which good government would be the most absurd of all expectations, they would lose nothing but that which they ought not to desire to retain; and would receive all the advantages of good government—advantages of unspeakable importance—in return.

All that remains to be remarked respecting these propositions is, the mode in which they were entertained by the House. As the ascendant interest would not have been injured by the direct operation of the changes, even if effected, the hostility of those who share in that interest is to be accounted for wholly by the indirect operation, of which they must have formed a very high estimate, unless we suppose them so ignorant as not to understand the

nature of the propositions, and to have had fears on account of the direct operation itself.

Mr. Lambton began the speech by which he introduced his motion, with the following account of the feelings of the House\* .

“If at all times, and upon all subjects, I must be most unwilling to trespass on the attention of the House, on no occasion can I be more reluctant than on the present; and I can assure you that nothing but a deep sense of public duty, and an anxious desire to put an end to that spirit of discontent now so generally prevailing, would have induced me to take up a question, the great and important interests of which I feel that I am not competent adequately to protect. In the first place, I know that I have to contend against *that disinclination which has invariably been shewn by this House towards its discussion*; a disinclination founded possibly on that dislike, which is inherent in all men and bodies of men, to hear accusations against themselves, and statements of faults and corruption openly laid to their charge. If I wanted any evidence in support of this assertion—this well-known truth—I should undoubtedly find it in the state of the benches opposite to me. Perhaps, indeed, I should be justified in taking advantage of it, and at once submitting my motion to the vote. The result of that division clearly would be its adoption, for it requires no great discernment to perceive that at this moment the majority is greatly on the side of the friends of reform. But, Sir, I will not be tempted into this irregularity. If this scantiness of attendance is meant as an insult to myself, I treat it with contempt;—if it is pointed at the question, I then repel it with feelings of deep indignation; and can only hope that it will not be lost on the people of England.” And towards the end of his speech, describing the treatment, which the applications of the people, for such a change in the composition of the legislature, as would afford protection to their interests, were accustomed to receive from the majority of the House, he says—“They obstinately exclude the petitions of the present day. They heap on them every term of reproach which the ingenuity of wit, or the bitterness of sarcasm, as administered by the right honourable member for Liverpool (Mr. Canning), can supply. And then they express astonishment and alarm at the feelings which they hear repeated and re-echoed on all sides. To repress these, innumerable acts of restraints and coercion have been proposed by them; *and, of course, adopted by parliament.*”

The speakers after Mr. Lambton were, Mr. Samuel Whitbread, Mr. Wilmot, Mr. John Cam Hobhouse, Mr. Horace Twiss, Sir Robert Wilson, Mr. Abercrombie, Mr. Fysche Palmer, Mr. Stuart Wortley, Lord Bury, Mr. Martin, (of Galway,) Lord Milton, Mr. W. Williams, Mr. Honeywood, on the first night, (for the discussion was



adjourned); and on the second, Mr. Wyvill, Mr. Sykes, Capt. Maberly, Mr. Ramsden, Mr. Harbord, Mr. Ricardo, Mr. D. Brown, Sir G. Robinson, Mr. T. Wilson, and the Chancellor of the Exchequer.

There names are given for the sake of the evidence with which the list of them is fraught: though it is evidence only to a point of sufficient notoriety—the feelings of the House towards parliamentary reform. The question was decided by less than one hundred members: Ayes 43; Noes 55.

Of the allegations opposed to the motion by the Chancellor of the Exchequer\*, the only one which bore upon the general question, in such a manner as to deserve remark, was this:—That public opinion governs the House. This seems to have become a pretty general resource with the enemies of reform. They know not the corollaries which are logically deducible from it. But they cannot be ignorant, it is not conceivable they should be ignorant, that what is thus asserted by them is not according to the fact. That public opinion is not without some influence upon the House of Commons, is true. It is not less true, that public opinion has an influence, and a great influence, upon the most despotical and barbarous governments on the face of the earth. Would it not be shameful to infer from this, that such governments are good governments? Where the powers of Government are wielded, as in England, by a particular interest, it must of course observe public opinion; it must study the arts of misleading and eluding, and, for the purpose of eluding, must occasionally obey, it; though generally, and on all important occasions, it may and does with security brave it. That the House of Commons is so governed by public opinion, as to prevent the interest of the public from being habitually sacrificed to the interest of the class which predominates in it, we should imagine is a proposition which no man in his senses would stand forth and affirm. Because, if public opinion be all-powerful to secure good government, what need have we of a House of Commons at all? Would not a House of Lords answer our purpose as well? Nay, since it is matter of notorious certainty, that the king's ministers are far more dependent upon public opinion, than either House of Lords or House of Commons, does it not follow from this doctrine, that the nation would be better governed if both House of Lords and House of Commons were put out of existence? Still farther, is it not clear, that, from the superior force with which public opinion does act upon the ministry, a revolution has taken place in the working of the Constitution? Formerly, the House of Commons was regarded as the check upon the king's ministers. Now, it is evident to all the world that the king's ministers are the check upon the House of Commons. And when the House has the appearance of being checked by public opinion, it is not in reality the House that is checked, but the ministers that are checked, and carry the House,

by means which are no secret, along with them.—But the operation, present and future, of public opinion in the government of England, and the utter impossibility of its sufficing for good government against the established predominance of a sinister interest in the legislature, are important topics, the development of which cannot be undertaken in so limited a plan as that which at present we propose to execute.

On the first occasion on which Lord John Russell brought forward his scheme of reform (the 9th of May, 1821\* ,) the speaking was left to himself; for, after a few words from Mr. Whitmore, who seconded his motion, the Parliamentary History says, “there was a loud cry of, “Strangers withdraw!” and after a very few words from Mr. Bathurst, and Mr. Barham, the House divided on the previous question: Ayes, 124; Noes, 155. The second occasion on which he introduced it was the 25th of April, 1822† , when the speakers, after himself, were, Mr. Horace Twiss, Lord Folkestone, Mr. Duncombe, Mr. Wynn, Mr. Robinson, Mr. Canning, Mr. Denman, Mr. Peel; and the division was 164 to 269. The third time was the 24th of April, 1823‡ , when, beside the mover, the speakers were, Lord Normanby, Sir Edward Hyde East, Mr. Ricardo, Mr. Martin, (of Galway,) Sir John Newport, Sir T. Lethbridge, Sir F. Blake; and the House divided, Ayes, 169; Noes, 280. The fourth and last time was on the 27th of April, 1826|| , that is, a few weeks before the general election. The speakers on that occasion were, the Mover, Lord Althorp, Mr. J. E. Denison, Mr. Ross, Lord Glenorchy, Mr. Hobhouse, Lord Leveson Gower, Mr. W. Lamb; and the motion was negatived by a majority of 247 to 123.

One fact there is which cannot fail to excite the curiosity of many persons, the wonder of some, and the reflections of not a few. On all these discussions, on the vital question of parliamentary reform, the great Whig organs in the House were silent. Mr. Lambton, and Lord John Russell, men of great weight in their party, were left to fight, each his own battle, alone, or with some feeble support which chance alone seems to have presented them. This is extraordinary, surely. We must be curious about its meaning. Mr. Brougham was not present at the discussion of Mr. Lambton’s plan; Sir James Mackintosh and Mr. Tierney were. And these three leaders were all present at three at least of the discussions on Lord John Russell’s proposition. Their motives can only be conjectured. Did they not like to stake their reputations on inefficient reforms, which went to make change, without improvement? And did they not like to declare themselves for any such reform as *would* have been an improvement? The existence of such motives can easily be conjectured. But it is not easy to conceive, that such men should not have made the calculation how much it must affect the reputation of themselves individually, and of the party they lead, if

a parliament of seven years should begin and end, without their having once unlocked their lips on the subject of Parliamentary Reform. Mr. Canning, with his accustomed alacrity of attack, presented them something to do. How does it happen that none of them has ever chosen to grapple with Mr. Canning on the ground of Parliamentary Reform?

Sir Francis Burdett was present, not at the discussion on Mr. Lambton's motion, but at three at least of the discussions on three several motions of Lord John Russell. Why had he not a word to say for his own "good old cause?" Mr. Hobhouse made a speech on Mr. Lambton's motion: from that time the example or precept, or both, of his leader, seems to have been fatal to him, and they were mute together, till the last debate,—that immediately preceding the general election, when it must be allowed that the speech made by Mr. Hobhouse was a good one, by far the best that was delivered on the occasion. Are we to suppose, that the creed of Sir F. Burdett has been retrograde on the subject of parliamentary reform? Would he like to tread back some of the steps which he has taken? to disclaim some of the measures which he has recommended? If so, his abstinence from speech would not be unnatural, though it would not be very manly. Not unnatural; because recanting is not a very pleasant operation at best; and, besides, recanting, what has he to recommend him to the people of Westminster? Not manly, because, if he has changed his opinion, nothing is manly but declaring that he has done so. To shut one's mouth, and say nothing, is only a milder sort of hypocrisy, than continuing to profess the same opinions, while one feels and acts as their opponent. If Sir Francis Burdett has sat for seven years in parliament without so much as uttering a sentence in favour of parliamentary reform, though all his opinions remain unaltered on that subject, we profess that his conduct is to us inexplicable. To be in earnest about opinions of vast importance, and to make exertions for giving them effect, appears to us to be not two things, but one and the same thing.

So much importance is attached to the exquisite fencing of Mr. Canning in defence of the predominance of the predominating interest in the House of Commons, and so much sport is afforded by the stabs and slashes which he deals to those who draw their weapon against his *protégé*, that we cannot refrain from noticing the present performance\*; though it would require much more space than we can afford, to shew at large the disproportion of the means to the end. "If Troy could have been defended, it would have been defended by this right hand;" but the best of hands cannot perform impossibilities.

At an early age, Mr. Canning proclaimed himself the champion of the power of the aristocracy; and sedulously and successfully did he cultivate the talents which were best adapted to the task he had undertaken. As a man of ambition, he chose his walk with skill. By what other career could he have attained the power and consequence to which he has ascended? This is one of the evils attached to the predominance of a particular interest in the legislature. The rewards it has to bestow, pervert, and draw off, from the service of the whole to the service of a part, some of the finest spirits which the country breeds. To how many, alas! the rebuke of Goldsmith to Edmund Burke, his friend, must continue applicable, so long as this state of the legislature endures?

—“Good Edmund, whose genius was such,  
We scarcely can praise it or blame it too much;  
Who, born for the universe, narrowed his mind,  
And to Party gave up what was meant for mankind.  
Though fraught with all learning, yet straining his throat,  
To persuade Tommy Townsend to give him a vote.”

The evil is in the system; the men are the victims; and towards them, personally, our censure ought to be gentle, our regret sincere.

One thing remarkable on this occasion is, that Mr. Canning renounced entirely the tone of mockery and insult, which he had been accustomed to use towards the people, as often as a man was found who dared to stand up in the House, and meet the discharge of hostile feeling, which was sure to accompany the proposal of any such change as implied protection to the interests of the people. It is possible he had begun to see that, however entertaining this might be to an assembly of aristocrats, the time was come when it did very little good to their cause. It is also probable that he had become ashamed of so mean an exercise of his talent. When the people of Athens were applauding somebody for a panegyric of themselves, just delivered, Socrates asked the triumphant orator, “where the difficulty was, applauding the Athenian people, to be applauded by them? Get applause from the Spartans, (said he,) by eulogizing the Athenians, and I too shall acknowledge the power of your rhetoric.” When an assembly of aristocrats, possessing all the powers of government, are intruded upon by somebody, demanding on behalf of the powerless part of the community, a participation in those powers; where, indeed, is the difficulty of making such an assembly merry at the expense of so disagreeable an applicant? No jest, however poor, which will not on such an occasion be successful; no expression of contempt, however vulgar, provided only it is strong enough, which will not be felt as a stroke of genius. Our great dramatist told us truly, “that the prosperity of a jest lies

in the favour of him that hears it." If Martin Luther, the monk, had appeared before an assembly of Leo and his cardinals, demanding the reform of the church in its head, and its members, what sport it would have yielded them to see him mocked, and evil entreated, and turned out, by the attendants. The lowest buffoon, in his holiness's kitchen, would have exercised wit upon him, oral, manual, or pedal, with triumphant success.

All this while would there have been any thing really ridiculous and contemptible in the great Reformer? No: there would have been nothing really ridiculous and contemptible, but in the pope, his cardinals, and the buffoon.

The speech of Mr. Canning, on this occasion, consisted of two parts. In the first, he made his objections to the plans of Lord John Russell and Mr. Lambton. In the second, he made his usual display against reform itself. In the first part, it was an easy task, to shew, as he did, the futility of the plans which had been just recommended; and that, being alterations the effect of which would be nothing, they deserved rejection, on the part both of the friends, and the enemies of reform. In the second part—the attack upon reform in the abstract—there is mighty little matter, but that little exceedingly well managed.

In beginning the first part of his speech, he availed himself dexterously of an admission of his opponent, who, stating that public opinion had acquired a great influence on the House, proceeded to say, that a greater obedience to the popular voice would not be beneficial; and called to witness the revolution, at which time, if parliament had not disregarded the public voice, the Stuarts, he alleged, would not have been excluded from the throne. The suggestion was not thrown away upon Mr. Canning, The game of the aristocracy was placed on both sides. Two things were assumed: the first, that a House of Commons, which will resist public opinion as often as public opinion is wrong, is absolutely necessary; the second, that a House of Commons, so constituted as to prevent the aristocratical interest from predominating in it over the general interest, would be obedient to public opinion, even when wrong.

That a House of Commons ought to be so constituted as not to follow public opinion, when wrong, no one will deny; but they who urge the obedience of the House of Commons to public opinion, as a reason against reform, are in a dilemma. A House of Commons which can resist public opinion, when wrong, can resist it also, when right. The Present House of Commons, they say, is admirably constituted for resisting. In that House, the interest of a particular class, predominates wholly over that of the community. It follows,

from the present admission, that it has the power of resisting the public voice in favour of that interest. If so, the very principle on which government is founded, assures us that it habitually will. Bitter experience shews us, that it habitually does.

The second assumption is wholly unfounded. It is clear to reason, that a House of Commons, so constituted, as to give in it the predominance to the general interest over all particular interests, would not follow public opinion, when wrong; that it would be much less likely to follow public opinion, when wrong, than the present House; and that it would have such motives and such means to guide public opinion right, that no impulse of public opinion, wrong to say considerable degree, would, under such a House of Commons, be an event to be imagined, much less to be feared. The interest of such a House of Commons, would be the general interest. If the public voice ran counter to the general interest, would not such a House of Commons have all the motives to oppose it, which ever can be in a house—its opposition to the interest of those who compose it? The difference between the two cases turns upon a single point; but that is all in all. In the supposed house, the general interest would predominate; in the present house, it is wholly subordinate. The one house would have motives to use its power of resistance to the public voice, in favour of the general interest solely. The other has motives to use it in favour of the particular, to the detriment of the public interest.

When Mr. Canning comes to debates the question of parliamentary reform in general, he is provided with what Lord Normanby<sup>\*</sup>, in seconding Lord John Russell's motion the following year, denominated very aptly "the stock declamation of the cause; the excellence of the government as it is; and the danger of change:" and, rich in this treasure, he goes in quest of nothing farther.

Of all the arts of the orator none is of more importance to him, than the art of insinuation. Of all the orators of the present day, perhaps of modern times, Mr. Canning is the man who has carried the art of insinuation to the greatest perfection. No man approaches to him in the command over forms of expression, which deliver in the oblique, whatever it would be less convenient to deliver in the direct way.

Of the things which it is much more convenient to deliver by insinuation than directly, are—propositions insipid from their triteness—and propositions which will not bear examination, though accustomed to be received without it. If Mr. Canning were to affirm twenty times in one speech—The constitution is excellent; Alteration is dangerous,—without so much as attempting to offer any proof of his standing assumptions—not only would be produce

no effect—except of weariness and disgust—but he would inevitably provoke the question, what evidence have we on which to rest our belief that these propositions are true? On the other hand, when, carefully avoiding any broad affirmation of his two indispensable postulates, Mr. Canning dexterously contrives to insinuate them twenty times in twenty different ways, and makes up a speech of these insinuations, and of nothing else; he produces a great effect, is supposed to have made, as he really has made, a very ingenious and brilliant display; and, what is of most importance, suggests no question as to the evidence of assumptions of which so extraordinary a use has been made.

It is necessary that we should shew the mode of putting the two propositions, which are the bulwarks of anti-reform, a little to the test,

*The government is excellent.* If by excellent, here, is only meant existent, nobody will deny the affirmation. The English government is what it is, most assuredly. If by the same phrase is meant, that the English government is better than a worse government—this may be affirmed of *every* government in the abstract, and in the concrete of all except one. If it is meant that the English government is better now than it was at some former time, this also may be true; and still it may be very bad. If it is meant that it is better than any other government whatsoever, this is rather a bold thing to assume; but grant it, and still it may be true that the English government is thoroughly worthless.

In giving a meaning to this thoroughly unmeaning word, the only thing to the purpose would be—to shew that the English government is a combination of means well adapted to the end of government—namely, the equal and perfect protection of all the members of the community at the smallest possible expense. *A priori*, and looking at the end and the means, in their own nature, Mr. Canning seems to allow, that really nobody could take upon him to say, that the one is well adapted to the other. Nevertheless, he says, it so turns out, in fact—God knows how—that these means, ugly as they do look, still accomplish the end surprisingly well. The way in which he proceeds to make people believe him is admirable.

We felt the strongest desire to produce a collection of Mr. Canning's modes of expression on this occasion, and to shew their exquisite contrivance for making what is poor and trivial appear ingenious and strong. But we perceive to our regret, that the space which we are allowed to occupy, will by no means permit the attempt.

He affirms that under the English government, the English people have not only continued a people, but have been a happy and prosperous people. *Ergo*, he cries, the English government is an excellent government.

That the English people have continued a people is true. It is a dreadful government that suffices to destroy a people, This is too much for the government of Algiers itself. But the English people have been happy and prosperous. Have they so? And where is the people who have not been happy and prosperous? Is there no happiness and prosperity at Algiers? If we are told, as we shall be, that there is not so much at Algiers as in England, we desire to know what standard is given us by which to judge. As it is not every degree of what may be called happiness and prosperity in a country which proves its government to be good, what degree are we to take, as the proof? Till you have settled that point, you talk in vain by repeating the word "prosperity." The prosperity you speak of may or may not be a proof of good government.

If they tell us, which they do, though not directly, yet by fifty modes of insinuation, that the prosperity of England is exactly the degree of prosperity which proves a government to be good; what is this but asking us to believe the government of England to be good upon their simple word? All we have to say to this is, that we will not take their word. The Grand Turk gives his people his word, and all his instruments give them their's, that they are the only happy people on earth, and his the only excellent government.

This hack pretension, which has served the purposes of mis-government for so many ages, deserves to be looked at in another point of view. The English people are the most laborious, the most enterprising, the most ingenious; in one word, the most productive people, in the world. The people of England have laboured,—the people of England have invented,—the people of England have produced,—the people of England have been saving, and have gradually accumulated the wealth, which, in this argument, is called the prosperity of England. Because the government of England has not been so execrably bad, as to take from the vast produce created annually by the people of England, so much as absolutely to prevent accumulation, though it has taken more than ever was taken by government, elsewhere, on the face of the earth, we are called upon to swallow this monstrous proposition—that what the people of England have done for themselves, their government has done for them. That produce, which is the work of the people's own hands; that produce which, but for what the government has so excessively diminished, would have been many times greater, the people are commanded, and in terms not very mild, to believe, has all been created for them by the



government—for what reason, trow ye? For this sole reason, that it has not all been annihilated by it.

Because the energy of the people, to better themselves, has not been absolutely baffled, and borne down, rendered of none effect, by the badness of the government; they are told that the working of the government, how little soever any one, from its composition, would conjecture it, is nevertheless admirable; and they (the people) ought to go on supposing, as hitherto they have done, that whatever the government does not take away from them, it is the government which gives.

We come now to the second bulwark of anti-reform, the affirmation always given with greatest effect by insinuation—*that there is vast danger in change*.

This pretence is now so generally seen through, that we shall not think it necessary to waste words on it.

What the people of England want, is, such a mode of placing members in the House of Commons, as will prevent the predominance in it of any particular interest, and render predominant the common—the general interest. Why should this produce any evil? Why should it produce any thing but good?

When the aristocracy of England proclaim, that making such a change will produce terrific evils, they are either not sincere, or their words have this, and can have but this meaning,—that they, the aristocracy, will make a civil war, rather than give up those powers of misrule, which they are now in possession of. And if they do make a civil war, there is no doubt that they will create evil in abundance; but it will be evil, of which they themselves will be the authors, and the sole authors. The people, however, need not count the cost of a civil war, as the price to be paid for obtaining the predominance of the common interest, instead of the predominance of a particular interest, in the legislature of their country. The aristocracy of England will have wisdom sufficient to avoid that extremity. The voice of the nation, growing louder and stronger, “will,” as Earl Grey on one occasion very happily expressed it, “in time work upon the prudence of the House;” and the requisite change will take place, with advantage to all, and evil to none; such only excepted as the very good which is aimed at implies—the loss of the profits of misrule, to those who had previously, and worthlessly, enjoyed them.

In these debates on Parliamentary reform, the speech of Mr. Canning, and the silence of the whig and radical leaders, were not the only memorable events. The accession to the cause of reform

was then manifested, of three remarkable men—Lord Milton, Lord Folkestone, and Lord Normanby; of which noble lords the two former had the manhood to avow an entire change of opinion on the subject; and of the two, Lord Milton, at least, on more than one occasion, has shewn that he not only recognized a defect in the composition of the legislature, but knew the very nature and kind of the defect. Of all these events, the most intrinsically important was, the speech of Mr. Ricardo\*, on the third of the discussions on Lord John Russell's plan of reform. That speech went simply, and modestly, but manfully, to the point. Mr. Ricardo declared, that other things might admit of various modifications, but, to render that House an instrument of good government, two things were of indispensable necessity;—annual elections—and such a mode of voting as would make the vote of each elector his own;—the reverse of such a mode as renders the elector a mere conduit-pipe for the vote of another man, who, through hope of good, or dread of evil, commands him.

We must add something on the disfranchisement of Grampound; but many words, after what has preceded, will not be required.

A display of virtue, which costs nothing; an occasion for catching at the reputation of purity, without the loss of an atom of the delights of impurity, is a god-send to an old profligate.

With the exception of a number, comparatively very small, of towns in which the choice of the people does predominate, members are sent to the House of Commons, either by the influence of great men, who, singly, or in combinations, have established a permanent influence over the electors; or, by men of wealth, who, in those places, where no great men have established a permanent influence, find the means of establishing a temporary influence, and obtain their own return, on this or that particular occasion.—Permanent influence; or temporary influence—such are the sets of means in these two sets of cases.

Now this thing, called, in these several cases, influence, what is it? By the answer to this question, the obscurity which involves the subject, will be pretty completely dispelled. The answer too is obvious and certain. Money, or money's worth, is the motive principle in every instance. Ingenuity will torture itself in vain to give it the look of any thing else. What is the permanent influence of the great man over the occupier of his land in the country, or the occupier of his house in the town? The prospect of retaining a good thing, or the fear of losing it. And this good thing, in what way is it good, but the pecuniary way? What is the temporary influence of the man who gets a majority of the electors at a particular place to vote for him at a particular election? The benefit they expect to

derive from him. That benefit takes various shapes; it is sometimes government patronage, sometimes East India patronage, sometimes the pocket of the candidate. In all cases it is money, either directly, or indirectly.

The motive of the man who receives money indirectly, and the motive of the man who receives it directly, is precisely the same. The motive of the man who gives money indirectly, and that of the man who gives it directly, is also precisely the same. The man who gets into parliament by the money given directly, and the man who gets into it by the money given indirectly, are in the same situation precisely, with respect to the motives for doing or betraying their duty to their country. The two cases, therefore, differ in nothing but the name. In no other department of human intercourse are they permitted to differ even in name. The judge who should take money indirectly, would be universally regarded as bribed just as effectually, and to the full as infamously, as if he took the money in his hand.

Why are they made to differ in name, and made to be thought different in nature, when a member of parliament is to be elected? Because it is the interest of the aristocracy that they should be so; and because the aristocracy have the power, to a great extent, of making what shall be the morality of the country; making it to serve their own turns.

The places in which the permanent influence is established, are all secured for the aristocratical interest; the places still open to a temporary influence, are the places not securely within the grasp of the aristocracy; and though, of the wealthy men who procure their election by the temporary influence, the greater number are sure to range themselves under the aristocratical banners, there are some who do otherwise, and a greater number who always may. It is thus evidently the interest of the aristocracy that, in the field of influence, the temporary part should be narrowed, and the permanent enlarged. This is the effect, and the only effect, of such a proceeding as the disfranchisement of Grampound. When Grampound was to be had for money, a competition among rich men decided the election, and the man returned might act with the aristocracy or against them. When the choice was given to Yorkshire, in which the aristocratical and permanent influence is established; or, even when the choice is extended to the surrounding hundreds, in which an agricultural population, dependent on the class of landholders, predominates—the sphere of the permanent aristocratical influence is enlarged.

Making influence, by money given directly, is rarely convenient to the aristocracy. It is the instrument of their competitors. It is that

whereby interlopers encroach upon their monopoly. It is their interest, therefore, to decry it; and the power they have hitherto exercised over public opinion is signally manifested by their success.

They began, very wisely, with the potent machinery of names. They bestowed a bad name on the mode in which the pecuniary motive is applied by their opponents—the direct mode; a good name on the mode in which it is applied by themselves—the indirect mode. The first they called “Bribery.” The second they called “Legitimate influence of Property.” The effect of these names has been surprising, under the advantages with which the aristocracy have worked them. The one they loaded with every term of abuse: on the other they bestowed every epithet of praise. “Bribery” was abominable, execrable. The “legitimate influence of property” was every thing which was good. “The legitimate influence of property” was pure. “Bribery” was impure. These two words, *pure* and *impure*, were of singular value. “Bribing” was not merely *impure*, it was *impurity* itself. It was that which made an election *impure*, and an *impure* election was a dreadful thing. *Impurity* of election was the source of all political evil. On *purity* of election, alias, “legitimate influence of property,” the liberties of England—those blessed, thrice blessed things—absolutely and entirely depended.

Incredible was the language of ignorance, or of imposture, held upon the said purity and impurity, in the discussions regarding this glorious specimen of legislative virtue—the disfranchisement of Grampond. In the meantime it is demonstratively, almost intuitively certain, that, if the public interest be the object in view, influence in the direct mode is the least objectionable of the two. If at each election the whole of the 600 and odd seats in the house were set up to sale, and knocked down to the highest bidder, the advantage in favour of good government would not be inconsiderable. We should then have what, if we use the language of the aristocracy, we should call a very impure election; but we should have a much purer legislature.

After the great points of national interest involved in the subjects we have been thus considering, we know nothing, brought before the last parliament, of greater importance, and nothing, the mode of dealing with which affords more perfect evidence of its nature and disposition, than the scheme proposed by Mr. Brougham, in one of its early sessions, for the education of the people. We can afford to bestow upon it only a few words; but these will suffice to renew the memory of the transaction. Mr. Brougham; whose merits on the subject of education his country can never estimate too highly, and who thereby has redeemed many of the sins he commits

by his connexion with a party, in whose trammels, had he known the true interest of his own glory, he never would have consented to draw; was obliged, in order to afford himself a chance of carrying his measure in parliament, to grant so large a power to the established clergy in the management of the parochial schools, as alarmed the dissenters, and, from dread of unpopularity with the dissenters, detached the leading men of his own party from his support. We shall always regret, that he was thus compelled to let a measure drop, which, though it came short of the perfection which, had he been at liberty, he doubtless would have bestowed upon it, would still have been a powerful instrument of improvement among the people. A legislature, in which the general interest predominated, would not, when a scheme, thus important to the public weal, failed, from peculiar circumstances, in the hands of an individual, have allowed it to sink and be lost. The only feeling natural to an aristocratical legislature on the occasion, was a feeling of pleasure at getting rid of so disagreeable a business.

Of the other subjects which came before the last parliament, as the most important, the Corn Laws, Ireland, Negro Slavery, Colonial Trade, and others, have been included in the business of the last two sessions, and been treated of in separate dissertations in our volumes of the past and present year, little remains on any of them, to be either explained or enforced in this general sketch.

In relation to commerce, the thing of principal importance to remark is, the extraordinary change from the policy of restriction to the policy of freedom; from the policy of discouraging, in many cases prohibiting, the supply of certain commodities from our neighbours, to the policy of receiving our supply from the places from which it is obtained at the cheapest rate; from the policy of trying to keep from our neighbours the use of our inventions, to the policy of allowing individuals to consult their own interests under the direction of their own judgment. In this, we have an exemplification of the fact to which we adverted in an early part of this dissertation, and of which the effects would require a more ample development than we can here afford, that the ministers are far more sensible to the action of public opinion than the parliament. The instructed and disinterested part of the public, had, for a considerable time, spoken a strong language on the subject of freedom of trade. This reached, at last, and bore along with it, the minds of ministers. They introduced into parliament, cautiously and timidity, a few measures in the spirit of this policy; but there they found it still required all their influence to overcome the ancient bias in a set of minds, on which the opinion of the rational part of the public had produced no impression whatsoever. What the ministers have yet accomplished, is small, in comparison of what remains to be done; and all their proceedings—witness the

timber trade—have not been in the right direction: but they have proclaimed the principle of freedom, as the principle of true policy; and this itself, is a great step in advance.

One question, relating to Ireland, belongs peculiarly to this general sketch. What was the state of Ireland at the beginning of the last parliament, and what was it at the end? The state of it at the end, was not better, certainly, than it was at the beginning. And the state of it, during the whole time, as well as for a long preceding time, was so bad, that no pen can convey an adequate idea of it.

What is the meaning of this? The evils of Ireland are not absolutely incapable of a remedy. The peculiar evils of Ireland are such, as might unquestionably be removed.

We have the patient on the one hand—miserable Ireland: we have the doctor on the other—the British parliament. The doctor goes on administering his remedies: the state of the patient is never improved. What opinion are we to form of the doctor?

Ireland is a mine of instruction for the people of England. The British constitution, that “tried establishment,” as Mr. Canning calls it, of which “the working,” as he tells us, is so entirely to his satisfaction, Ireland enjoys in its perfection; king, lords, commons—all balanced to a hair.

There is considerable difference, if not in the mode, at least in some of the results, of the working in Ireland. What makes the difference? Till Mr. Canning afford the solution of this question, Ireland is the answer to that argument, which he draws with so much triumph, from the working of the British constitution. Why is Ireland not to be taken as the true example of the working? England as the example of a country, in which the vices of its government have been held in check, and their effects in some degree compensated by the virtues and the spirit of the people? One thing is certain, that the constitution works not less well for the aristocracy in Ireland, than it does in England.

The state of Ireland is such as would disgrace the legislation of barbarians. The conclusion is inevitable; that the British legislature, paltering with this great subject; no less than the misery of millions, and the heaviest of the burthens of England; from year to year, from parliament to parliament, and from one age to another, without producing any salutary change; have either not the will, or not the capacity, to legislate usefully for Ireland.

Ireland affords the example of an aristocratical government, working almost perfectly free from check; an example, therefore, of

its genuine tendency,—of the effects which it is the very nature of it to produce.

It is a rare combination of circumstances which exhibits any government acting without a check. The patience of the people can be counted upon only to a certain extent; and the chances, in an insurrection, against a bad government, are too serious not to be carefully shunned. Our experience of the barbarous governments of the East has yielded us light upon this subject. Though the people of India are passive to an extraordinary degree, it has always been found that the native governments, when the British government in India has undertaken to supply them with the use of British troops, have become ten times more oppressive than they were before; because, before, they were under check from the dread of insurrection; dependent upon the irresistible force of the British arms, they have nothing to apprehend, and set no bounds to their pillage and extortion. The case of Ireland resembles that of India in this as in several other respects. Had the aristocracy of Ireland been solely dependent on their own power, they could have proceeded in oppression only as far as the people would bear. Having the British army to depend upon, they could go on till they met with a check from the hand which upheld them.

The misfortune of Ireland is, that England has an aristocratical government, which, instead of checking, has sympathized with, the aristocracy of Ireland. The first principle, of course, of such a government was, that all insurrections of the people were to be put down at any rate. Whoever might be in the wrong, the people, seeking to right themselves, were always to be in the wrong. This was enough for the aristocracy, unless the government of the country was placed on such a footing as to ensure order and justice, and to take the power of taxing, directly or indirectly, out of their hands. There is no one who will dare to say that this has been done in Ireland. The consequences are inevitable: the strong man has had the power of oppressing the weak; the strong men in conjunction have had the means of organizing a system of oppression, which has made Ireland, what it is; a spectacle of wretchedness, of immorality, of lawlessness, the like to which exists no where on the civilized earth. The aristocratical workings in Ireland, traced through their channels, small as well as great, exhibit our nature in one of the states physically the most deplorable, morally the most detestable, in which it is possible for it to appear.

On the one hand, *power* at work, sometimes with force, sometimes with fraud, to possess itself to the utmost of the produce of the people's labour, and to command their wills and services—on the other hand, *weakness* at work to protect itself from the ravages of

power, or take vengeance on it for the evils it has made to be endured; at work, most frequently by fraud, by all the arts of disguise and mendacity, occasionally by terrible eruptions of force, put down by terrible exertions of force; with malignity and hatred continually engendered in the breasts of the oppressors against the oppressed, and in the breasts of the oppressed against the oppressors—produce a tissue of evils, the conception of which is surpassed by nothing but the conception of hell, and of the torments and passions of the damned. This is the point to which all bad governments tend; this is the end at which they certainly arrive, if they are not stopped in their course by some exterior cause.

It is a shallow view of the Catholic question, to take it in whole, or in the greatest part, as a religious question. It is an aristocratical question. The aristocracy, wholly Protestant, have been in the habit of considering the power of converting the mass of the people into a sort of outcasts, on the pretext of their religion, as an instrument of their ascendancy; and they contend accordingly with feet and hands for the preservation of it. They labour under a great mistake; for, however the pretext may have been useful at first in the consolidation of their power, they now would enjoy the means of oppressing the population, emancipated, as they call it, in full as great perfection as non-emancipated. Would emancipation alter the state of rent?—would it alter the state of tithe?—two means, which, by the admirable working of the machinery in Ireland, enable its aristocracy to tax the people for their own benefit, without any limitation but what is physical; to take from them every thing but the potatoe, which is necessary to keep the wretches alive; often to leave them not so much of the potatoe as is necessary to keep them alive.

Why do we call the drawing of rent and tithe in Ireland the power of taxing? Because such is the state of the circumstances in Ireland that taxation is thus actually performed. We know rigidly what rent is. The poorest land in cultivation pays no rent; the land which is more fertile than this, yields a greater produce; and the difference between the greater produce and the least is the rent. In whatever country the landlords and tithelords have the power of taking more from the cultivators than this excess, they have the power of taxing. They do, in Ireland, take more. How is this proved? By this,—that the profits of cultivating the land, when more than this excess is not taken, suffice to maintain the cultivators in comfort, and enable them to accumulate stock. As this is not the case in Ireland, it is clear that the landlords and tithelords take from the cultivators in Ireland more than the rent; in other words, that they tax them; and we see to what a pitch of oppression their taxation is pushed. That there are remarkable exceptions to the general rule,



is creditable to the individuals who make them—nothing at all to the system.

How the working of the machinery brings about this important result, it is not very difficult to understand. An ignorant, an over-crowded, and lawless population, (need we stop to explain how the Irish are ignorant, over-crowded, and lawless?) are always eager to possess a bit of land; for, miserable as the prospect which it yields, it is rather less precarious than any other property or source of subsistence. Such a people have no regard to their word, and never intend to fulfil more of any engagement than what is useful to themselves, if they can possibly avoid it. They care little, therefore, what they promise; and they are always willing (such is the matter of fact) to promise more for the favourite bit of land than it can possibly pay. It is easy to see what power this bestows upon the landlord; it enables him not only to take the rent, but as much more as he pleases.

The state of the case between the tithelord and the landlord is this:—The tithelord comes first, and takes his share; and the landlord gets only as much as he leaves. It is said, that the tithelord seldom gets his full share. True; the matter is settled by a scramble between the tithelords and the landlords: a compromise is the result; and the tithelords, as being the weaker party, are obliged to allow something of a lion's share to their more powerful brethren in the chace. It is of no consequence to the cultivator. Taking every thing but the most miserable pittance, they can get no more from him: all being taken, a question of division only remains between themselves. If the tithelords were annihilated to-morrow, the landlords would get, in whole, that which they now get only in greater part. The condition of the cultivator would experience no improvement.

We look upon the propositions which have been made in Parliament for violating the contract between the nation and its creditors, and the countenance which such propositions have there received, in a very serious light.

At all times it was easy to foresee, that if ever an iniquitous legislature should harbour the design of cancelling the national debt, and committing a state bankruptcy, it would not perpetrate the deed at once; the shock would be too violent: it would accomplish its design by steps; first one, then another; and would always find some pretext, as plausible as possible, for proceeding to each.

Precisely in the way in which the first movement, if ever it were made, might have been expected to be made, have the incidents in

Parliament fallen out. A defalcation from the payments due to the national creditor, not an entire abolition of his right, has alone been hinted at. To be sure, the defalcation is a large one,—very nearly one-third of all that is due to him; so that only two steps more would be required to take all, and cancel his claim entirely. An occasion, too, so little understood, and so easily misinterpreted, as to be well adapted for furnishing a fraudulent pretext; a pretext which would wear a plausible outside, and could not without some patience be seen through, has been adroitly seized as the motive and reason of the first, and, of course, the leading, and most difficult step, in a national bankruptcy. One of the many odious products of the late most extraordinary war, is that to which we owe this pretext, and the precipitation, at least, of the proposition which it is employed to recommend. At a certain period of the war, parliament thought proper to suspend payment in cash of the notes of the Bank of England; and, under the fancy that great advantage was thence obtained in prosecuting the war, to pass a law continuing the suspension till six months after the conclusion of peace. The consequence was, that the Bank, no longer afraid of excess, so increased the quantity of its circulating paper as to depreciate the currency. Some time after the conclusion of peace, parliament applied itself to consider the state of the currency, and finally resolved on the resumption of cash payments, and the elevation of the currency to its pristine value.

It is from this last measure that a reason is sought for deducting 30 *per cent*—(we do not give this as the only, but as the most accredited proposal)—from the interest due to the national creditors. A good-looking name was needed. A name that shews the ill-favoured side of a project is injudicious. For the first step in the state-bankruptcy of England, a convenient name has been found in the words, *equitable adjustment*. The allegation is, that whereas the loans contracted since the suspension of cash-payments, were paid, some in a currency more, some in a currency less, depreciated,—a deduction equivalent to the greatest depreciation should be made from the interest, paid in the restored currency, not only on the loans advanced in the more, but those advanced in the less depreciated currency, and even on those advanced before the suspension, when there was no depreciation at all.

There is something at variance with moral feeling, and singularly discreditable, in this pretence. When a government is foolish enough, or wicked enough without the folly, to make a depreciation of the currency, it alters the state of pecuniary contracts, enabling the man who has a payment to make, to satisfy the demand against him, with a less value than he contracted to pay. It thus produces a great amount of evil; but an amount many times less than what would be produced, if all contracts were on that account to be

dissolved, and re-drawn on a computation of the value of the currency at different periods. This would throw society into an embarrassment and confusion inferior only to that which the dissolution of the hands of government would produce. The literal fulfilment of the contracts is therefore enforced, as infinitely the smaller evil of the two. Acting on the doctrine of the equitable adjustment, the legislature would relieve itself from those obligations which it binds upon the community. It would make a law in its own favour, in direct opposition to the law which it makes for all other parties in the like situation. It would stamp, by its own hand, the brand of iniquity upon one or another part of its own proceedings. It would exhibit the odious spectacle of a government holding one weight and one measure for itself, another for the community which it guides, and to which it ought to serve as a pattern of every kind of virtue; frugality, wisdom, benevolence, justice; not an example and incitement of every description of vice; prodigality, folly, disregard of public good, and injustice.

The pretence is as worthless, as the measure, which it is proposed to found upon it, would be flagitious. The fundholders, it is said, being paid interest in a restored currency, receive more than their due. This is wholly untrue. First of all, a great proportion of the national debt was contracted before the suspension of payments; and advanced in a currency of the full value. During the time of the depreciation, the interest of this debt was paid in the depreciated currency; was not paid in full; and on the principle of an equitable adjustment, a compensation is due. Mr. Mushet has computed that compensation; and has shown that it would exceed the deduction which, on the same pretence, could be made from the interest payable on the debt contracted during the period of depreciation; that more, in fact, would be due *to* the first set of creditors, than *from* the second; that, allowing the principle of the equitable adjustment to be correct, government owes to the national creditors, as a body, more than it pays: so thoroughly unfounded and fraudulent is the allegation, that government may justly cut off 30 per cent from the interest of the national debt: in other words, commit a fraudulent bankruptcy, at fourteen shillings in the pound. We need not repeat, how easy the step is from fourteen to seven, and from seven to nothing.

The second reason, which shows that the equitable adjustment is founded in imposture, is as follows:—

When a contract is made by open competition, as were all the contracts for loans during the last war, the terms are of course as low as the circumstances of the case, all taken together, will permit. During the time when loans in the depreciated currency were made, it was the law of England that cash payments should be

restored six months after the conclusion of peace. An act of parliament ordained the resumption. The faith of parliament was pledged for the resumption. When the legislature entered into contract for all the loans which were raised during the period of depreciation, it stood bound, it had strictly engaged itself, not rashly, not unadvisedly, but by one of its most solemn proceedings—a law of king, lords, and commons—to pay the parties who thus became the creditors of the nation, not in a depreciated currency, but in cash, six months after the termination of the war. To pretend, after this, that one-third may be taken from the interest of the debt, as more than due because paid in cash, is not merely to propose a violation of contract; it is to make one of the most impudent attempts to defeat the meaning of a contract by false construction, that was ever exposed to the indignation of the honest part of mankind. It is chicanery which would disgrace the lowest pettifogger.

Of the class in parliament, who show their disinclination to pay the public creditors, there is one portion, who assume a different ground. They say that it would be a dreadful thing not to pay our debts. No event is more to be deprecated. The nation ought to pay its creditors as long as ever it can. But a time may come when ability will cease. And the case is made out clearly by a scrap of lawyers' Latin: *Nemo tenetur ad impossibile*.

The first remark to be made upon this apology, propounded by anticipation, for the non-payment of the national creditor, is, that it disclaims and condemns the preceding pretence, that we have now a right to deduct any thing from the interest of the debt, on the score of over-payment; since it declares that it would be a dreadful crime to deduct any thing, so long as we have the means of paying.

A disgraceful proceeding, founded upon a silly pretence, gives evidence both against the intellects and morals of the parties who figure in such a scene.

What would be thought of the honour of a man in ordinary life, who, having contracted a greater debt than he liked to pay, should begin to desire his creditors to make up their minds to a time when he would be unable to pay them, though it were obvious to all the world that he had ample means of paying, and never, without the most disgraceful conduct, could be destitute of such means? Would not all the world say that the man was a villain, and was already in wait for a plausible occasion to defraud his creditors; more especially if the state of the law, or the state of the contract with his creditors was such, that they could never enforce repayment of the principal, and must remain content, unless at his own choice, with the perpetual receipt of interest?

But to know the nature of this inability of the English nation to pay its debts—this prophetic inability, the forerunner of a prophetic bankruptcy—we ought to examine it a little more narrowly. The nation must, at any rate, not speak of inability, so long as it has one farthing of extravagant expenditure. The man, who pretends a want of ability to pay his debts, without confining his expenditure within the limits of rigid necessity, is a dishonest man, and ought to receive the punishment of a knave. The expenditure of the English Government is perfectly enormous. Every useless penny must be deducted from it; the services which it is necessary to receive from government, must be paid for at the lowest rate; and every article of national property must be set to sale, and applied to the liquidation of the debt, before we can allege inability, without all the disgrace which belongs to the proceedings of a fraudulent bankrupt. We must not leave one sinecure in existence. We must not have one agent of government in any department more than is needed, and every agent must be paid at the lowest rate at which a competent person will consent to serve. In regard to soldiers and sailors we must make a rigid estimate of the number for which we have real occasion, and not allow the existence of an individual more. If it should even be found upon an honest scrutiny, that if ever we have enemies, it will be our own fault, we need have no defenders, and must discharge them every one. If we have any foreign dependency which does not pay its own expenses, we must relinquish it. The crown lands are no inconsiderable resource. They must all be sold to the last acre; and every public building, house, and palace, not absolutely necessary—not required for the real service of the state—must be converted into money for the payment of our debts. The teachers of religion are a class of public servants, who, in proportion to what they do, are more extravagantly paid than any other. There can be no doubt, that with proper management, religion might be much better taught at one quarter of the expense. All the rest must go to the discharge of the debt, before we can pretend that we have reduced our expenditure to the utmost, and are still unable to meet the just demands of our creditors. On this subject we might go into much greater detail, but this may show the nature of the case.

Still we have not ascertained what meaning can really be annexed to the term inability, when the inability is alleged of the English nation to pay its debts. In the way in which it is used, it is a vague, equivocal term, unavoidably subservient to delusion, and very apt to be made subservient to fraud. Inability very often means nothing more than disinclination. Let us examine if it can be any thing different here.

The annual produce of the nation is the fund from which all its expenses are defrayed. Of this, that portion which is necessary for

the maintenance of the labourers, can never be reckoned, because it can never be diverted from that use. The rest is all distributed to the receivers of rent, the receivers of profit, or the receivers of the taxes. Now, let us suppose, for a moment, that the national creditors are the only receivers of the taxes. The net annual produce would then be distributed in proportions, among three parties—the landlords, the capitalists, and the national creditors. How can the inability ever arise of continuing to distribute it in those proportions? Or how could the proportions be altered otherwise than by giving more to one, less to another? This would not be inability, it would be design.

If the allegation be, that by the legislature's adding more and more to the national debt, and thus entitling the national creditors to a greater and greater share of the annual produce, the time will come when the nation will be unable to pay, the very hypothesis is revolting. Why should we take it for granted, that we are to have in future a wicked legislature? and that the English nation is never to be without a government, driving it on to its ruin? Above all things, why should this strange anticipation be proclaimed by the legislature itself? Why should we not suppose, as far more probable, that sooner or later we shall have a legislature, which will pursue the opposite course; and by cutting off all unnecessary expense, gradually diminish, and, at no distant day, extinguish the debt?

But in the loose talk, which we are commonly condemned to hear on this subject, and in which it is supposed, and taken for granted, that a bad government will go on adding to the debt, and of course entitling the national creditor to a greater and greater share of the annual produce, we must not permit one consequence, which is regularly overlooked, to pass without being duly estimated.

It is obvious, that just in the same proportion, and in the same degree, as the income of the landlord and the capitalist is reduced, in order to pay the fundholder, the income of the fundholder is reduced in order to pay himself. The fundholders contribute to their own payment, in the same proportion as any body else, and pay a greater and a greater share of what they themselves receive, according as the payments due to them are increased. The want of means to pay is therefore a contradiction in terms.

But we confer too much honour on this prophetic inability, by treating it as worthy of analysis. We have already seen that the pretence of a nation's inability to pay itself, that is, to make a particular distribution of its annual produce, is impostrous on the face of it. To say, or to insinuate, that England is in the state, or approaching to the state, of a nation unable to pay its debts, is an

impudent denial of notorious matter of fact. The annual charge on account of the national debt is below 30,000,000*l*. Much more than double that amount is raised in taxes of all sorts; and of this vast sum, a large proportion is unprofitably spent. One word more is superfluous.

It is, however, easy to understand the feeling of an aristocratic legislature on this subject. It is by the share which the aristocracy receive of the taxes, that they derive advantage from wielding the powers of government. From that portion which is detached for the payment of the national creditor, they have the means of drawing little or no advantage to themselves. The people of England, as experience proves, may be made to submit, in time of peace, to a taxation of more than 70,000,000*l*. per annum. But if one half of this goes to the national creditors, the aristocracy are obliged to make their profit out of the other half. How much more would they make if they had both halves? And with what an evil eye, therefore, are they tempted to look upon a class of men by whom this golden stream, which ought to be their's, is intercepted!

That a class of men, who, possessing power by a firm tenure, find little occasion for intellect, should be short-sighted and inconsistent, is in the natural order of things. The aristocracy of England, in order to frighten every man who possesses a little property into an enemy of improvement, have, with a prodigious display of fear and ardour, taught, that all attempts at improvement lead to revolution, and all revolutions to the confiscation of property. Both propositions are false. But they, by defrauding the national creditors, and thereby committing one of the most enormous acts of confiscation that ever was perpetrated on earth, would set an example of disregard to the laws of property, the bitter fruits of which they would deserve to be the first to feel. Why should the rest of the community, they to whom the interests of the fundholding class, and the interests of the landholding class, are equal, be more willing to sacrifice the fundholders to the landholders, than the landholders to the fundholders? If it be very inconvenient to the nation to pay the interest of the national debt, why not take the land to discharge the principal? This would be spoliation and injustice, most assuredly; but not one atom worse than taking the property of the national creditors.

In the growing contrariety between the state of the government, and the state of the public mind, in every country in Europe, and not least in England, there is no attentive observer of the signs of the times, who does not anticipate considerable alteration at no very distant day, in the mode of administering public affairs in that quarter of the globe. These changes, perfectly inevitable, will, it is probable, all be comparatively quiet; but that they may be so, it is

of primary importance that the utmost reverence should be attached to the laws of property. The people, whom the aristocratical class are always accusing of being enemies to property, are the reverse. In the annals of mankind, there is not an instance of any great spoliation or iniquitous transfer of property, of which the people have been the authors. All such atrocities, without any exception, have been the work—as the confiscation of the property of the national creditors in England would be the work—of an aristocracy.

While property remains secure, and every one is satisfied, that what is his will be inviolably preserved to him, changes in the hands which hold the powers of government affect not the bosom of society. They may be more, they may be less, expedient; the arrangements adopted may be found perfect, they may be found susceptible of amelioration; all this experience may go on, as it ought to go on, without disturbing the peace or arresting the prosperity of the nation, till its social and political institutions are brought to perfection; provided the rights of property are held inviolable. But if, in the present state of the world, the leading class, in any country, gives the signal for a convulsion, by a shameless act of confiscation, who could wonder, if the class whom they have robbed should seek for vengeance, and if the justice of their complaints should gain to them a host of abettors?

A country's principal interests are those which are involved in its internal government. To a certain degree, its interests are also involved in its situation with regard to its neighbours; more involved, generally, in proportion as its government is bad; less involved in proportion as its government is good. The interests of a country are involved in its situation with regard to its neighbours, in two ways; by its exposure to foreign attacks; and by its external commerce.

In the present state of the civilized world, a country, wisely governed, is so little exposed to attacks from its neighbours, that nothing but an extraordinary combination of circumstances could bring such an event within the range of a rational anticipation. A well-governed country would never afford any provocation; and it would be defended with such bravery and judgment by its happy people, as would render an attack upon it, unless it were a petty country indeed, an unpromising speculation. With respect to external commerce, a country, wisely governed, would adopt the only policy good for itself, that of perfect freedom; and would wait without concern till other governments were wise enough to follow its example. Between a well-governed country and its neighbours, there would be hardly any other relation than that of good behaviour, which costs nothing.



An ill-governed country, which engages at every turn in wars with its neighbours, does, indeed, involve its interests deeply in its external relations. The expense arising from its establishments and wars burthens cruelly, if it does not finally overwhelm, it.

A great improvement took place in our foreign policy, between the beginning and end of the last parliament, for which parliament has no title to our acknowledgements. Till the death of Lord Londonderry we were in the Holy Alliance. From that time we have been gradually withdrawing from it. The opposition party in parliament made strong objections to the principle and policy of the Holy Alliance, during the administration of Lord Londonderry, with a potent majority constantly against them. We owe the change to Mr. Canning and his associates, who appear to have disengaged the nation with prudence and felicity.

The principle of the Holy Alliance is something perfectly new in the world. It is true that it was invented to meet a perfectly new emergency. That contrariety which, as we have already intimated, is now apparent in perhaps every country in Europe, between the state of the public mind and the state of the government, had excited the apprehensions of the different governments; and the Holy Alliance was set up as a bulwark against the consequences which it portended. It was an engagement among the different governments to afford protection to one another against their own subjects; and to prevent the changes for which the altered state of the public mind was expected to present an importunate, if not an irresistible, demand.

A scheme which bore upon the very surface of it more conspicuous marks of folly, or rather of insanity, was never thought of, even by bad governments. Going upon the supposition that the public mind in each country, taken separately, was becoming too strong for its own government, taken separately, they nevertheless concluded, that the governments of all the countries taken together would be too strong for the public mind in all the countries taken together. Let us permit them to assume—to take for granted, all the effect which fancy can ascribe to their scheme; that it would check the movements towards change, which the state of the public mind should prompt in one country at a time. What would be the consequence? Only to retard the countries which were more advanced, till all were ripe for a simultaneous movement; when, of course, the impulse would be far more violent, and the changes more unsparing. That governments, with or without combination, can now turn back the tide of public opinion, it would require more than the blindness of bad governments, amid all that is passing around us, to believe; and to suppose that public opinion, still rolling on, can be always successfully resisted, would be only to

suppose that of two things, the one growing always greater, the other less, the one growing always greater will never surpass the one growing always less.

The Alien Act, the subject of declamation on both sides of both houses in the last parliament, was part and parcel of the Holy Alliance system. The war against public opinion would have been incomplete without it. When the principle of the Holy Alliance was given up, the Alien Act, after a decent period of delay, and a becoming shew of regard for an old connexion, was quietly allowed to expire.

Giving the ministry applause, for renouncing the Holy Alliance; and willing to believe that they deserve it for their conduct regarding Greece, and the new states in South America, we are doubtful with respect to Spain. We have not *data* on which to ground a positive conclusion. And we concur most fully in the declaration of Mr. Canning, that if, by permitting the occupation of Spain by the troops of France, one of the most impudent proceedings in the history of modern Europe, and directly insulting to the government of England, we avoided that dreadful calamity, a war; it was expedient to pocket the insult, and cherish the advantages of peace.

The two questions are, whether this act of the French Government, on which Mr. Canning now bestows abundant reprobation, might not have been prevented without a war? And whether, if permitted, it would not bring war at an early date, as its natural consequence? Mr. Canning says, No. But Mr. Canning, with the advantage of more knowledge of the circumstances than other men, has the disadvantage of his situation, which plays with many blinding influences on his understanding. At the time of which we speak, the situation of the French government was so precarious, it had so much to apprehend, and did apprehend so much, from the contrariety between itself and the public mind, that it could not have looked upon the dangers involved in a struggle with this country without the utmost apprehension. It is true the French Government had one ground of security. On this it is probable that it rested; and the event discovered the sagacity of its anticipation. It knew that the aristocracy of England had a dread of the contrariety between the state of public opinion and the state of government in France, from the effect which it might have in England, not much less intense than that which agitated the French government itself. It concluded, therefore, that the English ministry would be deterred from risking a war with France, not so much from any aversion to the burthens it was to load upon the people of England, which it had never seen an English ministry much to dislike, as from the prospect of a new revolution in France, which it

had abundant reason to know was the object of their perfect horror. The French government, therefore, put on a bold face; and dread of the state of the public mind in France, made dupes of the English ministry. Without affirming that this was the case, we affirm the strong probability that it was; and we confess our apprehensions, that the same poor game will be played over again, in the circumstances to which the occupation of Spain by the troops of France has recently given birth. France may continue to lend the most effectual support to the Spanish government, maintaining garrisons in all its strong places, saving it from all apprehension on account of its disaffected population, thereby enabling it to send every Spanish soldier to fight the English, and supplying it secretly with the sinews of war; and, doing all this, if it only avoids notorious acts of hostility, and gives fair words, to which it seems inclined, our ministry will not dare to attack it. The French government knows that the hands of the English ministry are tied up by their trembling dread of revolutions. And we therefore expect to see it treating all their remonstrances with perfect indifference; and them, notwithstanding their talk about English honour and power, submitting tamely, and only anxious about the means of hiding the truth from the English people.

The terms of our treaty with Portugal may have required our interference. This we shall not dispute. But one thing we take upon us to affirm, with unhesitating conviction, that it will be worse than childish to commence a war against Spain, if that be the fruit of our late pacific policy, without ordering the French government, under all the consequences of being considered a partner in the war, to withdraw its soldiers, to the last man, from the peninsula; and to abstain from every act, open or clandestine, of support to our enemy, under pain of its being treated as an act of hostility.

Notwithstanding the improvements, which we are happy to acknowledge, in the maxims of our international policy, we perceive that our ministers still adhere to one principle, of fatal import to the interests of every country the counsels of which it infects. They boast of the high rank which we hold among surrounding nations. They speak magnificently of the maintaining of that rank. If this high rank meant a high reputation for wisdom—a high reputation for virtue—a high reputation for the goodness of our government—for the integrity of our dealings, and the happiness of our people; even a high reputation for internal strength, and for the energy with which any attack upon our shores would be repelled—we desire to see that sort of rank as high as it can be desired by any body. But if this rank mean nothing but the weight with which we interfere in the arrangements, amicable or hostile, of other nations with one another—that is to say, the fear with which we inspire them; in other words—the proximity of the

prospect we bring to them of the evils of war, to be inflicted by our hands; we say, that of all the curses, which ever befel a nation, this said rank is one of the greatest. Of all successful pretences for unnecessary wars—of all successful pretences for exorbitant establishments, military and naval—for the waste and ruin of the substance of the people—this is, beyond comparison, the most fertile in mischief. To the aristocracy of England this has been the grand resource for keeping up that immense taxation out of which they have drawn their profit. And, accordingly, both sections of that aristocracy, both the section in place, and the section out of place, have always applauded it to the skies. This was national glory—this was national honour. What so admirable as honour and glory? What honourable and glorious man but would part with life and fortune to preserve honour and glory? Let us then have great fleets, great armies; let us interfere in every dispute between every two nations in Europe; and let us always make war upon those who will not do as we bid them; all for honour and glory! The pretence, which is sometimes set up, that this is the cheapest way of defending our own shores from hostile attacks, we cannot regard as worthy of a serious exposure.

We are told that it keeps danger at a distance. We should rather say, that it makes it continually present. What is the danger we have to dread? The expense of repelling an attack from our shores. This, which would be an expense of rare occurrence—which rather, under a good government, we should say, would not occur at all—and which, when the occasion arose, would be proportioned to it, and no more; we are told that we ought to replace, by an expense never intermitted, which never ends—not proportioned to the defence of ourselves, but to the attack of others—the continental attack; an expense so threatening—continually threatening, to other nations—that our word should hold with them the place of a command. This is to defend ourselves at an expense many thousand times greater than needful.

Would we then, it is asked, have no foresight in our counsels? O, yes! of real foresight as much as you please—as much as possible. But not a foresight which makes the remedy many times worse than the disease. Not a foresight which would make a disease, not very likely to happen at all, but sure, at the very worst, to happen rarely, perpetual. Not a foresight, which would set up a great present evil, to fence against one which is not only distant and problematical, but which can always be provided for time enough, when there is some reason to apprehend its approach.

In tracing, as we have done, in this review of the proceedings of the last parliament, the workings of the aristocratical interest; adducing the evidence of its ascendancy, and marking the

consequences which flow from it; we shall be told, that we have omitted in our calculations an element which greatly modifies and corrects the tendency of the aristocratical preponderance; to wit—the opposition party in parliament. It appears perfectly certain to us, that the modification derived from this element is too small to be worth including in the calculation.

It is an historical fact, worthy of being better understood than it generally is, that wherever the powers of government have been engrossed by an aristocracy, they have almost always broken themselves into two sections—the one more immediately wielding the powers of the body—the other angry that it is not wielding them. What are the consequences of this? Not that either section ever loses sight of those interests which it has in common with the other, and which belong to the whole aristocratical body. These the section out of power is as deeply concerned to preserve and to improve, as the section which it wishes to supplant. Whatever other points they may differ in, here their differences will be more apparent than real; or if, from accident, there should be occasional contrariety, there is sure to be general concurrence. This is enough:—the aristocratical interest has little to dread from such an opposition as this.

There are two cases of the division of a governing aristocracy. One case is, when the people have no idea of taking power from the aristocratical body, though they may assist in taking it from one section to give it to another. The other case is, when the aristocracy are aware of a wish on the part of the people to diminish their power, and to give that ascendancy in the legislature to the general interest, which is held by the aristocratical interest.

The nature of the contest between the two sections of an aristocratical body, is very different in these different cases. In the first case, in which as a body they have nothing to apprehend from the people, they set no bounds to their animosities; they rush on to bloodshed; and inflict upon one another the greatest atrocities. Witness the contests in Greece and Rome; witness the civil wars in every part of Europe, up completely to the period at which a real public opinion made itself felt in that part of the world. So much already does society owe to the check which apprehension of the people has imposed on the aristocracy!

In the case in which the body of the aristocracy dread the sentiments of the people, and consider the probability, that, in a desperate struggle between two parties of themselves, the people will find the means of stripping them of all that portion of their power which is inconsistent with good government, both sections find motives exceedingly to modify and restrain their exertions; and

whether to get place, or retain it, never venture farther than a certain moderate excitement of public opinion.

The section not in place, the section weakest, atleast for the time, seeks to make itself a match for its antagonist. It can obtain the needful accession of strength only by gaining the people on its side. It can gain them on its side only by making them expect advantages from its ascendancy. The only real permanent good which the people can receive at the hands of any existing set of administrators, is the rectification of the state of interests in the legislature; the all important change from the predominance of the partial, to that of the general interest. No aristocratical section will hold out this prospect, at least in earnest. It holds out the prospect of some other petty advantages, which it tries by every artifice to make the people admire as great; or, if it does throw out an appearance of intending the substantial good, it is an appearance only, well contrived to be explained away, or forgotten, when the period for the congruent action arrives.

The consequences are easily anticipated. So long as the people are dim-sighted enough to be imposed upon by delusive appearances, and take small advantages for great, they may be caught by the promises of an opposition, and being warmed by degrees into enthusiasm, may call for a change of administration. This call, in this country, has in former times been so importunate as to render it convenient to comply with it. When, however, the people become sufficiently clear-sighted to distinguish appearance from reality, and a great advantage from a little one, the promises of one section of the aristocracy, trying to turn out another, lose their effect.

Things have very nearly come to this pass in England: the consequence is, that the out-section of the aristocracy, ceasing to draw any hopes from the people, manifest sentiments towards them hardly less hostile than those of their opponents. "His Majesty's opposition" is a name which has been recognized as well adapted to them, *ipsis non recusantibus*. This is a name which proclaims their equipment for court service, and the dissolution of their connexion with the people. Disjoined from the people, an opposition section of the aristocracy is perfectly insignificant. We see accordingly with what rapidity our opposition party is melting away. In a short time, there will be no such thing. The British aristocracy will form one homogeneous body, at once the masters and creatures of the ministry, soliciting and intriguing for the good things in distribution, but never going into opposition, with a view to force a greater share into their hands. This was the state of the French aristocracy, from the time of Louis XIV. to the revolution. And it is the natural state of a ruling aristocracy in every country in which the people are either unable or unwilling to force, by their

aid, a discontented section of it into power. No: from this time onwards, or till an adequate reform of the parliament has place, the ministers of the king, as the part of the legislature on which public opinion acts with the greatest force, will be the *best* part of the legislature, with the exception of a small number of independent, enlightened men, hated by both parties, and persecuted by them, as far as it can be done quietly and by stealth.

The proportion of the time and attention of the last parliament, which was absorbed by the memorable inquiry, of which it pleased them to become the instruments, respecting the late Queen, may render it, to some persons, a matter of surprise, that we have not enlarged upon this subject at a proportionate length. We deemed it unnecessary. All England—all Europe—and the world, have pronounced an opinion upon that affair, and the matters connected with it (the manly revenge, for example, taken on Sir Robert Wilson) so decided, and so nearly correct, that there is very little in the existing impression, which we have a desire to see altered. The sort of intellect, and the sort of morality, which reside in the two houses, found on that occasion, a most felicitous opportunity of displaying themselves. The time was come, when the lookers-on could benefit by the exhibition. The time is come, indeed, when nothing can hinder the accumulation of evidence; and nothing can hinder the effect which it is calculated to produce.

THE END.

w. wilson, printer, 57, skinner-street, london.

[\[Back to Table of Contents\]](#)

## 4.

### **The Westminster Review [1824-1836]**

*The Westminster Review.* (London: Baldwin, Cradock, and Joy, 1824-1836).

- "Periodical Literature 1 (Edinburgh Review and Quarterly Review)," Jan. 1824, vol. I, no. I, pp. 206-68.
- "Periodical Literature 2 (Quarterly Review and Edinburgh Review)," Oct. 1824, vol. II, no. IV, pp. 463-553.
- "Robert Southey's Book of the Church," Jan. 1825, vol. III, no. V, pp. 167-213.
- "Ecclesiastical Establishments," Apr. 1826, vol. V, no. X, pp. 504-48
- "Formation of Opinions," Jul. 1826, vol. VI, no. XI, pp. 1-23.
- "State of the Nation," Oct. 1826, vol. VI, no. XII, pp. 249-78.
- "The Ballot," Jul. 1830, vol. XIII, no. XXV, pp. 1-37.



[\[Back to Table of Contents\]](#)

## **Art. XI.**

### **PERIODICAL LITERATURE.**

#### **1.**

##### ***Edinburgh Review. Vol.1, 2, &C.***

IF periodical criticism is good for any thing, it cannot be less needed in the case of periodical literature, than of any other class of the productions of the press. It is indeed a subject of wonder, that periodical publications should have existed so long, and have come at last to occupy so great a portion of the time and attention of the largest class of readers, without having become subject to a regular and systematic course of criticism. We trust it will appear that we shall have rendered an important service to the progress of the human mind, in setting at least an example of this species of control; in showing how great has been the need of it before it existed, how much of evil it is calculated to prevent, and how much of positive advantage it cannot fail to secure.

Periodical literature is so wide a field, that though we shall not interdict ourselves from any part of it, we shall select for our province more particularly that portion, with respect to which the demand for the service which we thus desire to see rendered, will, to every intelligent mind, appear to be the strongest. The review of books, with the influence which it has in giving direction to the taste for reading, has long been a department of literature the effect of which has been very imperfectly appreciated. For a considerable number of years this field has been to such a degree occupied by two rival, celebrated, and successful publications, that the old have sunk into insignificance: the attempt to elevate new ones, has hitherto proved abortive; and it will hardly be incumbent on us, unless with casual exceptions, to bestow much of our attention upon the rest.

Another circumstance renders criticism peculiarly necessary in the case of the publications to which we have alluded; we mean, the *Edinburgh and Quarterly Reviews*: under the guise of reviewing books, these publications have introduced the practice of publishing dissertations, not only upon the topics of the day, but upon all the most important questions of morals and legislation, in the most extensive acceptance of these terms. Whatever occasion, therefore, there can be for that species of censorship which

criticism exercises over those who assume the task of supplying nourishment to the human mind, it is presented by the publications in question, and with peculiar circumstances of aggravation.

Of these circumstances, some they have in common with other periodical publications; some are peculiar to themselves. One law to which periodical literature is subject is attended with consequences, the good and evil of which have never yet been sufficiently analysed, though it is of the highest importance that they should be familiarised to the public mind. If a work is published, not periodical, and possesses real merit, it can afford to be overlooked for a time; and though it may be little noticed for the first year, or years, may count with tolerable certainty upon that degree of ultimate fame to which it is entitled. Not so with periodical literature. That must have immediate success, to secure so much as existence. A periodical production must sell immediately, at least to a certain extent, otherwise it cannot be carried on. A periodical production must be read the next day, or month, or quarter, otherwise it will not be read at all. Every motive, therefore, which prompts to the production of any thing periodical, prompts to the study of immediate effect, of unpostponed popularity, of the applause of the moment. To catch at this applause is then to be regarded as a grand characteristic of periodical literature; and the good and evil consequences which arise from it deserve to be diligently traced, and correctly estimated.

On the favourable side it may be affirmed, that as the diffusion of all the good which is derived from reading, must be in proportion to the diffusion of this which is its instrument, this peculiarity in periodical literature is an eminent advantage. By consulting the public taste with continual anxiety, the pleasures of reading are perpetually supplied to the greatest possible number. The number of those who love reading and the number of those who derive pleasure from periodical literature, are the same. To it, therefore, we are, it may be said, indebted, for the grand source of general intelligence; that is, the grand source of the greatest possible good.

The most effectual mode of doing good to mankind by reading, is, to correct their errors; to expose their prejudices; to refute opinions which are generated only by partial interests, but to which men are, for that reason, so much the more attached; to censure whatever is mean and selfish in their behaviour, and attach honour to actions solely in proportion to their tendency to increase the sum of happiness, lessen the sum of misery.

But this is a course which periodical literature cannot pursue. To please the great body of men, which is the object of the periodical writer, he must flatter their prejudices. Instead of calling in

question the opinions to which they are wedded, he must applaud them; and the more he can furnish such men with reasons for being more in love with their opinions than before, the more he is sure of commanding their approbation, and of increasing their zeal to promote the reputation of his work.

The most mischievous of all erroneous opinions are those which lead to the injury of the great number of mankind, for the benefit of the small number; which tend to make it the interest of the small number, by giving them the power, to oppress the great number in all practicable ways, and to brutalise them for the purpose of rendering the oppression more easy, and more secure. That these are the most mischievous of all opinions, is proved by merely telling what they are. That literature is useful only as it contributes to the extirpation of these detestable opinions, is so far true, that deprive it of this tendency, and it is doubtful whether it would not be more of a curse than a blessing. These, however, are the very opinions which periodical literature is under the strongest inducements to promote, and the discouragement of which it is utterly unsafe to undertake. It is obvious what is the general course it will pursue.

The opinions, on the propagation of which the success of periodical writings depends,—immediate success, that success which is essential to their existence,—are the opinions in vogue; the opinions of those whose influence is the most extensive, who can go farthest in creating or hindering a reputation. But what is the class most instrumental in setting the fashion, which exercises the greatest control over the opinions of other men? The answer is not uncertain. The people of power compose it. The favourite opinions of people in power are the opinions which favour their own power; those opinions which we have already characterised as being the grand instruments of evil in this world, the ultimate and real cause of the degradation and misery of the great mass of mankind. To these opinions periodical literature is under a sort of necessity, under an inducement which generally operates as necessity, of serving as a pandar.

It is a common observation, that notwithstanding the influence of error in the world, arising partly from ignorance, partly from the influence of interested opinions in high quarters, the opinion of the wise and disinterested, though they are small in number, always, or at least generally, prevails at last, and becomes the opinion of the world. That there is this tendency in the opinions of the wise, is certain; and it is the ground of all our hopes for the amelioration of mankind. When an opinion, founded on truth, and tending to good, is once declared, and when there is the means of making it generally known, and of calling to it continually the attention of

mankind, it is sure to make its way, and by degrees to bear down all that opposes it.

Here, however, the characteristic malady of periodical literature is most clearly seen. Instead of aiding this beneficent progress, it is opposed to it. The success of those important opinions, the progress of which involves the overthrow of the opinions which are dearest to the classes by whom power is exercised for their own benefit over the rest of the community, and dear to them for this reason, that they tend to the support of the power which they so employ, is *slow*. Periodical literature depends upon *immediate* success. It must, therefore, patronise the opinions which are now in vogue, the opinions of those who are now in power. It will obtain applause, and will receive reward, in proportion as it is successful in finding plausible reasons for the maintenance of the favourite opinions of the powerful classes, and plausible reasons for the discountenance and rejection of the opinions which tend to rescue the interests of the greater number from the subjection under which they lie to the interests of the small number. In this view, it is evident, that, so long as the interest of the smaller number is the predominating interest in any community; so long periodical literature is the natural enemy of the most important and beneficent class of opinions, and so long may the balance of its effects be expected to be decidedly in opposition to them. We say the balance of its effects, because there is no doubt that occasionally, from various motives, the more important of which we shall think it expedient to describe, the periodical press displays exertions both in opposition to the opinions which tend to confirm abusive powers in the hands of the few, and in favour of the opinions which tend to rescue from these powers the interests of the greater number.

After the mass of the people have become a reading people, a reward is held out for writings addressed peculiarly to them. The opinions of the people will, of course, be consulted in such writings; and those opinions which are peculiarly recommended to the powerful classes by the circumstance of their favouring the existence of those powers of theirs, which may be used for their personal purposes, will not be the peculiar objects of applause. But it is with the more numerous, as it is with the less numerous classes; they have some opinions which are just as well as important, and they have others which are erroneous.

It is of very little importance, in addressing the people, to continue recommending to them right opinions, which they already possess. Labour of such a kind is labour thrown away. The really useful effort, in the case of the people, as in the case of any other class, is to contend against erroneous opinions, and introduce to them ideas

which, though full of important consequences, are as yet strange, and perhaps revolting, to their minds. From this undertaking it is now sufficiently evident to our readers that the periodical press is debarred. It cannot wait for that success which depends upon the slow progress of just opinions, and the slow removal of prevalent errors. It must aim at that immediate applause which is bestowed only for immediate pleasure; for gratification administered to the mind in its present state; for encouragement of the favourite idea, flattery of the reigning prejudice.

We have seen, during some late years, in this country, since the talent of reading has become more general, periodical publications, addressed in a particular manner to the more numerous class. They are cheap publications, from the circumstances of the purchasers; and they have been worse than they otherwise might have been, from the characters of those who have been the principal instruments in their production, and who, had they been wiser and better men (for, with little exception, they have been very defective in one or other, or both, of these requisites), might have obtained as much success, with less subservience to the errors of those whom they have addressed. It is abundantly apparent, however, even on a cursory inspection of the writings to which we have thus alluded, that the principal influence to which they bend is that of the favourite opinions, right or wrong, of those to whom they look for their reward. That writings produced under this influence can hardly fail, where men are as ill instructed as they still are in this country, and where partial and sinister interests so greatly preponderate, to have a greater tendency to evil than good, we imagine cannot, after what we have stated, be regarded as matter of doubt.

The two publications which we have already pointed out as destined to be the principal objects of our attention in this department, are addressed to the aristocratical classes. From the circumstances belonging to them it will appear that they may be regarded as almost exclusively addressed to those classes. To what degree they have been subservient to the interests of those classes, in other words, hostile to the interests of the more numerous class, it would be premature in us, and perhaps hardly fair, as yet, to pronounce. That can be properly determined only by evidence adduced; and that evidence will be among the results of the examination to which we mean to subject them. It is enough in the meantime to estimate correctly the inducements to this fatal subserviency under which they have been placed.

Assuming that they agree in this main and characteristic circumstance, of being addressed to the aristocratical classes, upon what principle, we may be asked, do we account for the great

diversity which appears in their tone and character; a diversity so remarkable, that they are not regarded as competitors, but as enemies, as tending not to the same, but to opposite ends; as promoting irreconcilable opinions, the one upholding what the other endeavours to destroy? The elucidation of this point is of great importance, in laying the ground-work to our future labours in this department. It is in fact a point, the elucidation of which goes far into the philosophy of British history, and will therefore, if we can perform it satisfactorily, demand a rather more than ordinary portion of attention, on the part both of our readers and of ourselves.

We use the term “aristocracy” in a somewhat extended signification; and as we shall for the most part adhere to that use of it, we are under the necessity of expounding somewhat carefully the sense we thus attach to it, and of requesting our readers to bestow attention enough upon this explanation to retain it in their memory for future purposes. We do not use it in the mere sense of a titled nobility; nor in that of the families possessed of large fortunes. These are connected circumstances, but of secondary, rather than primary import. Wherever a government is not so constituted as to exist solely for the good of the community, aggregately considered, its powers are distributed into a certain number of hands, in some cases bearing a greater, in some a less proportion to the whole community; but a number always small in comparison with the population at large. This body, sharing among them the powers of government, and sharing among themselves also the profits of misrule, we denominate the aristocratical body; and by this term, or the aristocratical class, or in one word, the aristocracy, we shall be careful to distinguish them. The comparatively small number possessing political power compose the real aristocracy, by whatever circumstances, birth, or riches, or other accident, the different portions of them become possessed of it.

The aristocracy in some countries consists almost entirely of the lords of the soil. This in former times was the case in almost all the countries of Europe. And in those which have made the smallest progress in knowledge and civilisation, it is to a great degree the case at the present moment. In countries still more sunk in barbarism, as in Turkey, and in most Asiatic countries, the military hordes compose almost the whole of the efficient aristocracy, and are not hereditary. In our own country, the aristocracy is a motley body; and it imports us to be familiarly acquainted with the ingredients of the compound. If we assent to the doctrine of the Edinburgh Review,—and we are willing, for the present, to take it upon their showing,—we must conclude that the powers of government are centered in the House of Commons, and are there

substantially and ultimately exercised.\* If this be the case, it is only necessary to enquire, of whom the House of Commons is composed, and by whom the members are sent there; because in their hands, of course, the powers of government are efficiently lodged. It will not be necessary for us to go into the minute details, or indeed into any disputed subjects. For the conclusions which concern our present purpose the broad and incontrovertible matters of fact will suffice. The owners of the great landed estates have the principal influence in sending members into the House of Commons. They possess the representation of the counties exclusively. The members for the counties (Middlesex has more of the nature of a town) are returned by a combination among the leading families, and commonly by a compromise between the two parties, the one being a Whig and the other a Tory. In respect to the boroughs it is not necessary that we should descend to a particular enumeration. Mere notoriety will suffice for our present purpose. That a large proportion of them are in the hands of the same great families, either to nominate or effectually to influence the return of the members, will not be denied; because men in their senses do not make affirmations with respect to matters of fact which every body who knows them possesses sufficient grounds to deny.

There is a certain number of the boroughs, the constitution of which is such, that the electors find it for their interest to sell their votes on each occasion to the highest bidder. It is proper, though it is somewhat of a deviation from the present purpose, to remark, that this class of the boroughs is a general subject of vituperation, to those who, from their influence as landed proprietors, determine the election in counties, and in the boroughs over which their influence extends. Unhappily their influence sets the fashion in morality as well as in dress; and their long-continued cries have made it be regarded as peculiarly infamous in the electors in boroughs to sell their votes. But why should it be more infamous in a poor elector to sell his vote in a borough, than for a rich lord of the soil to sell his vote in parliament? "Why is the one traffic infamous, the other honourable?" For this reason, and this alone, that the great men influence public opinion more than the little men: the case would otherwise have been directly the reverse; the conduct of the rich lord would have been the most infamous, as in degree it is unquestionably the most highly mischievous. The case of the elector in the borough who sells his vote to the highest bidder, and that of the man who in a borough or a county gives it habitually to the lord, are essentially the same. Each, with little or no regard to the fitness of the man for whom the vote is given, follows his own interest. The elector who places his vote habitually at the disposal of his landlord, does so because his landlord could, and he fears would, do him injury, if he acted otherwise. The elector who takes money for his vote, does so for the immediate

benefit which it yields. It is the part of men who are not legislators, but drivellers, to whine against people for following their interest. In legislation the only enquiry is, how to make the interest of men and their duty coincide. What we desire is, to place the right of voting for members of parliament on such a footing, that it shall not be for the interest of the voter to give his suffrage from any other motive than the verdict of his conscience, preferring the fittest man. And for that we are called Radicals, and other names intended to be opprobrious, by those whose interest it is that the right of voting should never be placed on any better than the present foundation.

To return to the mode in which the boroughs, so constituted as to make it the interest of the electors to sell their votes to the highest bidder, affect the composition of the British aristocracy;—it is evident that they open a door of admission into the governing body to monied men. Such men, in considerable numbers, do by such means, as well as by what is called the purchase of a borough, that is, of the means of intimidation over the wretched electors, originally possessed by some neighbouring lord of the soil, become members of the House of Commons; and thus the class of monied men become sharers in the possession of the powers of government, and form a portion, though a minor, and hence a subordinate, portion, of the aristocracy of England.

In the composition of the aristocracy of England, the importance of its two props deserves much and careful consideration. Its two props are, the Church, and the Law; by the Law, we mean here the professional body.

We need not lengthen our investigation by representing the influence which religion exercises over the minds of men. It will be allowed to be great. It is evident of what importance it is to an aristocracy, that is, a small number, exercising, and for their own advantage, power over the great number, to be able to turn this influence, the influence of religion, to their own purposes. It is manifest how great a support to their power they may derive from it. Now it is obvious, that the short and effectual method of being able to turn the influence of religion to their own purposes, is to obtain an influence over the teachers of religion. It is equally easy to discover a sure expedient for their obtaining an influence over the teachers of religion. It is to form them into a corporate and dependent body, with gradation of emoluments and power, from something small, to something very great; retaining the nomination to the enjoyment of those emoluments principally in their hands, and admitting the body to a share in the power and profits of the aristocracy. In the aristocracy of England, accordingly, the church, or the organised priesthood of the state, is to be regarded as a real



and efficient part. Of the mode in which it acts as a portion of the aristocracy, and receives its share of the profits of misrule, the details must be left for future opportunities.

As the security for person and property, the things most dear to men, depends upon the law, to be sure of possessing the requisite knowledge of the law, is to every individual a matter of the last importance. If the law were as simple and clear as it might be made, every man of competent understanding might have all the knowledge of it requisite for his guidance and security. But where the law has been rendered exceedingly complex and obscure, nobody understands it but those who devote themselves professionally to the study of it. The class of lawyers become, in such circumstances, a class of very great importance. Men look to their knowledge as the principal ground of their security; they acquire a habit of trusting to them in almost every important transaction of their lives. In proportion as they have much to risk, that is, in proportion as they are rich; and in proportion as they are timid, that is, averse to run risks;—they fall into a state of absolute dependance upon the lawyers. It is evident from this explanation, that as it is of great importance to the aristocracy to be able to use the influence of the teachers of religion for their own purposes, it is of great importance to them also, to be able to use the influence of the lawyers for their own purposes. To this end they are obliged to admit them to a requisite share in all the advantages of the aristocracy. It is known to every body how unintelligible a mass the English law is; how extensive a sway the tribe of lawyers exercise over the actions of their countrymen; and to how considerable a share in all the distinctions of the aristocracy, and all the profits of misrule, they are admitted. Details we reserve for occasions as they arise. The general facts, as we have stated them, are too notorious to admit of dispute. Accordingly, the share, which the Church and the Law are treated with, in the good things of the aristocracy, insures their strenuous exertions in its support; and, at all times, whatever is noxious in aristocratical opinions and prejudices has had the great majority of both those bodies for its zealous supporters: all those doctrines which have for their object to secure the interests of the great number against the usurpations of the small number, and all the individuals who promote those doctrines, have been, at all times, to the great majority of lawyers and churchmen, the objects of the most bitter persecution.

From the developments which we have thus afforded, we think a pretty clear conception of what is meant by the aristocracy of this country, politically considered, may easily be drawn. The more efficient part of it is undoubtedly that small number of leading families, probably not two hundred in all, which return a majority of the members of the House of Commons. This oligarchy is really

and truly the governing power of the country. This governing power, like other governing powers, is obliged to make sacrifices to convenience; and in order to have instruments, and secure the services of those who would be dangerous enemies, is constrained to make a partnership concern, and to deal out certain minor shares: those are the shares of the monied interest, the church, and the law. Men of talent, as a class, have been sometimes represented as a constituent part of the House of Commons, and thence of the aristocracy; but, we think, erroneously. If they come in independently, by the purchase of a seat, they come in as monied men. If they come in as the nominees of this or the other great landlord, they come in as mere attornies of the aristocracy. They are servants in an office; they are not a part of the aristocracy, any more than their butlers or stewards.

We are now drawing to a close with that development which we have deemed necessary, as enabling us to characterise two publications which are addressed to the aristocracy of this country, and which, notwithstanding their agreement in this leading circumstance, exhibit so much diversity in their more obvious appearances.

There is only one particular more into the analysis of which, as a preliminary explanation, it will be necessary for us to enter. The aristocracy of this country are naturally, in their political proceedings, divided, under the guidance of their interests, into two sections. The Quarterly Review follows the one section: the Edinburgh Review follows the other. The one of these sections is commonly known under the title of the ministerial party. The other is known under that of the opposition party. What are the interests which preside over the formation of the ministerial party are sufficiently obvious; and as they are in general correctly estimated, we are under no inducement to spend many words in explaining them.

As the benefits, periodically arising from the engrossment of the powers of government in the hands of the few and the consequent employment of them for the benefit of that few, have to be divided; and as the division in this country is confided to a fixed individual, called the King, who thus acts as the head of the aristocratical and governing body to whose interest it is more conducive to give up the division to such a functionary, than to run the risk of those destructive contests, which, but for such an expedient, it would be apt to occasion;—all that part of the aristocracy, who either are satisfied with the share which they receive, or think they have a better chance of such a share by meriting the favour of the present distributors than by any other course they can pursue, range themselves under the King's immediate advisers, and lend their

influence to the promotion of all their designs. This class of motives is so obvious, and the operation of them so well understood, that we may now pass to the consideration of the interests which operate to the formation of the other section of the British aristocracy.

To all candid and intelligent readers it is unnecessary to remark, that we are here tracing the interests which predominate in the several situations which it is our object to explain. It is obvious, that all enlightened legislation proceeds upon a calculation of those interests, and that it is the business of true philosophy to form that calculation exactly. It is not therefore necessary for us here to enter into the motives of a different sort, which may bear a share in ranging this or that individual in the one or the other party. One man may adhere to the ministry, because he approves of their conduct; another may join the opposition, because the conduct of the ministry appears to him to be wrong. All that is necessary here is, to caution unwary reasoners against allowing those motives which may predominate in the breast of individuals, from occupying that place in their reasonings which belongs to those motives which act upon the class as a class, and by which, as a class, they must be governed. It would be absurd to say that a comparatively small number of men formed into a class by possessing all the powers of government over the great number, and the means of using those powers for their own advantage, will not, as a class, be actuated by the desire to render that advantage as great as possible. This being admitted, and it being clear that a man would render himself contemptible by denying it, the only care of the rational man is, to ascertain the course of action to which that desire must conduct the class; and having done so, to make it known to others. This is the course which it is now our endeavour to pursue; and our anxiety is to guard our readers against the delusion which is so often practised, of turning away the attention from the consideration of the motives which must govern the class, by holding up to attention the other motives, which always may, and very often do, actuate individuals. There is not a more fertile source of false reasoning, in matters of government, than this.

If, in the class who share among them the powers of government, there is one part who are pleased with the share which they receive of the advantages, or prefer the prospect which they have of sharing under the favour of the existing distributors; there is also, naturally, a part who are not pleased with the share which they receive, and who are willing to prefer any tolerable chance of sharing by other hands. These are they who, in this country, form themselves into what is called the opposition. The interest which actuates the conduct of this section of the aristocracy, are somewhat less obvious, from the modifications they undergo, than

those which actuate the ministerial section. The immediate object of the opposition is to effect a change of the hands by which the distribution of the advantages is made—to obtain hands through which their share will be enlarged. The means which these interests prescribe to them for the attainment of this object, afford a clue to the labyrinth of their conduct. The grand expedient for driving a minister from his situation is, to deprive him of support in the House of Commons; to lessen as much as possible the number of those who vote for, increase as much as possible the number of those who vote against him. There are minor expedients, court intrigues, and others, but this is so much the leading and established course, that we may, for the present purpose, overlook the remainder. The plan, therefore, is, to excite disapprobation of the principles and conduct of those who retain the distribution, and to excite approbation of the principles and conduct of those whom they wish to hold it in their stead. In this the Opposition are under the necessity of endeavouring to reconcile courses which are rather opposed to one another.

The primary object, of course, is, to discredit the ministry, and augment the favour of their own leaders with the aristocratical class. But in order to do this the more effectually, it is expedient to produce as much as possible of the same effects upon the public at large, including the middling and lower classes. Public opinion operates in various ways upon the aristocratical class, partly by contagion, partly by conviction, partly by intimidation: and the principal strength of that current is derived from the greatness of the mass by which it is swelled. It is the interest of the Opposition, therefore, to act, in such a manner, or rather to speak,—for speaking is their action,—so as to gain favour from both the few and the many. This they are obliged to endeavour by a perpetual system of compromise, a perpetual trimming between the two interests. To the aristocratical class they aim at making it appear, that the conduct of their leaders would be more advantageous even to that class, than the conduct of the ministry, which they paint in colours as odious to the aristocracy as they can. On the other hand, to gain the favour of the popular class, they are obliged to put forth principles which appear to be favourable to their interests, and to condemn such measures of conduct as tend to injure the many for the benefit of the few. In their speeches and writings, therefore, we commonly find them playing at *seesaw*. If a portion of the discourse has been employed in recommending the interests of the people, another must be employed in recommending the interests of the aristocracy. Having spoken a while on the one side, they must speak a while on the other. Having written a few pages on the one side, they must write as many on the other. It matters not how much the one set of principles are really at variance with the other, provided the discordance is not very visible, or not likely to be

clearly seen by the party on whom it is wished that the delusion should pass.

In this game, of aristocratical, and popular, it is sufficiently evident on which side, at last, the winnings remain. There are two sufficient reasons which determine the point. In the first place, it is the aristocracy through whose decision exclusively the object of the Opposition must be attained,—that of ejecting the ministerial party, and giving possession to them. They must, therefore, be very careful not to excite any suspicion that they are in reality less favourable to the aristocratical side of the account than those whom they wish to supplant. And, therefore, whatever the zeal of which they make show in favour of the people, it must still appear to the aristocracy, that it bears upon no points of which they have any occasion to be afraid; that it leads to the diminution of none of the advantages which the monopoly of the powers of government bestows upon them. There is another, and a perfectly sufficient reason in favour of the same tendency, that the opposition themselves are a section of the aristocracy; a section that wishes, and hopes, to be the leading section; and which, therefore, cannot be expected to aim at the diminution of advantages which are its own.

From this development of the interests and views of the two sections of the aristocracy in this country, it is clearly seen what may be expected to be the aim and tendency of the publications, particularly periodical, which look for success to the favour and applause of the one or the other. Those on the ministerial side have, as far as the interests of the aristocracy are concerned, a more simple course to pursue. They advocate them directly, and with enthusiasm, affected, or real. The aristocracy are spoken of as the country. Whenever the interests of the country are named, it is the interests of the aristocracy that are meant. The aristocracy are all in all. Compared with them, every thing is of trifling importance. With respect to the interests of the ministerial section, the business of the writers on that side is, to beat down the pretensions both of the opposition section of the aristocracy, and of the people. The people are represented as altogether vile, and any desires which they may exhibit to see the powers of government so disposed of, that they may have some security that these powers shall not be employed for the benefit of the aristocracy at their expense, as inconceivably wicked; as contrary, above all things, to religion; also contrary to law, and to order. The opposition section of the aristocracy are arraigned on two accounts; first, as attaching blame to the ministers for factious purposes, namely, to put their leaders in, and the ministers out, without being able to show, that the conduct of the ministers is not as good for the country, that is, the aristocracy, as that of the opposition leaders would be; and

secondly, a still more dreadful odium is endeavoured to be cast upon them, by representing the professions which they are obliged to make in favour of the people as acts of support to these hideous pretensions of the people about securities for good government, which tend to the overthrow of the church and the state.

The course which is necessary to be pursued, by such periodical publications as adopt the vocation of promoting the cause of the opposition section of the aristocracy, will be easily understood, after what has been already said, without many words for its elucidation. The seesaw of the party must be recommended; and the more of skill and pains is bestowed upon this object, the more of approbation may be expected. It is called the middle course. Every art is used to gain it reputation, under the title of moderation, and by the application of bad names to the two sets of opinions, between which the party oscillates, and which it is in reality putting forward by turns. The set of opinions, purely on the side of aristocratical power, are called despotical. Those which support the demand of effectual securities in favour of the people are declared anarchical, and are commonly stigmatised by some nickname in the slang of the day; jacobinical, for instance, at one time; radical, at another. They have a method worth observing, by which they prove that the party holds a middle course; by which term *middle* they always desire to be understood *wise*. When the people blame the party as aristocratical, and produce actual declarations of opinion on the part of its leaders which go the full length of the aristocratical pretensions, the writers ask how you can misinterpret their words so far, when they can produce you other declarations of opinion which go to as great an extent in favour of the popular demands. This proceeding they reverse, when charged as democratical, on the part of the aristocracy. They do not allow that two contradictory opinions on one and the same point, destroy one another, and should be regarded as no opinion at all. They hold that two contradictory opinions are good for nothing, each of them by itself; but that, both together, they form another nice opinion, exactly in the middle way between both.

It is essential, in writing upon this plan, to deal as much as possible in vague language, and cultivate the skilful use of it. Words which appear to mean much, and may by those to whom they are addressed be interpreted to mean much, but which may also, when it suits the convenience of those who have used them, be shown to mean little or nothing, are of singular importance to those whose business it is to play the game of compromise, to trim between irreconcilable interests, to seesaw between contradictory opinions.

Language of this description is peculiarly needed in making declarations which are meant to gain favour with the people. A party which is itself a section of the aristocracy, which desires to please the aristocracy, and by means of pleasing them to become the distributors of the good things which the possession of the powers of the government bestows upon the aristocracy, risk nothing by speaking explicitly in favour of their privileges. What is requisite is to have vague terms at command, when it is necessary to speak in opposition to these privileges. Aristocratical domination, in the abstract, may be spoken of as something exceedingly hateful, or pregnant with the worst of consequences. The people may be exhorted to be on their guard against it. They may even be told that the ministers have no other object than to introduce it; and that this alone is a sufficient reason for hating them, and for using every exertion to turn them out. In the meantime, great care must be used not to remove any part of the veil which conceals from the view of the people, the real amount of aristocratical power in this country. When any specific measure is proposed, which would really operate to the diminution of that power,—choosing the members of parliament by ballot, for instance,—it must be loudly decried, and every thing must be done to attach to it, if possible, the apprehension of evil consequences. On the other hand, if a measure is proposed which has the appearance of being calculated to diminish the power of the aristocracy, but which in reality has no such tendency, perhaps the very reverse, such as the disfranchisement of the boroughs called rotten, giving the representation to the counties, then the epithets of praise must be collected. The man who brings forward such a measure as this, must be hailed as the first of men; the man who should accomplish it, must be described as the most happy.

One important part of the business of writers on the side of the opposition section of the aristocracy, one of the qualities by which they can most effectually recommend themselves, is, being ingenious in the invention of schemes of this description; schemes which may have the appearance to the people of being calculated to add to their securities, but which would, even if accomplished, leave the power of the aristocracy untouched. Of this class of plans one example is seen in that which we have already mentioned, diminishing the number of borough members to augment that of county members. Another example is seen in the doctrine about representation by classes; by which it is attempted to persuade the people, that they have securities enough, provided every class is represented in the House of Commons; that is to say, the landed interest represented, the mercantile interest represented, the army, the navy, the law, the people represented; though it should appear that the people have no real, efficient control over one man in this composition; that they have not the choice of so much as six, out of

six hundred; and that even a bare majority, chosen and influenced by the aristocracy, would determine in the long run, and on the real balance of the account, the nature of the government.

Having thus seen what are the motives which operate upon the two sets of periodical writers who address themselves to the two sections of the aristocracy, we have anticipated much of the general matter which will be applicable in criticising, in detail, the Edinburgh and the Quarterly Reviews. We have already stated, that the Edinburgh Review is addressed to the aristocracy on the side of the opposition section; the Quarterly Review is addressed to it on the side of the ministerial section. We shall see in our progress how truly they have obeyed the springs which we have represented as operating generally upon the conduct of publications produced in similar circumstances.

It will be understood that we have been speaking of the political part of these two publications; including, in the political pale, the two props of the aristocratical polity, the political religion of the country, and the law, in both senses of the term. As to the literature of the Quarterly and Edinburgh Reviews, in the more confined sense of the term,—the poetry, and other works of imagination and entertainment, the mathematics, chemistry, and so on,—these publications have lain under no peculiar bias from situation; and the goodness or badness of their articles on these subjects must be ascribed to the accidental qualities, moral or intellectual, of the writers. As far as their criticisms on these subjects may appear worthy of notice, they will be reviewed in other departments of this section of our work.

One word of a personal nature seems to be required. We have described the interests which operate to withdraw periodical writers from the line of utility, and we have represented it as nearly impossible for them to keep true to it. What! Are we, it may be asked, superior to seducements to which all other men succumb? If periodical writing is by its nature so imbued with evil, why is it that we propose to add to the supply of a noxious commodity? Do we promise to keep out the poison which all other men yield to the temptation of putting in? If we made such a pretension, our countrymen would do right in laughing it to scorn; and we hope they would not fail to adopt so proper a course. We have no claim to be trusted, any more than any one among our contemporaries: but we have a claim to be tried. Men have diversities of taste; and it is not impossible that a man should exist who really has a taste for the establishment of the securities for good government, and would derive more pleasure from the success of this pursuit, than of any other pursuit in which he could engage, wealth or power not



excepted. All that we desire is, that it may not be reckoned impossible that we may belong to a class of this description.

There is another motive, as selfish as that which we ascribe to any body, by which we may be actuated. We may be sanguine enough, or silly enough, or clear-sighted enough, to believe, that intellectual and moral qualities have made a great progress among the people of this country; and that the class who will really approve endeavours, in favour of good government, and of the happiness and intelligence of men, are a class sufficiently numerous to reward our endeavours. No matter what our motives may be, the public will soon see whether our actions continue true to the ends which we profess; and that is all by which their interests can be affected; all, therefore, about which they need to care.

Of the two works which are to form the principal objects of our attention in this department, the Edinburgh, and Quarterly Reviews, we shall begin with the Edinburgh Review, both as it was the first in its commencement, and as it is by far the first in importance.

It originated at Edinburgh in the social studies of a small number of men, then mostly young, whose pursuits were literary, and who had already excited great expectation of future eminence. The reputation of the parties attracted attention; and the superiority of the performance to the mean articles which then filled the pages of the existing reviews, the novelty of mixing disquisitions of the reviewer with the notice of books, the tone of severity naturally piquant, and the wit and irony by which it was frequently enlivened, go far in accounting for the extensive circulation which it speedily acquired.

When it first appeared, and for some time afterwards, it was not decidedly attached to the opposition section of the aristocracy. At that time indeed the opposition party had only begun to effect a resurrection from that inhumation which it suffered from the aristocratical terrors engendered by the French revolution. It showed, however, from the beginning, that disposition to compromise which suited exactly the purposes of an opposition section, as soon as it renewed its strength. At first the seesaw was performed between those opinions which were necessary for obtaining the favour of the aristocracy, and those opinions which had obtained the sanction of philosophy, and which, without renouncing the character of philosophers, men could not abjure. To obtain, if possible, the good opinion of both aristocrats and philosophers, the doctrines of both were put forth. High examples, in this country, had already been set, and most successfully, of this species of authorcraft. With as servile doctrines as ever had been

propagated under the guise of law, Sir William Blackstone, in his Commentaries, had mixed a portion of the liberal opinions which philosophy had not only sanctioned, but to which at that time, preceding the French revolution, it had given reputation and fashion. The other instructive example to which we allude, is that of Paley, in his Principles of Moral and Political Philosophy; where, with many liberal doctrines, to which the progress of the human mind had given birth, there is a predominating mixture of opinions, the object and tendency of which is to keep the human mind for ever shackled and debased. And to this mixture, there is no doubt that a great portion of the splendid success of these celebrated works is to be ascribed.

In proof of this observation with respect to the Edinburgh Review, we may appeal to the first article in the first number. It is a Review of *Mounier, de l'Influence des Philosophes*. For the aristocrats, a great part of it is in the Antijacobin tone; concurring with the fashionable opinion, that of the Revolution and all its imputed evils, the cause is in a great measure to be ascribed to the philosophers. For the philosophical part of the public, again, a portion of it is employed in representing philosophy as perhaps the foremost among the causes of good. We quote but one passage:—

“That there were defects and abuses, and some of these very gross too, in the old system of government in France, we presume will scarcely be denied. That it was lawful to wish for their removal will probably be as readily admitted; and that the peaceful influence of philosophy, while confined to this object, was laudably and properly exerted, seems to follow as a necessary conclusion. It would not be easy, therefore, to blame those writers who have confined themselves to a dispassionate and candid statement of the advantages of a better institution; and it must seem hard to involve in the guilt of Robespierre and the Jacobins, those persons in France who aimed at nothing more than the abolition of absurd privileges, and the limitation of arbitrary power. Montesquieu, Turgot, and Raynal, were probably, in some degree, dissatisfied with the government of their country, and would have rejoiced in the prospect of a reform; but it can only be the delirium of party prejudice that would suspect them of wishing for the downfall of royalty, and for the proscriptions and equality of a reign of terror. It would be treating their accusers too much like men in their senses, to justify such men any farther on the score of intention: yet it is possible that they may have been instrumental in the Revolution, and that their writings may have begun that motion, that terminated in ungovernable violence. We will not go over the commonplace arguments that may be stated to convict them of imprudence. Every step that is taken towards the destruction of prejudice, is attended with the danger of an opposite excess: but it

is no less clearly our duty to advance against prejudices; and they deserve the highest praise who unite the greatest steadiness with the greatest precaution. At the time when the writings we are speaking of were published, there was not a man in Europe who could discern in them the seeds of future danger. So far from denouncing them as the harbingers of regicide and confusion, the public received them as hostages and guides to security. It was long thought that their effects were inadequate to their merits: nothing but the event could have instructed us that it was too powerful for our tranquillity. To such men, the reproach of improvidence can be made only because their foresight was not prophetic; and those alone are entitled to call them imprudent, who could have predicted the tempest in the calm, and foretold those consequences by which the whole world has since been astonished.

If it be true, therefore, that writers of this description have facilitated and promoted the Revolution, it is a truth which should detract but little either from their merit or their reputation. Their designs were pure and honourable; and the natural tendency and promise of their labours was exalted and fair. They failed, by a fatality which they were not bound to foresee; and a concurrence of events, against which it was impossible for them to provide, turned that to mischief which was planned out by wisdom for good. We do not tax the builder with imprudence, because the fortress which he erected for our protection is thrown down by an earthquake on our heads.

There is another set of writers, however, for whom it will not be so easy to find an apology, who, instead of sober reasoning and practical observation, have intruded upon the public with every species of extravagance and absurdity. The presumptuous theories and audacious maxims of Rousseau, Mably, Condorcet, &c. had a necessary tendency to do harm. They unsettled all the foundations of political duty, and taught the citizens of every existing community that they were enslaved and had the power of being free. M. Mounier has too much moderation himself, to approve of the doctrines of these reformers; but he assures us, that instead of promoting the revolution, it was the revolution that raised him into celebrity; that they rose into reputation, after it became necessary to quote them as apologists or authorities; but that, before that time, their speculations were looked upon as brilliant absurdities, that no more deserved a serious confutation, than the Polity of Plato, or the Utopia of Sir Thomas More.—With all our respect for M. Mounier, we have some difficulty in believing this assertion. Rousseau, in particular, was universally read and admired, long before he was exalted into the Revolutionary Pantheon; and his political sagacity must have had some serious admirers, when he was himself invited to legislate for an existing community.

Whatever influence he had, however, was unquestionably pernicious; and though some apology may be found for him in the enthusiasm of his disordered imagination, he is chargeable with the highest presumption, and the most blameable imprudence. Of some of the other writers who have inculcated the same doctrines, we must speak rather in charity than in justice, if we say nothing more severe.'

We must leave this passage, though it is plausibly worded, to speak for itself. That Raynal should be enumerated among the sober-minded writers, Condorcet among the inflammatory, must surprise any one who has read them. Though two classes of writers are here spoken of, one with praise, the other with blame, it is really not easy to say to which of them, in point of consequence, the greatest quantity of evil is ascribed.

Observe, however, the real doctrine. It is laudable to put forth such writings as those of Montesquieu, Turgot, and Raynal: this is for the philosophers. It is wicked to put forth such writings as those of Rousseau, Mably, and Condorcet: this is for the aristocrats.—Observe also the implied consequence of what is here said, the restraint upon freedom of discussion which is covertly recommended. To put forth enlarged theories respecting government, pointing out what is really necessary to afford securities to the people, and how much, under every existing government, those securities are wanting, ought to be prohibited. "Presumptuous theories and audacious maxims have a necessary tendency to do harm." But who is to judge what theories are presumptuous, what maxims audacious? All must be permitted, or none; or government, that is, the party interested against the people, must judge. Upon what principle the classification of the writers is made, it would be absurd to attempt to divine. Any classification answered the purpose of seesaw. It was enough to have one cluster to praise, another to blame.

There is another remarkable specimen of the seesaw, in the same number.

'In a subsequent part of his pamphlet, Mr. Godwin sets the doctrine of the particular and general affections in so clear and masterly a light, and in a manner so very superior to any thing we find in Dr. Parr's sermon on the same subject, that we have great pleasure in laying the passage before our readers.

"For, after all, though I admit that the assiduities we employ for our children ought to be, and must be, the result of private and domestic affections, yet it is not these affections that determine

them to be virtuous. They must, as has been already said, be brought to a standard, and tried by a criterion of virtue.

This criterion has been above described, and it is not perhaps of the utmost importance whether we call it utility, or justice, or, more periphrastically, the production of the greatest general good, the greatest public sum of pleasurable sensation. Call it by what name you please, it will still be true, that this is the law by which our actions must be tried. I must be attentive to the welfare of my child; because he is one in the great congregation of the family of the whole earth. I must be attentive to the welfare of my child; because I can, in many portions of the never-ceasing current of human life, be conferring pleasure and benefit on him, when I cannot be directly employed in conferring benefit on others. I best understand his character and his wants; I possess a greater power of modelling his disposition and influencing his fortune; and, as was observed in *Political Justice* (p. 132.), he is the individual, in the great distribution of the class needing superintendance and supply among the class capable of affording them, whom it falls to my lot to protect and cherish. I do not require that, when a man is employed in benefitting his child, he should constantly recollect the abstract principle of utility; but I do maintain, that his actions in prosecuting that benefit are no further virtuous than in proportion as they square with that principle." ' "

This is going a great way for philosophy. What follows is a devout offering at the shrine of aristocratical bigotry and insolence.

'Aware of the very superior manner in which Mr. Godwin's complaint is now accustomed to be treated, we had great hopes, upon reading so far, that a radical cure had been effected: but we had no sooner entered upon his remarks on population, than this pleasing delusion was dispelled, and we were convinced it was a case for life. The great expedients which this philosopher has in store to counteract the bad effects of excessive population (so ably pointed out by Mr. Malthus), are, abortion and child-murder. In gratitude for these noble remedies of social disorder, may we take the liberty of suggesting to Mr. Godwin, the infinite importance of shaving and blistering the crown of his head, of keeping the *primæ viæ* open, and of strictly pursuing an antiphlogistic regimen. By these means we have sometimes seen the understandings of great philosophers wonderfully and rapidly improved.'

There is one doctrine, to which we shall have frequent occasion to advert, because it is a favourite with the *Edinburgh Review*. It is a doctrine expected to please both aristocracy and people; and ample use is accordingly made of it. The doctrine is, that irregular and

tumultuary ebullitions of the people in favour of liberty, are of singular importance.

It is not from such irrational effervescence, that the aristocracy have any thing to fear. It is not a mobbing populace that can act with perseverance and consistency sufficient to overcome the defences which guard the undue powers of an aristocracy. If, then, the people can be gulled, by these false demonstrations of liberty, into a belief that they possess good government, the security of the aristocracy is increased; and the doctrine which leads to support this delusion, is a doctrine entirely to their taste.

On the other hand, by pompous talking about the public spirit of the people, about independence of mind, and so forth, displayed and generated in the turbulence of an election, it is expected that the vanity of the people will be piqued; and that they will be persuaded to believe they are something, by that which effectually proves they are nothing. The passage where we find this doctrine first set forth in the *Edinburgh Review*, is an early one. It is in the first volume (p. 384.), in the article on *Dernieres Vuës de Politique et de Finance par M. Neckar*.

‘The only foundation of political liberty is the spirit of the people; and the only circumstance which makes a lively impression upon their senses, and powerfully reminds them of their importance, their power, and their rights, is the periodical choice of their representatives. How easily that spirit may be totally extinguished, and of the degree of abject fear and slavery to which the human race may be reduced for ages, every man of reflection is sufficiently aware; and he knows that the preservation of that feeling is, of all other objects of political science, the most delicate and the most difficult. It appears to us, that a people who did not choose their representatives, but only those who chose their representatives, would very soon become indifferent to their elections altogether. To deprive them of their power of nominating their own candidate would be still worse. The eagerness of the people to vote is kept alive by their occasional expulsion of a candidate who has rendered himself objectionable, or the adoption of one who knows how to render himself agreeable to them. They are proud of being solicited *personally* by a man of family or wealth. The uproar even, and the confusion and the clamour of a popular election in England, have their use: they give a stamp to the names *Liberty*, *Constitution*, and *People*: they infuse sentiments which nothing but violent passions, and gross objects of sense *could* infuse; and which would never exist, perhaps, if the sober constituents were to sneak, one by one, into a notary’s office to deliver their votes for a representative, or were to form the first link in that long chain of causes and effects,

which, in this compound kind of elections, ends with choosing a member of Parliament.'

The first article in the second volume is a specimen of the sacrifices which are made to the taste of the aristocracy. It is almost wholly antijacobin. It is a review of the work entitled *Etat de l'Europe*, by that instrument of the Holy Alliance, Gentz. It is an elaborate display, and a general adoption, of his views, respecting the admirable governments and the prosperous condition, of the several countries of Europe, before the French Revolution; and respecting the weakness in the design, and the misery in the effects, of that great convulsion. "There was nothing in the internal situation of the European kingdoms that required such a stormy reformation, as the Revolution threatened to accomplish; and this revolution, so far from being the last link in a long chain of disasters and abuses, was, in fact, a most grievous and unexpected interruption to their career of prosperity, and can in no degree be justified by the pretended disorder and desperation of their affairs." Even in this article the other scale is not entirely forgotten. Something is thrown into it by a pointed condemnation of that popular object of attack, the partition of Poland.

A most singular species of morality is preached in the Edinburgh Review, at times: as, for instance, in the article on Belsham's Philosophy of the Mind, in the first volume.

'Mr. Belsham has one short argument, that whatever is true cannot be hurtful. It is the motto of his title-page, and is afterwards repeated, with equal emphasis, at every time of need. "If the doctrine be true," he contends, "the diffusion of it can do no harm. It is an established and undeniable principle, that truth must be favourable to virtue." (P. 312.) To us, however, this principle, instead of being undeniable, has always appeared the most questionable of postulates. In the declamation of Plato, or the poetry of Akenside, we admit it with little scruple, because we do not read Plato or Akenside for the truths they may chance to contain; but we always feel more than scepticism, when we are assailed by it in a treatise of pure philosophy: nor can we account for an almost universal assent it has received, from any other circumstance, than the profession and habits of the first teachers of morals in our schools, and of the greater number of their successors. It was a maxim of religion, before it became a maxim of philosophy; though, even as a religious maxim, it formed a very inconsistent part of the optimism in which it was combined. The Deity wills happiness; he loves truth: truth therefore must be productive of good. Such is the reasoning of the optimist. But he forgets, that, in his system, error too must have been *beneficial*, because error *has been*; and that the employment of falsehood for

the production of good, cannot be more unworthy of the Divine Being, than the acknowledged employment of rapine and murder for the same purpose. There is, therefore, nothing in the abstract consideration of truth and Deity, which justifies the adoption of such a maxim; and as little is it justified by our practical experience. In the small events of that familiar and hourly intercourse which forms almost the whole of human life, how much is happiness increased by the general adoption of a system of concerted and limited deceit! for it is either in that actual falsehood, which must, as falsehood, be productive of evil, or in the suppression of that truth, which, as truth, must have been productive of good, that the chief happiness of civilized *manners* consists; and he from whose doctrine it flows, that we are to be in no case hypocrites, would, in mere manners, reduce us to a degree of barbarism beyond that of the rudest savage, who, in the simple hospitalities of his hut, or the ceremonial of the public assemblies of his tribe, has still some courtesies, which he fulfils with all the exactness of polite dissimulation. In the greater events of life, how often might the advantage of erroneous belief be felt! If, for example, it were a superstition of every mind, that the murderer, immediately on the perpetration of his guilt, must himself expire by sympathy, a new motive would be added to the side of virtue; and the only circumstance to be regretted would be, not that the falsehood would produce effect, since that effect could be only serviceable, but that perhaps the good effect would not be of long duration, as it would be destroyed for ever by the rashness of the first daring experimenter. The visitation of the murderer by the nightly ghost, which exists in the superstition of so many countries, and which forms a great part of that complex and unanalysed horror with which the crime continues to be considered after the belief of the superstition itself has ceased, has probably been of more service to mankind than the truths of all the sermons that have been preached on the corresponding prohibition in the Decalogue. It is unfortunate that with this beneficial awe unnecessary horrors have been connected; for the *place* continues to be haunted, as well as the *person*; and the dread of our infancy is thus directed, rather to the supernatural appearance, than to the crime. But if superstition could exist, and be modified, at the will of an enlightened legislator, so as to be deprived of its terrors to the innocent, and turned wholly against the guilty, we know no principle of our nature on which it would be so much for the interest of mankind to operate. It would be a species of prohibitive religion, more impressive, at the moment of beginning crime, than religion itself; because its penalties would be more conceivable and immediate. Innumerable cases may be imagined, in which other errors of belief would be of moral advantage; and we may therefore assume, as *established and undeniable*, that there is nothing in the nature of truth which makes it *necessarily* good; that, in the



greater number of instances, truth is beneficial; but that, of the whole number of truths and falsehoods, a certain number are productive of good, and others of evil. To which number any particular truth or falsehood belongs, must be shown, in the usual way, by reasonings of direct experience or analogy; and hence, *in a question of utility*, the demonstration of mere logical truth cannot justly be adduced as superseding the necessity of other inquiries. Even though the contrary of that postulate which Mr. Belsham has assumed could not have been shown from *other* cases, it would not *therefore* have been applicable, without proof, to the great questions which he discusses; for these questions comprehend all the truths that are of most importance in human life, which are thus the very truths from which the justness of the assumed principle is most fully to be demonstrated or denied.'

We shall hereafter have various occasions to examine this doctrine, and to show the applications of which it is found to be susceptible, in defiance of all the jesuitry of party. We may leave it safely, at present, when we cannot afford so many words as would be necessary for its exposure, to the reflections of our readers. The public mind has now certainly got beyond this standard of ethics. On the other side, the actions consecrated as virtues by the prevailing cant, whether they have or have not any connection with the sources of human happiness, are spoken of with a reverence truly edifying: as in the article in this same volume on M. Neckar's *Reflections sur la Divorce*, where the ancients are considered very immoral for not including all the conditions, included by us, in the marriage contract; as also in the article on Madame de Stael's *Delphine*, in the second volume, where we may remark, by the way, the singular contrast between the mode in which the same lady is there treated, and in an article in a subsequent volume, in which we shall hereafter see she is held up as nearly the first of all human beings. At the latter period, however, she was in England, and in fashion too, especially with the opposition part of the fashionable world. In 1803, about ten years preceding the laudation, the language was as follows:—

'This dismal trash, which has nearly dislocated the jaws of every critic among us with gaping, has so alarmed Bonaparte, that he has seized the whole impression, sent Madame de Stael out of Paris, and, for aught we know, sleeps in a nightcap of steel, and dagger-proof blankets. To us it appears rather an attack against the Ten Commandments, than the government of Bonaparte, and calculated not so much to enforce the rights of the Bourbons, as the benefits of adultery, murder, and a great number of other vices, which have been somehow or other strangely neglected in this country, and too much so (according to the apparent opinion of Madame de Stael) even in France.

It happens, however, fortunately enough, that her book is as dull as it could have been if her intentions had been good; for wit, dexterity, and the pleasant energies of the mind, seldom rank themselves on the side of virtue and social order; while vice is spiritual, eloquent, and alert, ever choice in expression, happy in allusion, and judicious in arrangement.

To conclude.—Our general opinion of this book is, that it is calculated to shed a mild lustre over adultery; by gentle and convenient gradation, to destroy the modesty and the caution of women; to facilitate the acquisition of easy vices, and encumber the difficulty of virtue. What a wretched qualification of this censure to add, that the badness of the principles is alone corrected by the badness of the style, and that this celebrated lady would have been very guilty, if she had not been very dull!’

The second volume is, we think, distinguished, by its contributions to the aristocratical politics and morality. Among the more remarkable specimens, the article on Belsham’s *Memoirs of George III.* have attracted our attention. We quote the two first paragraphs, to show the indignation with which the writing of party pamphlets under the guise of history is deemed worthy. We presume it will not be reckoned much more laudable to write party pamphlets under the guise of reviews.

‘The preceding volumes of this history had created in our minds so little expectation of merit in those which are now presented to the world, that we cannot with propriety say that we have been disappointed. There is a fraud in the very title-page of this work; for if the reader expects to find in the “*Memoirs of the Reign of George III.*” any thing like an history of that period, he will soon find himself dolefully mistaken. By the illiberality, party spirit, and intemperate ardour for the propagation of his political opinions, which Mr. Belsham displays, he has forfeited the title of historian, for the more appropriate, though less respectable, name of zealot, or pamphleteer. The bitter and licentious spirit in which he had indulged his pen throughout his former volumes, has now risen to a height more intolerable to the reader and disgraceful to the writer. It appears that Mr. Belsham’s habits of writing, like all other evil habits, increase in virulence, in proportion as they proceed; and unless the wholesome discipline of criticism be administered, the press may, at some future day, groan under a still more highly accumulated mass of personal abuse and intolerant zeal.

By stripping these volumes, however, of their title to the rank of history, to which they have assuredly no more claim than a book made up of political registers and party pamphlets can pretend to, we have greatly abridged to ourselves the unpleasant task of

censure; and by thus bringing their merits and defects to the decision of an inferior standard, we have allowed greater latitude to the author's eccentric excursions, and greater indulgence to his violations of decency and propriety. It may be proper, however, to hint, that the former are always observable, when a low factious citizen comes under the cognizance of the law; and the latter, whenever a prime minister, a Tory, or an alarmist, is honoured by a mention in his annals.'

Observe with attention the notion relative to freedom of discussion inculcated in the following use of the term "libellous."

'After detailing the principal articles of the petition for reform of Parliament, presented by the "Society of the Friends of the People," this libellous oracle thus delivers itself:—

"Whoever reads this celebrated petition, and still retains the opinion, that the Parliamentary representation of this kingdom needs no reform, may be regarded as in a state of mind far beyond the reach of facts or of argument." '

When it is remembered what that petition was—a petition to be allowed to prove at the bar of the House, a fact which is in reality too notorious to be denied, that a decided majority of the House of Commons is chosen by somewhat less than two hundred great families; and when the state of mind, which in the teeth of such a fact can deny the need of reform, is described as inaccessible to the evidence of facts or argument;—to hold forth such a description as libellous, that is, according to the law of England, punishable, worthy of fine and imprisonment, is to propagate a doctrine, the character of which we wish not to pronounce.

We request attention to the acts which in the following passage are presented to the reader under the title of "exertions" of government.

'We admire, too, the lofty and contemptuous style in which Mr. Belsham treats the exertions of government at that period.

"Notwithstanding the great predominance of the spirit of loyalty, and the numberless addresses of duty and allegiance transmitted from all parts of the united kingdom, and the perfect security of the government, a mean and merciless spirit of revenge displayed itself in the prosecution and punishment of very many petty offenders, accused of the vague and indefinable crime of sedition—amongst whom were several printers and booksellers; so that it became extremely dangerous to publish any tract or pamphlet reflecting in

any manner upon the measures of government: and the liberty of the press was silently and virtually annihilated.” ’

We should have been happy to find something in this volume, which we could have placed in the popular, to balance the mighty weight in the opposite scale; but after turning over the pages with some attention, we have found nothing that would answer the purpose. This, be it remembered, was a period in which the aristocratical tide was running very high. When the war was just renewed with France, when the courage of volunteering, and the fear of a French invasion, were the passions of the day, aristocratical opinions alone were a marketable commodity.

It is curious to observe on what occasions the Edinburgh Review sometimes chooses to introduce a favourite portion of the aristocratical creed: the occasion, for example, of Bishop Watson’s proposal for paying the national debt, where is inculcated the importance of keeping a large fund of the matter of corruption at the disposal of the crown.

‘Besides, we confess that, sincere as our attachment is to the ancient privileges of the people, we cannot contemplate, without some alarm, so sudden a shock as the power of the crown must necessarily receive by the change. We can call the projected reduction of patronage by no other name than a violent change in the balance of the constitution; and this consideration alone should have no small weight with us, in these times, when the unhappy experience of our neighbours has so strongly recommended to practical statesmen that predilection, which every wholesome theory had long before encouraged, for the most gradual alterations in political systems.’

At this time much respect was professed for the old government of the Bourbons. Mr. Stephens, the author of “A History of the late War,” is blamed for calling it tyranny and despotism. Such language is stigmatised as “revolutionary verbiage.” In the article on the correspondence of Louis XVI., he is represented as having been always a friend to reform. It is affirmed, that designs against his crown had been avowed from the beginning of the Revolution; and his Christian charity is celebrated in the same sort of strain, commonly denominated cant, as would have become the class of fops described in the article in the first volume on Rennel’s Sermons.

‘A class of fops not usually designated by that epithet—men clothed in profound black, with large canes, and strange amorphous hats—of big speech, and imperative presence—talkers about Plato—great affecters of senility—despisers of women, and all the

graces of life—fierce foes to common sense—abusive of the living, and approving no one who has not been dead for at least a century. Such fops, as vain, and as shallow as their fraternity in Bond-street, differ from these only as Gorgonius differed from Rusillus.’

We pass over the fourth and fifth volumes, which are in much the same spirit with the second and third, except that there seems a disposition to avoid grappling with any important and tender subject. Political economy, indeed, obtains a due share of attention; and the abolition of the slave trade begins to be recommended,—two subjects upon which the Edinburgh Review has rendered important service. And upon these subjects, as well as upon that of Catholic emancipation, which has been laboriously handled, a remark is required.

These are precisely the description of subjects which suit a publication, pursuing the career which has been pursued by the Edinburgh Review. The hold possessed by the aristocracy upon the powers of government, was not likely to be weakened, by any opinions propagated on the subjects of political economy, and the slave trade; not even on that of Catholic emancipation; for though the anile and priest-ridden portion would certainly make a clamour, and feel apprehension for the consecrated prop, the more manly portion, having some respect for the reputation of good sense, would have little respect for matronly fears, and would neither cry down nor discard a publication which attacked them. These were subjects, therefore, on which a reputation with the liberal, the enlightened, and the disinterested part of the public, might be courted, without risking much with the aristocratical and the prejudiced.

It is curious that at this time the Edinburgh Review forced even political economy occasionally into prostitution to the aristocratical system. An instance is afforded, which we must briefly notice, even in one of the volumes which we said we should overlook.

At the period in question, the favourite object with the aristocracy was the pursuit of war, even with an expenditure which laughed to scorn every other specimen of national prodigality which the world had ever beheld. Towards a new argument in favour of this unparalleled waste, thousands were situated nearly like the Eastern sovereign in respect to a new pleasure; they were ready to give mines for it.

It will not be denied that a bold attempt was made to furnish such an argument in the following memorable passage:—

‘But the evils of increasing capital, like the evils of increasing population, are felt long before the case has become extreme; and a nation, it may be observed, is much more likely (at least in the present state of commercial policy) to suffer from increasing wealth than from increasing numbers of people. Are there no checks provided by the constitution of human nature, and the construction of civil society, for the one, as well as for the other of these evils? Mr. Malthus has pointed out the manner in which the principle of population is counteracted; and we apprehend that causes nearly analogous will be found to check the progressive increase of capital. Luxurious living, and other kinds of unnecessary expenditure—above all, political expenses, and chiefly the expenses of war—appear to us to furnish those necessary checks to the indefinite augmentation of wealth, which there was reason *a priori* to suppose would be somewhere provided by the wise regulations of nature.’

It is not the incorrect political economy which we here mean to expose. Other occasions will present themselves for that purpose. What we wish should obtain attention is, the spirit which is manifested by the declaration, that “a nation, situated as ours, is much more likely to suffer from increasing wealth, than from increasing numbers of people:” and that in such circumstances, the expenses of war are a blessing!

We shall have many occasions to point out where the Edinburgh Review has lavished the language of condemnation upon the extravagance of ministers. Can we contemplate a more perfect specimen of seesaw, than this?

In the sixth volume, and in the year 1805, (we think it material to notice the time) a counterpoise begins to be placed in the popular scale, which had long remained so unequally supplied.

In reviewing Talleyrand *Sur les Colonies, &c.*, they introduce a paragraph in favour of that which the few, by whom the powers of government are usurped, have so much occasion to dread; the prevalence of enlightened principles, persecuted, under the name of theory, by the said few, the patrons of practice, and eulogisers of “things as they are.”

‘The papers now before us, are evidently dictated by this train of reflection; but they have assumed a more general form, and contain a variety of discussions upon the principles of colonization. Independent of the epigrammatic force and eloquence of their style, and of their more substantial merits as sound and ingenious speculations upon a subject of equal difficulty and importance, they cannot fail to interest us in their practical applications. They were

the result of actual observation in countries where the author had access to the best information, or was actually engaged in affairs. They were drawn up with a view to influence the conduct of France, under a government in which he soon after bore an active part. Subsequent events prove, that they were not without effect in shaping the measures of that ambitious power. These tracts, it should be observed, however, appear in a form purely speculative; their reasonings are general and philosophical; formed indeed upon facts, but guided by large, scientific views; by an appeal to principles at every step; and by the kind of argument that inferior statesmen deride as theoretical, while their adversaries are conquering the world by the combinations to which it leads. The views of political economy by which our author seems to have been guided, are liberal and enlightened. He knows thoroughly the best doctrines of the science, and is fully impressed with their truth. It will be difficult indeed for our readers to believe that the writer of some of the passages which we mean to extract, is a leading personage in the present fiscal administration of France. And, however much the recollection may lead us to lament so striking an instance of talents and knowledge enslaved by sordid principles, it is comfortable to think, that there are, among the rulers of that country, some whose lights are superior to their conduct, and that the justness of their original views may one day triumph over the gross ignorance and petty ambition of their more powerful coadjutors.'

The article on "Bailly's Memoirs" is in a tone much more in opposition to the antijacobin spirit, than any thing which occurs before. The following passage seesaws pretty remarkably with some already produced. Having spoken of the occasion which had been taken from the French Revolution to "involve in discredit the principles of political philosophy, to give strength to prejudices, and to sanction abuses," it goes on:—

'The same circumstances which have thus led us to confound what is salutary with what is pernicious in our establishments, have also perverted our judgments as to the characters of those who were connected with these memorable occurrences. The tide of popular favour, which ran at one time with a dangerous and headlong violence to the side of innovation and political experiment, has now set, perhaps too strongly, in an opposite direction; and the same misguiding passions that placed factious and selfish men on a level with patriots and heroes, has now ranked the blameless and the enlightened in the herd of murderers and madmen.

There are two classes of men, in particular, to whom it appears to us that the Revolution has thus done injustice, and who have been made to share in some measure the infamy of its most detestable

agents, in consequence of venial errors, and in spite of extraordinary merits. There are none indeed who made a figure in its more advanced stages, that may not be left without any great breach of charity, to the vengeance of public opinion: and both the descriptions of persons to whom we have alluded only existed, accordingly, at the period of its commencement. These were the philosophers or speculative men, who inculcated a love of liberty and a desire of reform by their writings and conversation; and the virtuous and moderate, who attempted to *act* upon these principles, at the outset of the Revolution, and countenanced or suggested those measures by which the ancient frame of the government was eventually dissolved. To confound either of these classes of men with the monsters by whom they were succeeded, it would be necessary to forget that they were in reality their most strenuous opponents, and their earliest victims. If they were instrumental in conjuring up the tempest, we may at least presume that their co-operation was granted in ignorance, since they were the first to fall before it; and can scarcely be supposed to have either foreseen or intended those consequences, in which their own ruin was so inevitably involved. That they are chargeable with imprudence and with presumption, may be affirmed, perhaps, without fear of contradiction; though, with regard to many of them, it would be no easy task, perhaps, to point out by what conduct they could have avoided such an imputation; and this charge, it is manifest, ought at any rate to be kept carefully separate from that of guilt or atrocity. Benevolent intentions, though alloyed by vanity, and misguided by ignorance, can never become the objects of the highest moral reprobation; and enthusiasm itself, though it does the work of the demons, ought still to be distinguished from treachery or malice. The knightly adventurer, who broke the chains of the galley-slaves, purely that they might enjoy their deliverance from bondage, will always be regarded with other feelings than the robber who freed them to recruit the ranks of his banditti.'

This article is in itself as instructive an example as can be found, of the craft and mystery of compromise; of trimming, and seesaw. If one sentence is in favour of truth and freedom, another is in favour of prejudice and servility. To balance such passages as the former, we have others, in the following strain:—

'We are very much inclined to do justice to the virtuous and enlightened men who abounded in the constituent assembly of France. We believe that the motives of many of them were pure, and their patriotism unaffected: their talents are still more indisputable; but we cannot acquit them of blameable presumption and inexcusable imprudence. There are *three* points, it appears to us, in particular, in which they were bound to have foreseen the consequences of their proceedings.



In the *first* place, the spirit of exasperation, defiance, and intimidation, with which from the beginning they carried on their opposition to the schemes of the court, the clergy, and the nobility, appears to us to have been as impolitic with a view to their ultimate success, as it was suspicious perhaps as to their immediate motives. The parade which they made of their popularity; the support which they submitted to receive from the menaces and acclamations of the mob; the joy which they testified at the desertion of the royal armies; and the anomalous military force, of which they patronised the formation in the city of Paris, were so many preparations for actual hostility, and led almost inevitably to that appeal to force, by which all prospect of establishing an equitable government was finally cut off. Sanguine as the patriots of that assembly undoubtedly were, they might still have been able to remember the most obvious and important lesson in the whole volume of history, that the nation which has recourse to arms for the settlement of its internal affairs necessarily falls under the iron yoke of a military government in the end, and that nothing but the most evident necessity can justify the lovers of freedom in forcing it from the hands of their governors. In France, there certainly was no such necessity.'

The following passage is a laboured panegyric upon the actual composition of the English House of Commons: with the declaration of a general principle worthy of all admiration:

'No representative legislature, it appears to us, can ever be respectable or secure, unless it contain within itself a great proportion of those who form the natural aristocracy of the country, and are able, as individuals, to influence the conduct and opinions of the greater part of its inhabitants. Unless the power, and weight, and authority of the assembly, in short, be really made up of the power, and weight, and authority of the individuals who compose it, the factitious dignity they may derive from their situation can never be of long endurance; and the dangerous power with which they may be invested, will become the subject of scrambling and contention among the factions of the metropolis, and be employed for any purpose but the general good of the community.

In England, the House of Commons is made up of the individuals who, by birth, by fortune, or by talents, possess singly the greatest influence over the rest of the people. The most certain and the most permanent influence, is that of rank and of riches; and these are the qualifications, accordingly, which return the greatest number of members. Men submit to be governed by the united will of those, to whose will, as individuals, the greater part of them have been previously accustomed to submit themselves; and an act of parliament is revered and obeyed, not because the people are

impressed with a constitutional veneration for an institution called a Parliament, but because it has been passed by the authority of those who are recognised as their natural superiors, and by whose influence, as individuals, the same measures might have been enforced over the greater part of the kingdom. Scarcely any new power is acquired, therefore, by the combination of those persons into a legislature: they carry each their share of influence and authority into the senate along with them; and it is by adding the items of it together, that the influence and authority of the senate itself is made up. From such a senate, therefore, it is obvious that their power can never be wrested, and that it would not even attach to those who might succeed in supplanting them in the legislature, by violence or intrigue, or by any other means than those by which they themselves had originally secured their nomination. In such a state of representation, in short, the influence of the representatives is not borrowed from their office, but the influence of the office is supported by that which is personal to its members; and Parliament is only regarded as the great depository of all the authority which formerly existed, in a scattered state, among its members. This authority, therefore, belonging to the men, and not to their places, can neither be lost by them, if they are forced from their places, nor found by those who may supplant them. The Long Parliament, after it was purged by the Independents, and the assemblies that met under that name, during the Protectorate of Cromwell, held the place, and enjoyed all the form of power that had belonged to their predecessors; but as they no longer contained those individuals who were able to sway and influence the opinion of the body of the people, they were without respect or authority, and speedily came to be the objects of public derision and contempt.

As the power and authority of a legislature thus constituted is perfectly secure and inalienable on the one hand, so, on the other, the moderation of its proceedings is guaranteed by a consciousness of the basis upon which this authority is founded. Every individual being aware of the extent to which his own influence is likely to reach among his constituents and dependants, is anxious that the mandates of the body shall never pass beyond that limit within which obedience may be easily secured. He will not hazard the loss of his own power, therefore, by any attempt to enlarge that of the legislature; and feeling, at every step, the weight and resistance of the people, the whole assembly proceeds with a due regard to their opinions and prejudices, and can never do any thing very injurious or very distasteful to the majority. From the very nature of the authority with which they are invested, they are in fact consubstantiated with the people for whom they are to legislate. They do not sit loose upon them, like riders on inferior animals; nor speculate nor project experiments upon their welfare, like

operators upon a foreign substance. They are the natural organs of a great living body; and are not only warned, by their own feelings, of any injury which they may be tempted to inflict on it, but would become incapable of performing their functions, if they were to proceed far in debilitating the general system.

Such, it appears to us, though delivered perhaps in too abstract and elementary a form, is the just conception of a free representative legislature.'

There is a return to the malignant language of antijacobinism, in the review of the "Continuation of Belsham's History of Great Britain," in the same sixth volume.

'The events which took place in the Neapolitan territory, after the French armies had been driven from Italy by the victorious Suvaroff, are narrated with considerable spirit; but in a manner which betrays the author's decided predilection for the Revolutionists, and his detestation of all by whom the interests of the Royal party were espoused. His narrative is faithfully taken from the "*Sketches*" of the excellent Helen Maria Williams; of course he becomes quite impassioned, and by far too noisy, for the propriety of history. That the Neapolitans were incapable of enjoying a free government, he is, however, obliged to admit: it follows, therefore, that the project of a republican constitution was as absurd as it was wicked; and that the only remedy against greater evils, was the re-establishment of the government which had been unwarrantably pulled down. But although we are not disposed to weep with Mr. Belsham over the prostrate democracy of Naples, we are not therefore inclined either to justify or palliate the excesses of those by whom it was overthrown. It must, however, be recollected, that the Royal government, in a justificatory memorial which it afterwards published, strongly disavows the charge of proscription; but our author neither adverts to this or any other document,—having gone no farther, apparently, in search of authorities, than to the said *Sketches* of Miss Williams.

From these excursive details our historian then returns to objects more immediately connected with British annals; but it is only for a little while that he stops to shed the lights of history upon our dark and disordered political system; for he soon starts away to expatiate upon topics which seem to have greater charms for him. Meantime, he adverts to the expedition to Holland in 1799; the account of which is done up from the disaffected newspapers of that time, in Mr. Belsham's own happy manner. It seems, indeed, not to be so much the intention of our historian to give a just account of the objects of that expedition, and the real causes of its

failure, as to sneer at the military talents, and ridicule the despatches of the British commander-in-chief.'

Think of "disaffected newspapers," and "the military talents of the British commander-in-chief"! It seems as if a page of a ministerial daily paper, had slipped into our hands.

From the sixth to the ninth volume, there is nearly a blank with regard to the great branch of politics, the securities for good government. In the ninth volume, there is an article which goes over a great part of the field of government, and which, beside the usual characteristic of being on both sides of the question, is one of the most remarkable specimens of the use of words without ideas, and of forms of expression covering ignorance with the semblance of knowledge, that we could at present point out, fashionable, and popular, and of course prevalent, as this mode of composition is. We present the following passage in proof of our remark:—

'It has sometimes struck us, that the bias which is found in some theoretical writers upon legislation in favour of established systems, and in others towards changes, may partly be accounted for by the character of the country and government for which their labours were designed. In the ancient republics, the sovereignty was generally exercised by the whole body of the people, liable to the natural turbulence and instability of all democracies, and, in those of Greece, to a certain constitutional levity in the national character. The beautiful fabrics of civil polity might be swept away by the surge of a moment, whenever the factious, who loved sedition, or the ambitious, who aimed at tyranny, should rouse the madness of the multitude. Against these perils of innovation it was difficult to devise a barrier compatible with the supremacy of the public will. The legislators of antiquity were not, however, deficient in their endeavours to secure the stability of their institutions. The proposer of a new law among the Locrians, we are told by Demosthenes, *wore a rope about his neck*; if it failed of adoption, his life was an instant sacrifice to the sanctity of the established constitution. Less violent, yet powerful, checks were imposed by the laws of Athens and Rome. The people, jealous as they were in the extreme of their legislative rights, submitted to a previous negative in the Nomothetæ of the one, and in the senate of the other. At Rome, indeed, this corrective of innovation was, in a great degree, done away by the plebiscita, which passed by a vote of the tribes, without the authority of the senate, and acquired, at a pretty early period, the complete force of what were more strictly called laws. But there was yet another tie by which the prudence of ancient legislators bound together the systems they had framed. This was superstition. They called in a force to which the physical power of the multitude must yield, and appealed to an authority by

which its acknowledged sovereignty might be lawfully controlled. For them the voice of the gods was raised in oracles; for them the mysterious symbols of fate were displayed in auguries: to them the divinities of woods and fountains taught more than fallible wisdom could have discovered. The worship, the ceremonies, and processions of antiquity, were mingled with the laws of civil regimen, and cast over them a veil of reverence and regard that made innovation sacrilege. None but the patrician families could tend the sacred chickens of the augural college. The privilege may not seem invaluable. But if it was declared that these chickens refused to eat, an assembly of the people was that instant dissolved, their clamours silenced, their leaders appalled, and not a wreck left behind of the clouds that hung over the public tranquillity. And this distinction was the last to fall before the gradual progress of the plebeian claims.

In absolute monarchies, on the contrary, the genius of the constitution, and commonly the prejudices of the people, resist with a sort of inert force every species of innovation. Theoretical writers are therefore led to throw their weight into the opposite scale, and to counteract that 'froward retention of custom' which baffles all their schemes of public improvement. The abuses likewise of such governments are commonly much more flagrant, and the grievances more substantial, than in those of a republican form; and while these naturally rouse the indignation of enlightened and patriotic men, the dangers of that turbulent fermentation, which is apt to attend political change, seem generally far less, where the prince, and not the people, administers the remedy. During part of the last century kings aspired to be philosophers, or listened at least to those who bore the name; some looked for power, and some for reputation, in the destruction of ancient usages. The fancy of the theorist was inflamed; his projects became more extensive and less gradual, when he had but to persuade a single man of their possibility and excellence. It may be noted, that although innovations are rare in absolute monarchies, yet when they do take place, they are likely to be almost as sweeping and as sudden as in democracies themselves. For these forms of government, as Mr. Burke has well remarked from Aristotle, have striking points of resemblance in their arbitrary nature and their disregard of private rights. The promulgation of a legislative code by a single edict, changing at once, upon however specious principles, the ancient customs of a nation, associated with all their notions of right, especially as to property;—prejudices which it is so dangerous to disturb; interwoven with the plans of so many individuals for their domestic happiness; familiar, by long habit, to the popular understanding, and accommodated, in all those petty occasions which cannot be foreseen, to the exigencies of social life;—is a piece of infatuation and tyranny which none, one would think, but a

prince in the barren ignorance of the purple, or a 'bookish theorique' in the presumptuousness of speculation, could approve. Yet Filangieri admires the celebrated project of Catharine, her philosophical code of Russian laws, and the absurd mockery of delegation from the dispersed and ignorant boors of her vast empire. 'She left to her kingdom the choice of its delegates, and consequently of its legislators. Under such circumstances, not a single peasant could doubt of the value of the new code, or could hesitate a moment on the preference between it and the ancient system.' The total neglect into which we understand this code to have fallen, is an answer to such an absurdity. We are far from charging Filangieri with that infatuated abhorrence of existing institutions which distinguished the early times of the French revolution. In certain passages he appears aware that reformations cannot be hastily taken up or suddenly executed. But the general bias of his schemes is, to make all provision against the sluggish spirit which adheres to every thing that is old, and very little against the turbulent spirit which grasps at every thing that is new. His institutions are laid out for a free government; but he lived under arbitrary power, and naturally thought most of the evils which he saw around him. From this error, and from one very common with speculative men, that of attributing more wisdom, and virtue, and influence, to the imaginary magistrate, than a real individual will ever possess, we find positions advanced, from which we shrink as wild and dangerous, and projects brought forward which appear visionary and absurd. Let the following be a specimen.

"The first step to be taken is to create in the public a wish for the proposed reformation. A change in the constitution of a country is not the work of a moment; and to prepare the way for it, the inclinations of the people should be gradually led towards it. They should be made fully sensible of the inefficacy of their established laws, and be convinced their hardships and oppressions are owing to them. The ablest writers should be employed to state the errors and inconveniences of the old system, and the propriety as well as the necessity of abolishing it, and adopting a more advantageous one. When these efforts are successful, and the public wish is united with the force of government, one of the greatest obstacles is surmounted, and there is no reason for any further apprehensions from a passionate and ungovernable attachment of the multitude to their ancient usages. \* \* \* \* \* When this first step is taken, another naturally follows. Having prejudiced the public opinion against its ancient laws, it should be inspired with a confidence in the proposed ones; and the arguments intended to produce this necessary predilection, ought to be plain and striking, and, in some degree, flowing from the public sentiments," &c.

(Vol. I. 57.)

We invite our readers to try, as a useful exercise, what ideas they can extract from this passage: or what explicit principle of approbation or disapprobation for any species of institution. The seesaw here is so rapid, that, as in the swift succession of the prismatic colours, the mixture becomes confusion. The ancient republics are "beautiful fabrics of civil polity," but nevertheless such wretched fabrics, that "they might be swept away by the surge of a moment, whenever the factious who loved sedition, or the ambitious who aimed at tyranny, should rouse the madness of the multitude." There is a class of writers who love change, and a class who hate it, seemingly for its own sake. We are sorry the writer did not inform us where they are to be found. From habit, and from the love of ease, all men are averse to change, where the prospect of some considerable good is not presented to them. Under a long-continued system of misrule, those who profit by it are averse to change from self-interest, those who suffer by it from bad education. Men of no description are anxious for a change, but from the hope of advantage. Is the prospect of advantage not a legitimate principle of action? Why does the Edinburgh Review endeavour by vague imputations to throw discredit upon that which is the source of every benefit to man? Every improvement is change. Why, instead of language which deserves no better name than that of aristocratical slang, did it not give us some principle by which to distinguish the advantages which are yet to be pursued, and which ought to engage all our ardour, from those which are more imaginary than real, and which may not be worth what must be risked in the pursuit of them?

We quote the following passage for the sake of contrasting it with an opinion, the support of which is exceedingly laboured in the next volume.

'The predominant character of the British system of government, though it is essentially republican, is certainly rather adverse than favourable to innovation. It partakes, indeed, rather of the nature of an aristocracy, on a very large and liberal basis, than of any other polity; and the genius of an aristocratic commonwealth is of all others the most hostile to any change. Though the direct share of the monarch in legislation has become nominal, that of the House of Peers is very real and effective; and, on looking narrowly into the spirit which has generally actuated that assembly, we shall perceive, that new projects in legislation have encountered a very marked discouragement within its walls.'

Hear now what is said, at p. 413. of vol. x.—

‘The balance of the constitution now exists, in a great degree, in the House of Commons; and that assembly possesses nearly the whole legislative authority.’

The following is the same idea more expanded—

‘The advantages of this arrangement are, as we have already intimated,—that the collision and shock of the three rival principles, is either prevented or prodigiously softened by this early mixture of their elements,—that by converting those sudden and successive checks into one regulating and graduated pressure, their operation becomes infinitely more smooth and manageable, and no longer proceeds by jerks and bounds that might endanger the safety of the machine,—while its movements, instead of being fractured and impeded by the irregular impulses of opposite forces, slide quietly to the mark, in the diagonal produced by their original combination.’

We have stated already, that the prospect of these advantages probably operated, in part, to produce the arrangement which ensured them; but it was dictated, no doubt, by more urgent considerations, and indeed, as we think, by a necessity which could not be resisted. The great object to be accomplished, was not so much to save the House of Commons from the mortification of having their bills stopped by the Lords, or rejected by the Sovereign, as to protect these two estates from the hazard to which they might be exposed from the direct exercise of this privilege. By the vast and rapid increase of wealth and intelligence in the country at large, the consideration and relative authority of that branch of the government which stands most in connexion with it, was suddenly and prodigiously enlarged. The very circumstance of its being open to talent and ambition, ensured a greater proportion of ability and exertion in its members; and their numbers and the popularity of their name and character, all contributed to give their determinations a degree of weight and authority, against which it would no longer have been safe for any other power to have risked an opposition. No ministry, for a hundred years back, has had courage to interpose the royal negative to any measure which has passed through the Houses of Parliament, even by narrow majorities; and there is no thinking man, who can contemplate, without dismay, the probable consequences of such a resistance, where the House of Commons had been zealous and nearly unanimous. It is needless to say, that the House of Lords would oppose a still feebler barrier to such a measure of popular legislation. In order to exercise their constitutional functions with safety, therefore, it became necessary for the king and the great families to exercise them in the lower house,—not *against* the united commons of England, but *among* them; and not in their own



character, and directly,—but covertly, and mingled with those whom it was substantially their interest and their duty to control.

It is thus, as it appears to us, that the balance which was in danger of being lost through the increasing power and influence of the lower house, has been saved by being transferred into that assembly; and that all that was essentially valuable in the constitution, has been secured by a silent but very important change in its mode of operation. This change we take to be, that the influence of the crown, and of the old aristocracy, is now exerted in that house by means of members sent there to support that influence; and that, in that house, as the great depository of the political power of the nation, and the virtual representative of the whole three estates, the chief virtue and force of the government is now habitually resident.

This last conclusion, we are persuaded, will not appear either rash or hazardous to those who consider the exclusive power which is now almost formally yielded to the House of Commons, with regard to the supplies; and the admitted impossibility of going on in the administration of the government, without the support of a decided and permanent majority of its members.'

To the last sentence is appended the following note:—

'See Hume's Essay on the Independency of Parliament; the very basis of which is, that the House of Commons absolutely commands all the other parts of the government, and may, when it pleases, swallow up the rest, and engross the whole power of the constitution.'

To this theory of the constitution, and the consequences which these reviewers deduce from it, namely, that the usurpation which has been effected upon the people's rights to place and displace, and exercise an efficient control over, the members of the house of commons, is salutary and desirable, we shall take a future opportunity of replying. On this, above all subjects, delusion is fatal; proportional pains will therefore be requisite both to discover true principles, and to make them clearly seen by the public. The little which we can afford to add to the present article, must be employed in exhibiting a few specimens more of that leading feature in the character of the Review which has occupied our attention in several of the more immediately preceding pages.

We shall pass on to a period when the Review thought expedient a much higher language on the side of the people, than it had ventured on before. The whole of the article entitled "On the Rights and Duties of the People," in the twentieth volume, though much of

the language is still vague and slippery, may be given as a specimen of the new lengths which it was not scrupled, at this particular time, to go in opposition to aristocratical interests.

According to the following passage, though it had, in the previous paragraph, been allowed, that the principle of representation is the grand secret for good government, yet it is maintained, that for the people to let the powers of government out of their own hands, even to real representatives, is attended with imminent danger.

‘With all these blessings, however, and they are as undeniable as they are important, the plan of delegated authority is liable to several objections—not, indeed, such as greatly to detract from its merits—but such as are well adapted to keep our jealousy awake to its abuses. It may be enough to mention one, into which indeed almost all the others resolve themselves. The delegation of the greatest of all trusts, that of government, necessarily implies a surrender of the function itself, and with the function much of the power—and leaves the people, in some degree, at the mercy of those whom they choose for their trustees, during the whole term of the appointment. Hence the danger of those trustees abusing their delegated authority in such a manner as to weaken the control of the people over them—and, by rendering themselves more powerful and less accountable, to make the resumption of the trust more difficult. It is quite manifest, therefore, that there is nothing of which the Constitution, in a state like England, ought to be more jealous, than any step towards independence on the part of the representatives—any attempt of theirs to acquire a substantive and separate authority—either an existence not created, or attributes not bestowed by the people. From so self-evident a maxim we may deduce all the arguments in favour of parliamentary reform—all the observations which place in the strongest light the abuses in our representative system—the principles which render the septennial act by far the greatest mockery of popular rights, and breach of common good faith that ever was committed by the governors to the governed—the grounds upon which the exclusion of so many of the community from all share in the government, and the usurpation of the elective franchise by the few, are demonstrably shown to be a mere subversion of the very purpose and meaning of representation.’

The main object of the article is to maintain the utility of meetings of the people in large bodies, to declare their opinions on public measures and men. The following is a curious passage:—

‘It is quite true that the adoption or rejection of specific measures ought in no case to be left with the bulk of the people. But it is equally true, that the people have a right to deliberate on specific

measures—to discuss them individually and in bodies—to express the result of those deliberations, and to tender to the Legislature and the Executive Government their opinion, their advice, nay, the free expression of their wishes upon all matters of public import. This is the sacred inalienable right of the English people—it is theirs as they are freemen—it is theirs as they are both the fountain and the object of all government—it is a right, the invasion of which we conscientiously hold to form an extreme case—a case, perhaps, more easy than safe to discuss; and one which all lovers of their country, and friends to the peace and good order of society, must fervently pray against ever living to see practically moved. This right, however, was actually violated by Mr. Pitt—by the very man who did not scruple to invade the first principles of the representative system on the opposite quarter, by taking the sense of the country on a particular measure. He was the first minister who ever dared abridge the rights of Englishmen to discuss their own affairs.’

The people of England, according to this paragraph, ought to have taken arms against the government, and to have appealed to Heaven, when their rights were invaded as they were by Mr. Pitt.

After various observations to shew the importance of meetings held by the people to overawe their representatives, however purely elected, comes the following picture of the actual state.

‘We have all along been reasoning upon the supposition that the parliament is really, and not in name only, a representation of the people—that its members are chosen by the nation at large—that its deliberations are the result of discussions among delegates appointed by those whose business they are to manage—that the choice of them is free, and the trust so often renewed, as to give the elector, by the mere act of election or rejection, some control over the deputy—that the representative body consists of persons sent, on the part of the nation, to resist the encroachments of the crown and the aristocracy, and not in any considerable number, of persons chosen by the crown and Aristocracy to play into their hands, and betray the people under the disguise of their trustees. But how greatly is the force of the argument increased by the actual state of the representation? Who shall say that a parliament, chosen as ours really is, requires no looking after? Who shall tell us that the crown requires no watching from the people themselves, when their regular watchmen are some of them named, and more of them paid, by the crown itself? Who shall be permitted to question the necessity of the people deliberating about their own affairs in their own persons, when such vast masses of them are wholly deprived of the elective franchise, and destitute of any

semblance of representatives to speak their wishes, or to transact their business?

The history of last session, fruitful as it is in lessons of political wisdom, offers none more striking than the one which it reads to us upon this important subject. The most weighty interests discussed in parliament were those of the manufacturing districts. The bread of hundreds of thousands was in question; and the two houses were occupied for many weeks in discussing their grievances. Those persons composed the population of Birmingham, Leeds, Manchester, Sheffield, Wakefield, Halifax, Boulton, Bury, Glasgow, and other places. Not one of those towns, some of them containing 100,000 inhabitants, has a single representative in parliament, except Glasgow;—and Glasgow is *represented* (if the abuse of language may be tolerated) by its corporation uniting with three other corporations, and the whole four sets of magistrates choosing one member; but so that the other three at all times (and two of them every other parliament) may return the member, and leave Glasgow wholly out of the question. Now, in what manner could those great and most important bodies of men have made themselves heard but through the public meetings, which they wisely and constitutionally held to discuss their grievances? In no other way could they have each obtained a hearing, or established a correspondence with a temporary representative:—But surely in no other way could they have gained the point, which they did so nobly carry with the legislature and the executive government. In specifying these towns, we have enumerated the greater part, by far, of the manufacturing interests of England;—and they are all without local representatives in parliament. Is it asking too much, to demand that they may use freely the only means left them of sharing in the public councils—of influencing the measures for which they pay so dearly in all ways—and assemble from time to time in order to communicate with each other, and with the government, upon the matters so imminently affecting them? In truth, while so many vast branches of the community are wholly deprived of all share in the representation—while so many members of parliament owe their existence to private nomination—while the electors, who exercise their franchise the most amply, have only an opportunity once in six or seven years of changing their delegate—and while the enormous patronage vested in the crown, strews with tempting baits the whole floor of the House, and besets every avenue to it with promises and threats—he must be a stubborn lover of despotism indeed, who can deny that the people betray their own cause, and have themselves to blame for the mismanagement of their affairs, if they cease to discuss and speak out their own minds upon all fit occasions. Such a parliament *must be aided* by the watchful eyes of the country. If the people slumber themselves, let them not vainly hope that their

*representatives* will be very vigilant, or very successful in the public cause, whatever they may be in their own.'

On the other hand, here is a passage in the very same number (xl.), which, though it is somewhat misty and oracular, nevertheless contains a view of the *beau idéal* in government, well calculated to administer consolation to the holders of aristocratical power.

'The great point, then, is to ensure a free, an authoritative, and an uninterrupted communication between the ostensible administrators of the national power, and its actual constituents and depositories; and the chief distinction between a good and a bad government consists in the degree in which it affords the means of such a communication. The main end of government to be sure is, that wise laws should be enacted and enforced; but such is the condition of human infirmity, that the hazards of sanguinary contentions about the exercise of power is a much greater and more imminent evil, than a considerable obstruction in the making or execution of the laws; and the best government therefore is, not that which promises to make the best laws, and to enforce them most vigorously, but that which guards best against the tremendous conflicts to which all administrations of government, and all exercise of political power is apt to give rise. It happens, fortunately indeed, that the same arrangements which most effectually ensure the peace of society against those disorders, are also, on the whole, the best calculated for the purposes of wise and efficient legislation. But we do not hesitate to look upon their negative or preventive virtues as of a far higher cast than their positive and active ones; and to consider a representative legislature to be incomparably of more value when it truly represents the efficient force of the nation in controlling and directing the executive, than when it merely enacts wholesome statutes in its legislative capacity.

The result of the whole then is, that in a civilized and enlightened country, the actual power of the State resides in the great body of the people, and especially among the more wealthy and intelligent in all the different ranks of which it consists; and consequently, that the administration of the government can never be either safe or happy, unless it be conformable to the wishes and sentiments of that great body; while there is little chance of its answering either of these conditions, unless the forms of the constitution provide some means for the regular, constant, and authentic expression of their sentiments,—to which, when so expressed, it is the undoubted duty and obvious interest of the executive to conform. A Parliament, therefore, which really and truly represents the sense and opinions—we mean the general and mature sense, not the occasional prejudices and fleeting passions—of the efficient body of

the people, and which watches over and effectually controls every important act of the executive magistrate, is necessary, in a country like this, for the tranquillity of the government, and the ultimate safety of the monarchy itself,—much more even than for the enactment of the laws; and, in proportion as it varies from this description, or relaxes in this control, will the peace of the country and the security of the government be endangered.’

This description corresponds to what one might call a good Whig parliament; which, though it would turn out the ministry, and put in their opponents, would be much more careful to prevent any radical change, than it would be to make good laws.

The contradictions involved in this description deserve particular attention. “The main end of government, to be sure, is, that wise laws should be enacted and enforced.” The best government, however, is a government which has an end more highly valued than its main end.

Was obscurity studied, or were the ideas of the writer far from clear, when he said, “We do not hesitate to consider a representative legislature to be incomparably of more value when it truly represents the efficient force of the nation in controlling and directing the executive, than when it merely enacts wholesome statutes in its legislative capacity?”—The illustration of this topic will be completed by specimens from the succeeding numbers of the Review, in our next publication, when other characteristics of the work will come under review.

[\[Back to Table of Contents\]](#)

## 2.

### ***The Quarterly Review, No. Lviii.—Faux’s Memorable Days In America.***

OUR brief notice of the recent travels through the Anglo-American United States had just been printed off, when the Quarterly Review for December made its appearance; and as it contains a long article on “Faux’s Memorable Days,” a fitter opportunity could scarcely have presented itself for estimating the candour, knowledge, and integrity of that Review,—and for developing the process by which it fabricates a representation calculated to flatter the passions and prejudices of those who entertain an instinctive hatred of responsible and economical government.

The writer seems absolutely delirious with joy at finding in Mr. Faux’s journal, what any intelligent and reflecting person might easily have anticipated, and what we have distinctly admitted in our introductory remarks on emigration; viz. that every one who emigrates to or resides in a newly settled and thinly peopled country must, though assured of an adequate subsistence, submit to great physical inconvenience and privation,—that his security for person or property will not be of so high an order as in some older established communities, the slender means of the new society not admitting of an efficient judicature and police, and the absence of neighbourhood rendering character of comparatively little importance,—and that without assiduous industry he can never attain a situation of tolerable comfort.

In order that persons disposed to emigrate might know precisely what amount of inconvenience and peril they would have to encounter, we have extracted from Mr. Faux the most aggravated and best authenticated instances of both kinds of annoyance, rendering them occasionally more prominent by italic type; and, allowing for all these detractions from the advantage of ceasing to feel anxiety on the score of subsistence, or the actual pangs of hunger, we have indicated the class of persons who alone can better their situation by emigration to such a country.

After the general admissions contained in our outset, it would have been superfluous to have loaded our pages with multiplied instances in detail; but had we been disposed to do this, so many of those mentioned by Faux rest upon mere hearsay or the assertions of loose talkers, that the number of authentic facts would not have been considerably increased.

Now how has the writer in the Quarterly Review constructed his article? Thirty-two pages,—the whole of this lengthy performance,—has he nearly filled with extracts from Faux, containing the details of individual instances of ferocity, violence, knavery, boasting and vulgarity, disappointment, failure, despondency, bad soils, bad climates, bad food, discomfort, dirt, and barbarism,—all on the debtor side of the account, without hinting at the existence of a single item on the creditor side. In Mr. Faux’s journal the good and evil are pretty equally blended; descriptions of kindly soils, of successful and satisfied industry, of generosity, liberal feeling, and integrity, and of the good effects of an economical form of government, are neither unfrequent nor ill attested; indications are given of the cause of failure in many cases of disappointment: but of all this, not one word from the writer in this Review,—it would not have suited his purpose; which, from his sneers at the “Land of Freedom,” and irrepressible expressions of hatred towards republican government, we may fairly assume to be, an endeavour to persuade the reader that the evils, physical and moral, inseparable from every infant state of society, are altogether the result of American institutions, or rather of the absence of a certain institution; for in the want of an established church, the Quarterly reviewer discovers the cause of every offence committed in the United States. (p. 369.) Without religion, says he, there can be no morals; without an established church there can be no religion!—at least, none that will suit this gentleman. The only religious people are those who take upon trust all that their parish priest delivers,—who, without bestowing a single thought on religion or the evidence adduced in support of it, say their prayers, go to church, nod through half the service, and pay tithes without a murmur. Those who investigate a little,—who differ from what said parish priest chooses to lay down,—who doubt the Athanasian creed, or any of the thirty-nine articles,—who are depressed with the fear of eternal flames, or elevated with the hope of eternal pleasure,—these are all, according to the charitable and expanded views of the Quarterly Review, infidels or fanatics! (p. 369.) Whatever may be the effects of religion in general as a sanction for morals, this writer himself affords a striking instance, that “that pure and reformed branch of it,” the established church, is not competent to compel the observance of truth among its acquiescent votaries. *He* is no doubt an eminently pious and churchgoing man, and he is sufficiently instructed to be aware that there are many modes of making a mendacious statement besides the simple process of mendacious invention. *Suppressio veri est expressio falsi*. There is the *false by omission*, as well as the false by substitution; and of all modes of falsehood, the *false by omission* is the most deceptive, because it contains to a certain extent the elements of truth.



Now a more base and mischievous falsehood than that conveyed by the totality of the article now under consideration, it is impossible to conceive; base, because in the face of repeatedly conflicting statements contained in the very book referred to, the reader of the article is induced to believe that the book contains none but unfavourable representations, and he is told (p. 368.), that the reviewer has given “but the smallest portion of the unfavourable account of the American population;”—mischievous, because by every species of insolence and contempt, endeavours are made to exasperate against each other two nations who have the strongest interest in preserving the relations of friendship.

So much for the candour and integrity of our Tory scribe! Now for his knowledge, and the value of the materials with which he has filled his thirty-two pages.

Who—unless it be one whose intellect has been blinded by existing abuses—is ignorant of the leading principles which assign the various degrees of trustworthiness to the various species of evidence; of the difference between primary and secondary evidence, between direct testimony and *hearsay*? What child does not know that in passing from mouth to mouth every story either gains or loses so much, that after a certain number of transmissions it is often difficult to recognize the original narrative? Now at least one half of the facts selected with such care by the Quarterly Review from Faux’s journal, rest, not upon Faux’s own observation and direct testimony, but upon no better evidence than mere hearsay, and that of the weakest and most unsatisfactory kind,—the babble of loose talkers, tavern companions, and disappointed projectors. Great reliance is placed by the Review on general assertions hazarded at random, collected from few or inconclusive particulars, and mixed up with the foolish opinions of foolish individuals; and yet, after having been at the pains to devote four pages to the rendering contemptible and ridiculous an individual whose opinions Faux details at the greatest length, the writer concludes his article by ascribing to the opinions of others, so repeated by Faux, greater credit than to the statements and opinions of Faux himself, whose integrity and understanding are highly vaunted at the beginning of the critique.

The Quarterly reviewer extracts the story of “a poor fellow who was found lying in the street” (at Charlston) “in a hot broiling sun 110° by the thermometer, with both legs broken and dreadfully bruised, having been robbed of all he had: he had lain there all night, equally unnoticed by the nightly watch and the open-day humanity of the citizens; and had not an old Prussian colonel offered a dollar to have him removed as a nuisance, he would have been suffered to roast and be devoured by the flies.”

*We* omitted to select this story for extraction, not only because we deemed it somewhat improbable, but because Faux does not say that he saw the sight himself, and the narrative is accompanied with one or two minute circumstances which cast an air of doubtfulness over the whole;—for instance, the person who ordered the sufferer to be removed, is said to have called out to two slaves, “Here! July and August!” do so and so. Considering the heat of the day, it struck us as somewhat singular, that the slaves should be so appositely named July and August, in such happy succession. The same circumstance probably struck the candid reviewer as a ground for distrust, for he cautiously omits it in his extract.

The following story is also extracted in the same spirit:—

‘I saw an execution lately defeated by that boasted spirit which they call liberty or independence. The property under execution was put up to sale, when the eldest son appeared with a huge herculean club, and said, “Gentlemen, you may bid for and buy these things, which were my father’s, but by G—no man living shall come on to this ground with horse and cart to fetch them away. The land is mine, and if the buyer takes any thing away, it shall be on his back.’ ”

*We* omitted to select this story as one of the examples to show the degree of insecurity the emigrant might have to encounter, not because we deemed it improbable,—for in our introductory remarks we had admitted and accounted for the weakness of the judicial arm in remote and thinly inhabited districts,—but because the story does not rest on the authority of Faux, but was related to him by one Squire Liddiard; of whom we know nothing, except that by his own account he was precisely the sort of person who ought not to have emigrated to the Western States,—a London merchant, with a counting-house near the Exchange and a citizen’s box at Blackheath.

Such are the stories, and so evidenced, on which the reviewer grounds his implied proposition, that the American people are so debased, and their institutions so pernicious, as to render existence among them absolutely intolerable, and our “excellent constitution in church and state” the only thing which can secure the happiness of man. These stories bear the date of 1819.

Three *years* have not elapsed since an aged pauper, in the middle of this metropolis of London, was thrust from parish to parish, from officer to officer, each contesting the liability to administer relief, till the last on whose hands he was thrown left him famishing with cold and hunger in the open streets. The wretched sufferer, unable to crawl further, laid himself down at night in a public thoroughfare

near Drury Lane, where thousands passed by him regardless of his dying groans. The next morning he was found a stiffened corpse, and a coroner's jury brought in a verdict of "Died by Starvation!"

Three *months* have not elapsed since two individuals, one of them with the rank and education of a gentleman, tempted by the prospect of gaining a few pounds, made beforehand every preparation for the murder and interment of one of their familiar companions; enticed him into the vehicle which contained the sack for the concealment of his corpse; dispatched him within a few miles of this same metropolis, by beating his skull to pieces; and having deposited him in a pond close by the house at which the deceased and themselves were to have met for a convivial entertainment, sat down to supper as if nothing extraordinary had happened!

Three *weeks* have barely elapsed since a drama founded on this horrible assassination, was performed at a public theatre in this same metropolis; in which drama was produced on the stage, before a crowded and applauding audience, the identical vehicle and horse which had conveyed the miserable victim on his journey to eternity!

Three *days* have barely elapsed (Jan. 3. 1824) since, in the same county which was the scene of the preceding outrage, a special constable, James Grainge, has actually been murdered in an attempt to enforce legal process; the party who resisted being a man of education, and assisted by a beautiful woman of twenty-six!\*

The story of the dying pauper is at least as afflicting to humanity, and a little better authenticated than the jocose appeal to July and August at Charlston;—and the story of James Grainge carries into effect what Squire Liddiard's story only threatens.

Now suppose A. B., an American traveller through England, had stated, among other things, the four preceding facts; suppose he had also stated the recent murders of Mr. Mumford, of Mrs. Donatty, of Mr. Smith at Greenwich, of the Marrs, of the Bonars, and as many others as he could pick up in coffee-houses and stage-coaches; suppose he were to state the number of juvenile offenders every year committed to prison within the precincts of London, the number of houses annually set on fire about the time of the half-yearly payments of rent, the number of paupers and amount of poor-rates, the number of bankrupts, the number of insolvents, and the amount of assets available to their creditors; suppose he had also stated such appearances as he might have observed of occasional prosperity, comfort, and cleanliness,—appearances of

fertile soil, unbounded capital, and transcendent industry and skill;—

What would the Quarterly reviewer have said if a North American democratic reviewer, reviewing A. B.'s travels, should make a detailed extract of all the disparaging circumstances, omit all the favourable ones, and then exclaim, or leave the reader to imply, "These are the blessed effects of monarchical and aristocratic institutions! This is the land where King, Lords, and Commons are so happily balanced, that each plays into the hand of the other! This is the land of legitimate sway, 'attempered liberty,' and borough influence! This is the land of the established church! Federalists and sentimentalists, before you cross the ocean to gaze at empty pomp and factitious dignity, before you surrender your understandings to admire the antiquities of your half-civilized ancestors, listen to A. B. Mark well the facts we have laid before you, and then choose your dwelling, if you dare, among a people so heartless as to leave a fellow-creature to perish in a crowded street,—so cruel, as to view with approbation, at a play-house, objects which would most forcibly bring to their imagination all the details of an aggravated murder;—settle, if you dare, in a land where neither person nor property are secure,—where assassinations are the topic of the day, and the arm of the law is resisted by weapons of death!"

Would the Quarterly reviewer admit, that such a representation as this contained one spark of candour, integrity, or *truth*? Would he admit, that a reviewer who should so exclude every favourable representation in regard to England,—who should ascribe to institutions, incidents inseparable from the condition of man in the present state of society,—would he admit, that such a reviewer possessed one spark of feeling, honour, or principle? And yet this is precisely the process which, with a fiendlike exultation, this writer has pursued with regard to America.

But before we have done we shall bring home to him, yet more clearly, blind malignity against a people whose only offence, beyond the failings to which it is subject in common with his own countrymen, is the offence of having an economical and responsible government.

It is notorious, that a great proportion of those who leave this country, either for Chili or the United States, are of the lowest and most ignorant class; it is equally notorious, that they commonly labour under the delusion of expecting that, when they arrive in the promised land, they shall be exempt from the common lot of humanity, the necessity of labouring for subsistence; and that they

frequently waste in idleness and drinking the hours and money with which they might shortly better their condition.

No man knows this better than the writer in the Review himself: he admits it expressly in page 366.; and yet he has extracted from Faux every expression of discontent from every disappointed emigrant, without in the least adverting to the cause of each individual's disappointment, though, in a variety of instances, Faux has clearly traced it to the imprudence or incapacity of the sufferer.

In a laboured article "On the Condition of the Negroes in our Colonies" (p. 476. in this same number), the Quarterly attacks Mr. Wilberforce for rejecting all apology for the treatment of slaves in the West Indies; and contends that they are, in many respects, better off than the labouring classes in England. (No. LVIII. pp. 479. 485.) But no sooner does he come to the United States,—where, as we have demonstrated (ante, p. 113.), the treatment of slaves is infinitely less severe than in the West Indies,—than our reviewer altogether alters his tone: "Though many of the planters treat their slaves well, and allow them as much indulgence as is consistent with their situation, yet negroes being, in the eye of the *American* law, a degraded class, and denied the enjoyment of equal rights, their wellbeing is entirely dependent on the personal character of their owner; and however humane their treatment may be, *we cannot agree with farmer Faux in his conclusion*, that their condition in any, much less in many, respects is better than that of paupers in his native land."

If they are a degraded class in the eye of the *American* law, are they not equally so, and that within the writer's knowledge, in the Anglo-West Indian law? If their condition in the West Indies is better than that of an English pauper, what should make it otherwise in America, where, according to his own admission, "many of the planters treat their slaves well, and *allow them as much indulgence as is consistent with their situation?*"

Our reviewer's hatred, however, is not confined to America or Americans; his own countrymen become the objects of attack for no other offence than that of preferring a residence on the other side of the Atlantic: and how is this attack conducted? Not content with filling four whole pages in the endeavour to render ridiculous and contemptible Mr. Thomas Law\*, a man who, through a long and eventful life, has sustained the most irreproachable character, this writer, with all the charity and good faith so peculiar to a moralist of the Quarterly Review, proceeds to sneer away his reputation for integrity and principle by mendacious and unfounded insinuations,—as, that he quitted England for America because he was mortified at not being a peer. Again, "This gentleman," says

this writer, “accumulated (it is not said by what means) an immense fortune in India.” True, it is not said by what means, for the history of his Indian life would have been grossly irrelevant in a book of travels through America; but we can take upon ourselves to say by what means he did *not* accumulate his fortune: he did not pander to the passions and prejudices of an insolent and craving aristocracy, by detailing as many as he could find recorded of those crimes and disorders which could not but have place to a certain extent in a community of ten millions, and then, with an utter disregard of truth and principle, exhibit this catalogue to the world as a representation on which men should form their opinions as to the character and condition, and the effect of the political institutions of that same community.

But we have not quite done with this reviewer. As if it were possible for any civilized society, however well organized, to exist without contribution for common purposes, as if it were not notorious to the whole world, if not to the Quarterly Review, that the several states in America receive for local purposes a revenue analagous to our county and poor’s rate, and that this revenue is raised by taxes imposed in the legislature of each state,—the general government expenses of the whole United States being defrayed chiefly by the customs,—this writer, on extracting from Faux, that land in the Illinois belonging to Orator Hunt’s brother was uncultivated, and selling for the *payment of taxes*, appears absolutely dancing in a transport of joy. “Avast reading, there!” he cries. (p. 365.) “Overhaul that article again! as Old Trunnion says. *Taxes*, did you say? *Taxes*, in this last retreat of suffering humanity, and the land selling to pay them!”

Yes, *Taxes!* With any man in his senses, the question is, not, whether there are *taxes*, but what is their *amount*. And this is a piece of information which, with regard to America, the Quarterly Review never will *dare* to give: still less will it dare to contrast it with the taxation endured by Great Britain. Probably the reviewer would have suppressed his mirth and transport had he anticipated that the false insinuation it was meant to convey, would have induced us to lay at once before the eyes of mankind this fearful contrast, which we should otherwise have deferred for a season. Let him read what follows, and then call in, not Hawser Trunnion, but the Attorney-general to his assistance; for if, as Lord Ellenborough expressly laid it down, any thing is a libel which may *hurt the feelings* of any individual (meaning, of course, a dignified individual), nothing, we conceive, can be more libellous in the eyes of one of the ruling few than the columns of figures we shall forthwith *deploy*.

As we have before had occasion to state, the expenses of the *general* government of the United States;—of the army, navy, public offices, public officers; of congress; of the interest and liquidation of the public debt, and of all extensive undertakings affecting the States at large,—are defrayed, in time of peace, by a revenue derived almost exclusively from the customs and the sale of lands in the new territories of the Union.

So far, and for such extensive purposes, we have nothing beyond indirect taxation, and that to how small an amount we shall presently show.

Besides this, there is raised by direct taxation in each individual state a local revenue, called the state tax, analagous to our county and poor's rate; which revenue is applied to the following, among other purposes, which comprehend, in addition to those before stated, almost all the possible expenses of local and general government.—Judicature, including the salaries of judges, expenses of courts, rewards to prosecutors, and expenses of trial: gaols: elections: public printing and stationery: schools: roads\* , bridges, and fishery-encouragement: expenses of the state parliament.—The revenue for these purposes is raised in some instances by a tax on land (exceeding in no case four-pence an acre, and in many districts not exceeding one penny); in others by a capitation tax on all males above sixteen; in others by assessments on carriages, or other articles not of primary necessity; and in the older states, by the sale of lands, and by the interest arising on monies belonging to the state. (See Statistical, Political, and Historical Account of the United States, by D. B. Warden, late Consul to Paris.)

Now our county and poor's rates, in addition to the maintenance of the poor, cover scarcely any expenses but those of gaols, bridges, and that part of the expense of judicature which is occasioned by the building and furnishing of courts, rewards to prosecutors, and some of the expenses of trial.

In addition to our county and poor's rates, we are also saddled with tithes;—paying about the fourth of the value of all the landed property of the country for the support of an established church; a blessing with which brother Jonathan has learned to dispense.\*

But, to the point.—Direct taxes for the expenses of the general government in America we have seen there are *none*; tithes there are *none*; and the figures below will prove that the state or local taxes covering so many more objects than our county and poor's rates, do not equal those rates by nearly three quarters their amount.

The states and counties have been taken at random, the one from Warden's book, the other from returns made to Parliament, and are offered merely as a sample.

United States.	Population in 1810.	Revenue.	English Counties.	Population in 1811.	Population in 1821.	Annual Poor R 1813
		<b>Dollars.</b>				
Massachusetts	472,040	306,333				
South Carolina	415,115	313,026	Devon	396,100	447,900	283,
Maine	228,705	209,257	Cornwall	223,900	262,600	120,
New York	959,049	317,745				
Virginia	974,622	414,133	1811 Middlesex	985,100	1,167,500	663,
Connecticut	261,942	79,192	1811 Essex	260,900	295,300	328,
Pennsylvania	810,091	601,344	1815 Lancaster	856,000	1,074,000	433,
Delaware	72,674	72,163	1811 Bedford	73,600	85,400	74,7
Kentucky	406,511	105,180	Kent	385,600	434,600	407,

It must be distinctly borne in mind that the whole of the above revenues, arising to the several States, is not made up of direct annual taxes, but that a considerable portion of each is acquired by the sale of lands and the interest arising from monies belonging to the state. So that it may fairly be affirmed that the whole amount of direct taxation falling in any shape upon any given amount of population in the United States, does not equal a fourth of the poor's rates and county rates alone, paid by an equal amount of population in Great Britain.

Now for the comparison of the expenses of the general government.

The whole expense of the civil government, including the salaries of the President and Vice-President, *wages of the members of the Senate and House of Representatives*; the diplomatic and miscellaneous expenses, including pensions; all the public offices, post office, mint, light-houses, surveys of land, the government of those parts called territories, and every other expense whatever, which does not belong to the army and navy,—were estimated for the year 1822 at 1,664,297 dollars, or 353,613*l*.\*

By the British finance accounts for the year ending the 5th of January, 1821, the sum actually paid was 6,797,399*l*.; this sum, like the 353,613*l*. in America, includes all the items which do not



belong to the military or naval departments. Thus the civil government here costs very nearly twenty times the amount of the civil government in America,—in other words, it costs the nation as much to be governed for one year, as it costs the Americans to be governed for twenty years; and yet America is, beyond all comparison, better governed than Great Britain and Ireland. But we do, in fact, spend more than thirty times as much as the American United States for our civil government.

In the finance accounts before alluded to, the charge for management, that is, the expense attending the collection of the revenue, is set down at	£3,267,633
There are other sums also paid out of the gross receipts of the revenue, from which, when we have deducted drawbacks and discounts, there will remain upwards of	1,500,000
To which add, as before	6,797,399
And the annual expense will be	£11,565,032

Which is nearly thirty-three times the amount of the annual expenditure in America. But it may be objected, that in America there are also charges for management: to which we reply, certainly; and that some of them are included in the 353,613*l.* which the civil government costs; and that a sum greater than all the charges of management in America, is raised in several ways for the government here at home, which is given away in pensions and payments of various kinds, and never comes into the annual finance accounts. So that the money thus raised may be set off against the expense of management in America.—Another objection which may be made is, that each of the state governments defrays its own expenses. But here again the balance will be in favour of America, the county rates, and other assessments and payments for local purposes at home, being probably several times the amount of all the state governments in America; we will, however, take them at the same sum, and then the account will remain as before stated, namely,

That the charge for the civil government here amounts to	£11,565,032
In America to	353,613

or very nearly one thirty-third the sum we are compelled to pay.

But to show still more plainly the profligacy of the system here at home, we will make a few comparisons in detail.—On the 16th of March, 1819, was “published by order of the House of Commons, a paper, No. 114., being an account of the total expense of the

following offices, *viz.*:—Privy Council, Treasury, Secretaries of State, and Messengers in the Lord Chamberlain’s department:”—

	<b>£.</b>	<b>s. d.</b>
1. Privy Council office—Clerks, Messengers, Coals, &c.	27,373	17 11
2. Treasury—Clerks, Messengers, Coals, &c.	103,139	17 6
3. Secretaries of State	122,880	5 0
4. Messengers in the Lord Chamberlain’s office	2,000	0 0
	£255,394	0 5

This is a most monstrous sum for only three of the public offices, and the porters, or, as they are called, the messengers of a fourth office; but enormous as it is, it by no means shows the actual sum these offices cost. It is not many years since a sort of exposure took place in the trade department of the treasury, when it was discovered, that clerks of 800*l.* a-year kept magnificent houses, regular sets of servants, and three or four carriages, spending, in fact, the revenues of noblemen from the fees they obtained; it is enough, however, for our purpose, to take the expense of these offices at the sums furnished by ministers themselves: let us then see what our brethren in America pay for having the business done for which these offices are appointed. The whole expense for every thing which in any way relates to the Treasury, the Secretary of State, and the Exchequer of the United States, including the expense of distributing 11,000 copies of the laws passed at the preceding Congress, was 48,035*l.*, not one-fifth part of the charge for the three offices here; and if we could ascertain the expenses of the Exchequer in addition to the three offices, as well as the pensions and sinecures, it would probably come out that the whole charge was more than a dozen times the amount paid by the people of the United States.

The expenses of the Houses of Lords and Commons cannot be accurately stated; but the finance accounts give us some items. In the session of 1822 there were voted—

For salaries to the officers of both houses	£22,800
Fittings and furniture for both houses	22,500
Expenses of both houses	19,055
Printing for both houses	64,677
	£129,032

In the United States of North America each of the representatives in both houses receives eight dollars, or 36*s.* 6*d.* per diem wages, during the time they are going to, remaining at, and returning home from Congress, as was formerly the case here. Supposing the

Congress to sit for three months, or that the member is occupied one hundred days on the public business; then as the number of representatives in the two houses is 237, the amount of their wages will be 189,600 dollars, or 40,290*l.*; and this is possibly the best laid out money which a people can expend, and which we of course do not expend on those who, instead of being the servants of the people, are their masters, and ought not, of course, to receive wages. On this point, then, there is nothing to which we can compare it.

The American government, however, furnishes an explicit account of all its expenses under the following heads, *viz.*:—

	<b>Dollars.</b>
1. Senate and House of Representatives, their officers and attendants	314,866
Deduct wages to the members	} 125,266
	189,600
2. Firewood, Stationery, PRINTING, and ALL OTHER <i>contingent</i> expenses of the two Houses	49,000
3. Library of Congress and librarian's salary	1,950
4. Purchase of books for the library	1,000
	Dollars 177,216
In pounds sterling	£37,608

Not one-third of the expenses which are paid here for the same objects, probably not one-fourth, when it is considered that the *stationery*, and many other items of expense, are charged to accounts not included under those for the Houses of Lords and Commons.

In our profuse way of doing business, the printing alone, it will be seen, amounts to nearly twice as much as the whole expense of the two houses in America; and if the stationery be added, to much more than twice as much.

One example in the way of printing may suffice.—In America all the public acts of the Congress are printed at length in the principal newspapers, for which the government pays at the rate of two dollars a column; and no less than Seventy newspapers actually insert the acts and receive the pay. The acts of Congress are printed in the octavo form on coarse paper, and they usually occupy about *one hundred pages*. Appended to these are the public treaties and other matters relating thereto; an immense number of copies are printed, of which the secretary of state for the current year causes *eleven thousand copies* to be distributed to the proper

persons throughout the United States: the printing of these acts makes one of the items in the fore-named account.

The printing of each 1000 copies of the American acts cannot cost more than 30*l.*

We, however, disdain this beggarly-looking useful mode, and our acts are accordingly printed in folio on writing paper. Those of the last year occupy 1446 pages, and cannot have cost so little as 1200*l.* for a thousand copies.

Another pretty specimen of the way in which an irresponsible assembly can vote the public money, may be taken from what is called the Civil List; which is principally composed of the King's household, and allowances to the other members of the royal family,

And amounted in 1821, to	£1,064,877
Not, however, including further allowance to those members of the royal family, pensions, &c. of	439,229
	£1,504,106

But besides this enormous sum, this most monstrous charge, for what may be with more strictness called the civil list, there are other expenses which make the whole amount to 2,878,892*l.*; which is more than the whole expense of the American government, civil, military, and naval.

A considerable portion of this charge of nearly three millions is called the ordinary charge of the civil list; but besides the ordinary charge, there are enormous annual charges out of the ordinary course. In 1818 an account of these charges was printed by order of the House of Commons, in two papers, Nos. 48. and 49. of that session. The title of these papers is, "Expenses of a civil nature which do not form part of the ordinary charge of the civil list." Look at these, John Bull, and if they do not make you sick at heart, and if your gall does not rise as your sickness comes on, your apathy is extraordinary. They are comprised under the 14 following heads:—

	<b>£.</b>	<b>s. d.</b>
1. Salaries, &c. to officers of the Houses of Lords and Commons	6,293	6 8
2. Expenses of the two Houses	1,043	145
3. Monuments erecting	3,965	5 0
4. Conveying governors and other persons of distinction to their places of destination	3,597	136
5. Allowances to admirals of duty on wine drunk at their tables	605	110
6. Salaries and expenses at the receipt of the exchequer	552	6 8
7. <i>Contingent expense at the treasury and Secretaries of State's offices</i>	54,147	156
8. <i>Deficiencies of fees made good in the same offices</i>	37,673	139
9. Works and repairs of public buildings	50,938	4 7
10. Furniture for certain public offices	15,592	9 5
11. VARIOUS PUBLIC SERVICES	177,938	19 10
12. Extraordinary disbursements of ambassadors	64,016	141
13. Outfit for secretary of legation at Stockholm	214	166
14. Presents to ministers at foreign courts	33,565	167
	£450,146	7 6

Thus we see that the *extraordinaries*, as they are called, of the civil list alone, cost 96,533*l. 7s. 6d.* more than the whole civil government of America.

The *extraordinary* disbursements of ambassadors alone cost us 64,016*l.*

While the *whole* cost of all sorts of foreign ministers, ordinary and extraordinary, cost the United States 148,500 dollars; or 31,556*l.*

And yet the diplomatic business of the United States is better performed than that of any other nation whatever.

On the 3d of May, 1822, the House of Commons printed a paper, No. 285., containing an account of the whole of his Majesty's diplomatic service from 1793 to 1822; from which it appears that the charge for 1821 was	£265,962
That of America, as before	£31,556
Add to this agents for claims for spoliations at Paris and London	850
And for relief and protection of American seamen in foreign countries	8,500
And the total expense will be	£40,906

Less than *one-sixth* of the money expended by the government here, much less efficaciously for good purposes, but infinitely more mischievously for bad purposes. The bare charge for diplomatic services costs us more than two-thirds the amount of the whole expense of the civil government in America. Would a House of Commons freely elected by the whole people permit such things as these to exist? Would they ever have sent a minister jobbing to the empty palace at Lisbon, and paid him upwards of 14,000*l.* for a sea-airing to his family?

In the finance accounts for the year 1821 are the following items:—

Charges of management, customs	£1,069,280
Charges of management, excise	1,133,919
	£2,203,199
But the whole cost of the American government, including the civil government, the army, and navy, is	£2,010,220
Or,	192,979

less than the cost of *management* of the two engines of exaction and patronage, the customs and excise, here at home.

On the 27th March, 1821, the House of Commons printed a "Report from the Committee appointed to prepare the Militia Estimates." It consisted of two parts, viz.:—

	£.	s.	d.
1. Estimate, charge of DISEMBODIED <i>militia</i> , Great Britain, for 1821	269,519	122	
2. Estimate, charge of DISEMBODIED <i>militia</i> , Ireland	125,388	18	11
Total charge of DISEMBODIED <i>militia</i>	£394,908	11	1

Being 41,395*l.* more than the whole of the civil government of the United States in all its branches.

For the present we purposely exclude all mention of our army, navy, and debt.

So much for *taxes* in America, as to which we will now leave the Quarterly reviewer to his own reflections. With respect to all the details about provincial courts of justice, we are quite willing to admit that public courts and public officers in remote and thinly-peopled districts may have some of the vices, though none of the useless parade and dignity attached to their fellows in England. We have no time to pursue the subject further, but recommending to this writer and all his tribe the diligent perusal of the President's last address to Congress, we shall conclude with the following striking passage from the introduction to Mr. Warden's statistical work:—

“Doubtless the government of the United States is not exempt from the errors and imperfections that adhere to all human institutions. But compare its public conduct with that of the old governments of Europe. How calm and reasonable is its language; always addressing itself to the understanding and the solid interests of the people, never to their passions or prejudices. It seeks no aid from superstition, supports no gainful impostures, and uses none of that disgusting cant with which the old governments of Europe varnish over the degradation of the people. It is a stranger to state craft and mystery. All its acts are done in the face of day. It promotes knowledge, religion, and learning, without the preference of particular sects, and without debasing them by falsehoods beneficial to the ruling powers. It is the only government in the world that dares to put arms freely into the hands of all its citizens. From Maine to Mississippi, it commands a prompt and ready obedience without any other weapon than a constable's staff. In a word, it secures property, satisfies opinion, promotes the development of industry and talent with a rapidity hitherto unexampled; and with the smallest sacrifice of individual rights and property on the part of the people, it accomplishes all that the most expensive and powerful governments pretend to.”

[\[Back to Table of Contents\]](#)

## **PERIODICAL LITERATURE.**

### **Art. IX.**

#### **The Quarterly Review.**

IN the article on Periodical Literature, in our first number, we commenced an inquiry into the motives which operate upon the conductors of Periodical Publications, in a direction opposite to the public good. In illustration of these general remarks, we selected the two Reviews, known by the titles of the Edinburgh, and the Quarterly, as furnishing specimens of the mischievous endeavours to which these motives lead, and the most instructive specimens which we could find—on account both of the extensive circulation of those journals, and the superior abilities of those who write in them.

Agreeing in subservience to all those motives which spring from the importunate demand of immediate success, and to all those which spring from the important circumstance of their being addressed chiefly to the aristocracy, and aiming chiefly at their approbation and applause, the Edinburgh and Quarterly Reviews differed, we saw, in their being addressed to different sections of the aristocracy, the one to the section of the ministerialists, the other to the section of the oppositionists. We shall see, by the examination of the Quarterly Review which we now propose to institute, to what divergence in their lines of operation, and what diversity of artifice, this original difference gives occasion.

There are other differences, of some importance, which are rather to be regarded as accidental.

The Quarterly Review has always displayed much more of the character of a bookseller's catch-penny, than the Edinburgh Review. On looking it over from the beginning, it really is surprising to what a degree it has absolutely renounced the character of being a vehicle of instruction, and has aimed at nothing higher than furnishing amusement and subject of prattle to loungers, and gossips. It is not merely that it has handled subjects of importance feebly and lamely, but that it has very rarely encountered them. Its main resources have been books of travels, and books of poetry and amusement. Books of travels are regularly pillaged of all that is most entertaining in them, to make a compilation for the Quarterly Review. The most interesting passages in books of poetry and amusement supply extracts for the same critical journal; and it will



amuse any one who will take the trouble to look over only a few numbers, as we have done the whole, to observe how large a proportion of its pages are filled directly from the pages of books of travels, and books of poetry, with little other trouble or talent, than what goes to the making of extracts.

Another difference between the Edinburgh Review and the Quarterly Review is, that a much higher kind of intellect has always appeared in the Edinburgh Review. This we may pronounce to be the public opinion, not contested even by those who would wish that it were otherwise.

A majority of the articles in the Edinburgh Review proves that they are from men with ideas; men of stored and cultivated minds, even when the reasonings they employ are fallacious, and the conclusions to be rejected. An article to which similar praise can be applied, rarely, and at long intervals, appears in the Quarterly Review. The writers in that journal are almost wholly of two sorts, compilers from books of travels, and mere *litterateurs*, men, who almost rank with the lowest class of artizans; who know little of literature, but the merely mechanical part; whose highest ambition is that of polishing a sentence; and who, feeling themselves incapable of making any impression by the weight and importance of their ideas, are perpetually on the strain to do so by mere language, pomp and glitter of expression.

We remark another, and still more radical difference between the Edinburgh and Quarterly Review. There is something in the writers in the Edinburgh Review, at least some of the most distinguished of them, which shows that they are fit for, and have a leaning towards better things, even when they are lending themselves to the sinister interest which assails them. They do not indeed attempt to go before the public mind, to take the lead of it; and by doing so, to hasten its progress. They are too much afraid of losing favour to adventure any thing like this. But no sooner do they perceive a turning in the public mind towards any thing that is good, than they are commonly ready to fall in with the happy current; and have often lent to it additional velocity and force.

The writers in the Quarterly Review pursue the directly opposite course. They seem to watch the earliest symptoms of any tendency in the public mind towards improvement in any shape, in order to fall upon it with determined hostility. They decry it with all the terms of reprobation. They endeavour to make it ridiculous, they endeavour to make it odious. They employ every artifice of which they are masters to prevent it. Whatever in their situation would be done by cold-blooded, remorseless enemies of mankind, that, in almost every instance, they will be found to do.

It has already been seen, by our remarks upon the Edinburgh Review, what is the line of artifice into which a publication is drawn, that lends itself to the interest of that section of the aristocracy, which is aiming at the powers of government without possessing them. The necessity of finding something to say which will please both the people and the aristocracy, leads to a perpetual shifting of position; but some skill is necessary to hide the operation. Something of ability is required in the conduct of the see-saw.

The position of those who write for the party in power is much more favourable. Coarser instruments sufficiently answer their purpose.

This is an important topic, which deserves to be better understood than it generally is.

It is well known to be much more the disposition of power to command, and to strike, than to persuade.

The situation of a mere advocate for the party in power, does not permit him absolutely to command and to strike. But his knowledge that he has power on his side, leads him to do that which, in his situation, is analogous to commanding and striking, and of all expedients within his reach, comes the nearest to these two operations. He assumes whatever he has occasion for; and he pours abuse upon those who are opposed to him.

Assumption, and Abuse; these are so uniformly, and to so extraordinary an extent, the weapons employed by those who stand on the vantage ground of power, that they may be regarded as peculiarly the logical arms of power.

Into the general illustration of this remark we need not enter far. All history, both civil and ecclesiastical, bears testimony of its truth; nor can we suppose that it will be seriously disputed.

I. Some remarkable instances of *assumption* are afforded by the advocates of the Catholic Church, in their arguments against the first reformers. The universal consent of Christians in all ages, they said, was with them, and against the reformers. The will of heaven, they asserted, was visibly declared in their favour, by the miracles which it had enabled the saints of the Catholic Church, to perform.

Political assumptions are not less plentifully supplied. During the reigns of our Stuarts, it was held as a principle, that kings reign by the appointment of heaven, and that it is an act of opposition to the divine will, to resist whatever they command. It was equally

assumed, that the people are incurably stupid, and inclined to mischief; from which it followed that arbitrary power is at once divine and indispensable.

We shall not spend time in adducing instances from authors, the most celebrated of the time, in which such positions are given as axioms; principles which need no proof; and of which, even to ask for the proof would be an act partaking equally of wickedness and folly. Every man of any reading can supply instances to himself; and will be aware, though these particular assumptions are out of credit in this country now, that there was a time when they had all the illusions of authority and power on their side; when a thousand associations gave them an influence over men's imaginations, and a hold on their belief; and when they were wielded as terrible instruments of power.

2. The second ingredient in the logic of power is *abuse*. The celebrated Le Clerc, in his treatise of logic, prefixed to his *Opera Philosophica*, in four volumes, printed at Amsterdam, in the Year 1698, has a distinct discourse, which he calls *Dissertatio Philosophica*, on this one source of delusion, the *argumentum ab invidia ductum*, on which he bestows the title of *Argumentum Theologicum*; because, says he, *Tantus semper ejus fuit usus apud theologos, estque etiamnum hodie tam frequens, ut mirum esset a philosophis nihil esse scriptum de hoc sophismatum genere, nisi bonos viros periculo ab ea tractatione deterritos hactenus fuisse satis constaret. At cum devenerimus ad ea tempora, quibus falso dicti theologi notiores sunt quam unquam fuerunt, socordia esset, non prudentia, de ea re diutius tacere. Qua tamen in tractatione abstinemus ab exemplis nimium recentibus, quamvis sint frequentissima, ne se nonnulli homines peti, potius quam sua vitia, arbitrentur.*

It was, however, an error in Le Clerc to suppose that this was exclusively *argumentum theologicum*. It is *argumentum imperiosum*; the argument of power, in whatever hands it is placed, lay, or ecclesiastical. It is true that, in the time of Le Clerc, the philosopher's attention was chiefly attracted to the use which had been made of it by theologians; because up to that time any power but that of the clergy had not much been put upon its defence. As soon as it was, the *argumentum ab invidia ductum* was found to be the grand weapon for one species of undue power as well as another, and was turned more or less actively to account, as need required.

We shall go at somewhat greater length into the illustration of this branch of the *Logic of Power*; than the former, because this, in reality, includes the former. All abuse of a man for holding an

opinion implies the assumption, that his opinion is wrong. By illustrating this branch, therefore, of the art of defending power, we shall add to the illustration of the other also.

Le Clerc divides the *argumentum ab invidia ductum*, or *Dirt-flinging argument*, into sixteen species.

1. *Sententia, quæ oppugnatur, male explicatur*. This is misrepresentation; and, wherever it takes place, is mendacity and knavery, simply.
2. *Nominibus invidiosis infamatur*. The doctrine to be attacked (*sententia quæ oppugnatur*) is called by bad names.
3. *Cum invisorum hominum dogmatibus confertur*. Endeavour is made to connect it with the opinions of men already odious.
4. *Exaggeratur momentum quæstionis*. A species of misrepresentation.
5. *Invisi redduntur boni, quod vocibus nonnullis, a theologis inventis, uti nolint*. Ascribing wickedness to using, or not using a name, is a species of the argument *ab invidia*, more peculiarly belonging to theologians.
6. *Studiose occultantur rationes quibus refutanda sententia nititur*. Suppression of evidence; dishonesty.
7. *Tacentur incommoda quibus premitur sententia defendenda*. A second case of the suppression of evidence.
8. *Prætermittuntur ea quæ invidiam amoliri possent*. A third case of the suppression of evidence.
9. *Invidiosa consectoria deducuntur ex sententia eorum qui oppugnantur*. Imputation of bad consequences. This generally involves both branches of the Logic; begging the question; and calling names.
10. *Malignis suspicionibus premuntur*. Imputation of wicked designs. This also includes both branches.
11. *Novitas illis objicitur, quasi crimen*. The treating innovation as a crime is uniformly, and necessarily, assumption; and imputing a crime without ground, is the other branch of the art.
12. *Consensu hominum potentiorum opprimuntur*. Differing in opinion from great men, imputed as wickedness. This also implies both assumption, and dirt-flinging.

13. *Miscentur in disceptationibus multa quæ ad rem nihil faciunt sed quæ invidiæ creandæ apta sunt.* Dirt-flinging irrelevancies.

14. *In deteriorem partem accipiuntur indifferentia.*

Misrepresentation.

15. *Provocatio fit a peritis iudicibus ad imperitos.* Excite the prejudices of the ignorant, raise an outcry. This is done by assumption and dirt-flinging.

16. *Adversarii denique quasi immorigeri magistratibus infamantur.* Insubordination, subversion of institutions, anarchy, and a host of subsequent evils. This is the concentrated case of assumption and dirt-flinging combined.

*Hi, says Le Clerc, hi sunt potissimi, nisi fallor, venenati fontes, ex quibus invidiæ liquor haustus, incautis propinatur: he adds, quo epoto, homines, ut fert dictum vetus, hominibus fiunt lupi.*

What do the men become who drink from the poisoned fountains of the Logic of Power? Wolves, says Le Clerc; and seldom a truth of greater moment has issued from human lips.

The grand question between the Quarterly Review and its opponents; between the advocates of power on the one hand, and the advocates of the people on the other, is, whether there is any thing in our institutions, and how much, which operates to the detriment of the people, and ought to be changed. The Quarterly Review affirms that there is little or nothing. Its opponents contend that there is much. It will be found in a great majority of instances, that the Quarterly Review maintains its position, by the assumption of the points which are in dispute, and by endeavouring to attach an odious character to its opponents; by begging questions, and venting calumny.

It would not be of much advantage to cast into any particular order the specimens which we shall think it requisite to adduce: and therefore we shall select the passages which appear to merit notice, as they occur to us, in looking over the notes which we made during the perusal of the work. The difficulty consists in finding extracts which sufficiently exhibit the characteristics we desire to illustrate, without being too long; for lengthiness and verbosity are also among the striking properties of this advocate of aristocratical rule.

In an article on Parliamentary Reform, in the 2nd No. of the work, the most remarkable passage is as follows:—

(1.) 'We are, however, told, by numbers of persons professing to be well-informed, that the dissatisfaction occasioned by the late proceedings is violent and universal. This assertion is mysteriously whispered in coffee-houses, proclaimed from high authority in taverns, circulated under the condensed form of resolutions in the papers, and dilated into numerous pamphlets, some of which are now on our table. Mr. Clarke communicates it in his letter to Mr. Whitbread; Mr. Cartwright states it amongst his reasons for reformation; and the writer, whom we have already quoted as a friend to the constitution and to the immortality of the Common Council, draws the same inference. He tells us, that "the cry of corruption in the state comes from every mouth; and the cry of Reform! Reform! proceeds from every tongue, and reverberates on every ear." (2) Now we should suspect that such a description of the cries of London would not be very gratifying to the Common Council. Experience must have taught them, that when, through the beneficial influence of a free press, or of non-commissioned orators in the cause of liberty, large bodies of men are assembled as parts and parcels of the nation, for the purpose of proclaiming the national will, and of redressing all national wrongs, the progress of patriotism and reform through the streets of London has occasionally spread terror and dismay amongst its worshipful citizens. Windows and heads may be broken, to a considerable amount, without exciting much alarm in the police, or at all affecting the general government of the country; and it is by no means improbable that dangers of this magnitude may at this moment be impending over us. But of very extensive evils we are not extremely apprehensive. (3) We could not easily point out, in the whole course of our recollection, a single year during which the cowardly merit of being satisfied and contented with their condition could be fairly imputed to our countrymen. We have witnessed many and heavy discontents among the people; we have seen frequent riots, some of which had a promising appearance, and afforded hopes of a tolerably extensive revolt: but we cannot even now discern a tendency to (4) that universal insurrection from which alone, as it seems to us, can be expected the hitherto untried blessing of Radical Reform. We have, perhaps, amongst us a greater number of puritans in religion, and in morals, and in politics, than at any former period, and their zeal may produce a daily accession of proselytes; but we believe that, as the mass of mankind are willing to submit to live in this bad world, however lively may be their hopes of a better (5) so the mass of the nation will for some time longer persist in their preference of the old-fashioned government of king, lords, and commons, to that perfect state of political regeneration in which the absence of all abuses must put an end to their comfortable enjoyment of hourly complaint and remonstrance.

In the mean time we are by no means disposed to wage war with those who frankly avow their (6) love of revolution, as a step towards political perfection. We consider this as a mere matter of taste, and completely harmless under a free government, because such a government being armed with the whole power of the nation, can never suffer from the shock of discordant opinions. (7) But when we find a set of persons professing to promote innovation from an attachment to the existing order of things, and to wish for reform for the sake of the constitution; when we hear them assert that the abuses of delegated power originate, not in the extent of that power, or in the temptation which it creates, but merely in the mode by which it is delegated, and that a different form of election would alter the views and passions of the elected; we cannot help suspecting them of some little insincerity; and should think it our duty to attempt an exposure of their fallacies, if this had not been already done, in one of the ablest essays of a most popular and very modern publication. We allude to the 9th article in the 20th number of the Edinburgh Review; a work, from many parts of which no feelings of competition could justify us in withholding our unqualified applause.'

We have placed figures to facilitate reference before the expressions involving the particulars to which we desire the reader's attention.

The passage to which figure (1) is prefixed, contains the allegation on which the Reviewer proceeds with his commentary. The passage following figure (2) contains the assumption, or rather triplet of assumptions; first, that the call for reform; secondly, that the use of a free press; and thirdly, that the power of holding meetings on the part of the people lead, by natural consequence, to insurrectionary violence, to the loss of all security for person and property, spoken of by the Reviewer, in mockery, under the names of broken heads and broken windows. Here, both branches of the strong man's logic are exemplified; the assuming, and the abusing. It corresponds with the 9th and 10th articles in the list of Le Clerc. And in this first specimen, we see the pattern of nearly every thing which, in the way of language, is ever brought to resist the claims of the people to the improvement of their political institutions. The material assumes infinite variety of shape and dimension, but to this every argument or pretended argument may almost always be reduced. We shall receive strong confirmation of this statement as we proceed.

The expression to which figure (3) is prefixed, assumes the perpetual existence of a mischievous disposition in the people of England; viz. unreasonable discontent, and a fondness for revolt.

This also includes both branches of the strong party's logic, and corresponds with 9 and 10 in the list of Le Clerc.

Figure (4) is prefixed to a notable assumption, that radical reform, by which the people mean the best securities for good government, can be obtained "from universal insurrection alone." By universal insurrection, in the language of the Reviewer, is meant, not only all the evils which man can inflict upon man, but all the evils and crimes which aristocratical eloquence can find language to express. This is assumption and abuse in a high state of concentration: aristocratical logic near its perfection; its essence, its elixir. Securities for good government cannot be obtained, but from evils which cannot be computed. The consequence is indisputable, that bad government ought to remain, and all those who ask for its amendment ought to be treated as the first of criminals. This, though differing in form, is, we see, the same in substance as the argument marked by figure (2).

Figure (5) is prefixed to an assumption, that the mass of the nation are contented. This is directly contradictory to the assumption to which figure (3) was prefixed. True; but this was necessary for the purpose of the Reviewer. And contradictions, though they are contrary to the rules of ordinary logic, are by no means contrary to the logic of power. The advocate of the "old-fashioned government" wanted to make the friends of an amended government appear both odious and contemptible. He could not make them appear so odious as he wished, without making them appear formidable. He could not make them appear so contemptible as he wished, without making them appear to be not formidable. And he knew well the sort of people whom he wished to please. If he spoke strongly enough for their interests, in the way which they deemed according to their interest, they would little care for the congruity or incongruity of his ideas.

In the expression denoted by (6), the assumption and the abuse are both remarkable. By revolution, the Reviewer means a horrible aggregate of all the worst of crimes. He assumes that those who desire parliamentary reform, all, or something less than all, not only have, but avow, a love for revolution, as a step towards the attainment of their end. This involves all the atrocities included in Nos. 9, 10, and 16, in the list of Le Clerc.

The sentence which immediately follows, contains a curious opinion for the Reviewer, that the freedom of the press ought to be so complete as not to impede the recommendation even of revolution itself. But as this does not concern our present purpose, we shall leave the consideration of that doctrine till another occasion.



The passage to which figure (7) is prefixed, corresponds with No. 1, in the list of Le Clerc: *Sententia, quæ oppugnatur, male explicatur*. It is misrepresentation. The reformers do not assert that the abuses of delegated power (meaning the power of members of parliament, do not originate in the extent of that power, or in the temptation which it creates. They assert directly the contrary.

Nothing but a perfect certainty of having on his side all the blinding influences of power can carry a man to the pitch of impudence which acts of misrepresentation, similar to this, require.

The illustrations which Le Clerc affords of this case of the *argumentum ab invidia ductum*, are worthy of being transcribed.

Conflatur invidia falsa interpretatione sententiæ quæ infamanda suscipitur. Si qualis reverâ est proponeretur, sæpe bilem nulli moveret, aut leviter saltem offenderet. Si Pharisæi qui tempore Christi vivebant dixissent, ita loqui ejus discipulos, ut significarent, se perfectioris sanctimonix leges ab eo accepisse quam sunt Mosaicæ, nec quidquam detrudere Legi eorum quæ ad veram morum sanctitatem facerent, atque ab iis solum Deum Israël colere, et omnia pietatis, caritatis ac temperantiæ officia observari, quanquam interdum Legis ritualia negligenter; si, inquam, ita loquuti essent, nunquam tantum odium creassent Paulo, quam cum dixerunt: *Iste persuadet hominibus colere Deum contra Legem*, aliaque id genus. [ *Vide Acts xviii. 13.* ]

The next of the specimens adduced by Le Clerc is from St. Jerome, the most perfect high-churchman of his age and a model for all the high-churchmen who have followed him in every age.

Nunquam etiam Hieronymus infamasset Vigilantium, quemadmodum fecit; si dixisset eum non credere colendos Martyras aliter quam fortitudinis et pietatis eorum memoriâ quas æternùm laudari apud Christianos oportebat, sed non esse orandos. At imperitorum odium in eum incendit, clamitando eum—*Os fœtidum aperire et putorem spurcissimum contra sanctorum martyrum proferre reliquias, et eos qui eas suspiciunt appellare cinerarios et idolatras qui mortuorum hominum ossa venerarentur; eum contra martyrum sanguinem dimicare, contra apostolos pertonare, imò instar rabidi canis latrare contra Christi discipulos*, et plurima similia.

The applause bestowed by this Quarterly Reviewer on one of the most remarkable articles on Parliamentary Reform in the Edinburgh Review, is a striking illustration and proof of what we have already stated of the devotedness of that Whig organ to the cause of aristocracy, in other words, to the existence of those

undue powers by which aristocracy creates and maintains bad government. The doctrine of the Edinburgh Review upon Parliamentary Reform, is even such as to give satisfaction to those who are the declared and ostentatious enemies of all reform. Whenever it holds another language, which it sometimes does, it is but an instance of the see-saw.

We see that the passages which we had marked containing assumptions against the people, and abuse of them in the grossest strain, are exceedingly numerous. We must, however, contain ourselves within bounds, and can afford to present, in illustration of this striking application of the aristocratic logic, only one example more: and as our first specimen was taken from an early Number of the work, we have selected this from one near the middle of it; though we need not be anxious to prove that its character in this respect is uniform. The following passage is from the article on parliamentary reform in the 31st Number:—

‘During the great struggle between Charles 1st, and his parliament, the people required an appearance, at least, of devotion and morality in their leaders; no man could obtain their confidence unless he observed the decencies of life, and conformed in his outward deportment to the laws of God and man. There was much hypocrisy among them as well as much fanaticism, but the great body of the nation were sincerely religious, and strict in the performance of their ordinary duties; and to this cause, more than to any other, is it owing that no civil war was ever carried on with so few excesses and so little cruelty, so that the conduct of the struggle was as honourable to the nation as the ultimate consequences have been beneficial. It is a melancholy, and, in some respects, an alarming thing, to observe the contrast at the present crisis, when the populace look for no other qualification in their heroes than effrontery and a voluble tongue. Easily deluded they have always been; but evil-minded and insidious men, who in former times endeavoured to deceive the moral feelings of the multitude, have now laboured more wickedly and more successfully in corrupting them. Their favourite shall have a plenary dispensation for as many vices as he can afford to entertain, and as many crimes as he may venture to commit. Among them sedition stands in the place of charity, and covereth a multitude of sins.

Were it not that the present state of popular knowledge is a necessary part of the process of society, a stage through which it must pass in its progress toward something better, it might reasonably be questioned whether the misinformation of these times be not worse than the ignorance of former ages. For a people who are ignorant and know themselves to be so, will often judge rightly when they are called upon to think at all, acting from

common sense, and the unperverted instinct of equity. But there is a kind of half knowledge which seems to disable men even from forming a just opinion of the facts before them—a sort of squint in the understanding which prevents it from seeing straightforward, and by which all objects are distorted. Men in this state soon begin to confound the distinctions between right and wrong—farewell then to simplicity of heart, and with it farewell to rectitude of judgment! The demonstrations of geometry indeed retain their force with them, for they are gross and tangible—but to all moral propositions, to all finer truths, they are insensible—the part of their nature which should correspond with these is stricken with dead palsy. Give men a smattering of law, and they become litigious; give them a smattering of physic, and they become hypochondriacs or quacks, disordering themselves by the strength of imagination, or poisoning others in the presumptuousness of conceited ignorance. But, of all men, the smatterer in philosophy is the most intolerable and the most dangerous; he begins by unlearning his Creed and his Commandments, and in the process of eradicating what it is the business of all sound education to implant, his duty to God is discarded first, and his duty to his neighbour presently afterwards. As long as he confines himself to private practice the mischief does not extend beyond his private circle—his neighbour's wife may be in some danger, and his neighbour's property also, if the distinction between *meum* and *tuum* should be practically inconvenient to the man of free opinions. But when he commences professor of moral and political philosophy for the benefit of the public, the fables of old credulity are then verified—his very breath becomes venomous, and every page which he sends abroad carries with it poison to the unsuspecting reader.

The begging of every question, and the atrocious accusations which, in the way of pure assumption, are brought against the people, are here so plain and undisguised, that, after the example we have exhibited of the mode of analysing such passages, we must leave the detailed exposition of them to the reader himself.

We have already stated, that “things as they are” *versus* “things as they ought to be,” *alias*, aristocratical supremacy *versus* securities for good government, *alias*, the aristocracy *versus* the people, is the cause at issue. We have seen how the Quarterly Review, the well-feed and highly-expectant advocate of “things as they are,” assumes every thing against the people, and endeavours to excite against them the passions of fear, hatred, and contempt. We shall next present a sample of the mode in which he assumes every thing in favour of “things as they are,” and heaps upon them mountains of applause. The first we shall select is from the Number last quoted, because we have it in our hand, and from the same article

“on parliamentary reform.” We regret the length of it, but trust that the apology which we have already offered, and we have no other, the reader will accept.

‘All the reasoners, or rather the no-reasoners, in favour of parliamentary reform, proceed upon the belief of Mr. Dunning’s or Mr. Burke’s famous motion, that the influence of the crown has increased, is increasing, and ought to be diminished. Whether that position was true when the motion was made and carried, might with great justice be controverted. That it had ceased to be so at the beginning of the French revolution in Mr. Burke’s judgment, we know; he himself having recorded his opinion in works which will endure as long as the language in which they are written; and the converse of that proposition is now distinctly and decidedly to be maintained. (1) The three possible forms of government, each of which, when existing simply, is liable to great abuses, and naturally tends towards them, have been in this country, and only in this country, blended in one harmonious system, alike conducive to the safety, welfare, and happiness of all. That safety, welfare, and happiness depend upon the equipoise of the three component powers, and is endangered when any one begins to preponderate. (2) At present it is the influence of the democracy which has increased, is increasing, and ought to be diminished. Whatever additional influence the crown has obtained by the increased establishments which the circumstances of the age have rendered necessary, is but as a feather in the scale, compared to the weight which the popular branch of the constitution has acquired by the publication of the parliamentary debates.

(3) ‘But what is meant by Parliamentary Reform? Whenever this question has been propounded among the reformists at their meetings, it has operated like the apple of discord—the confusion of Babel has been renewed—with this difference, that the modern castle-builders are confounded in their understandings and not in their speech. One is for triennial parliaments, another for annual; and one, more simple than honest, proposes to petition for triennial only as a step towards obtaining annual. One will have a qualification for voters, another demands universal suffrage. Mr. Orator Hunt proposes voting by ballot, and one of the Penny Orators says, that if Magna Charta were made the bulwark of a General Reform the country would be speedily relieved. He knows as much about Magna Charta as about bulwarks—and as much about the philosopher’s stone as of either. They talk of restoring the constitution—what constitution? Every one must have seen a print of the mill for grinding old women young; these state-menders might as reasonably take poor old Major Cartwright to a mill, and expect to see him come out as green in years as he is in judgment, as think that any country can go back to its former state. There are

things which are not possible even by miracle. But if the impossible miracle were conceded, at what age would the restorers have their renovated constitution? Would they prefer that of the Norman kings, or of the Plantagenets, with all its feudal grievances? Or the golden days of Elizabeth, when parliament trembled as the virago asserted her prerogative? Or would they have it as under James 1st, when the Commons “did on their hearts’ knees agnize” his condescension in making his royal pleasure known. Or as under William the Deliverer, and his successor Queen Anne, with all the corruption and treason which arrested Marlborough’s victories, and betrayed Europe at Utrecht? Or would they accept it as it was even at the commencement of the present reign, when the debates were published in a mutilated and fictitious form, confessedly by sufferance? The multitude being ignorant are at all times easily deceived, and therefore sin through simplicity. But if any man who possesses the slightest knowledge of English history, asserts that the people of England, at any former time, possessed so much influence as during the present reign, and more especially during the last twenty years, he asserts what is grossly and palpably false, and what he himself must know to be so.

(4) ‘The British constitution is not the creature of theory. It is not as a garment which we can deliver over to the tailors to cut and slash at pleasure, lengthen it or curtail, embroider it or strip off all the trimmings, and which we can at any moment cast aside for something in a newer fashion. It is the skin of the body politic in which is the form and the beauty and the life—or rather it is the life itself. Our constitution has arisen out of our habits and necessities; it has grown with our growth, and been gradually modified by the changes through which society is always passing in its progress. (5) Under it we are free as our own thoughts; second to no people in arts, arms, and enterprise; during prosperous times exceeding all in prosperity, and in this season of contingent, partial, and temporary distress, suffering less than any others, abounding in resources, abounding in charity, in knowledge, in piety, and in virtue. The constitution is our Ark of the Covenant; we to the sacrilegious hand that would profane it,—and woe be to us if we suffer the profanation! (6) Our only danger arises from the abuse of freedom, and the supineness with which that abuse is tolerated by those whose first duty it is, to see that no evil befall the commonwealth. Accusations are heaped upon them with as little sense as truth, and as little moderation and decency as either; let them, however, take heed lest posterity have bitter reason for ratifying the charge of imbecility, which it will have, if they do not take effectual means for silencing those demagogues who are exciting the people to rebellion. Insects, that only ‘stink and sting,’ may safely be despised, but when the termites are making their

regular approaches it is no time to sit idle; they must be defeated by efficacious measures, or the fabric which they attack will fall.

(7) 'But it has been offered to be proved at the bar of the House of Commons, that the great body of the people are excluded from all share in the election of members, and that the majority of that House are returned by the proprietors of rotten boroughs, the influence of the Treasury, and a few powerful families. This has been said by all the reformers since Mr. Grey presented his memorable petition, and the Lord Mayor, with the Aldermen and Commons of his party, have repeated it in their addresses to the Prince Regent. (8) Supposing that the assertion had been proved, instead of "offered to be proved," does the Lord Mayor, or would the Lord Mayor's fool, if that ancient officer were still a part of the city establishment, suppose that in a country like this it would be possible to deprive wealth and power of their influence, if it were desirable? or desirable, if it were possible? That the great landholders have great influence is certain; that any practical evil arises from it is not so obvious. The great borough interests have been as often on the side of opposition as with the government; sir Francis Burdett even makes use of this notorious fact as an argument for reform, and talks of the strength which the crown would derive from diminishing the power of the aristocracy. But that influence has been greatly diminished in the natural course of things. A great division of landed property has been a necessary consequence from the increase of commercial wealth. Large estates produce much more when sold in portions than in the whole, and many have been divided in this way, owing to the high price which land bore during the war, more especially in the manufacturing and thickly-peopled counties. Thus the number of voters has increased, and the influence of the great landholders has in an equal degree been lessened. In Norfolk, for instance, though chiefly an agricultural county, the voters have been nearly doubled; in Yorkshire they are more than doubled; and in Lancashire the increase has been more than three-fold. This is mentioned not for the purpose of laying any stress upon it, but to show that such a change is going on; and that in more ways than one the wealth of the country lessens the power of the landed interest. It ought thus to do: and the purchase of seats, which is complained of as the most scandalous abuse in parliament, is one means whereby it effects this desirable object.

(9) 'If the reformers will show in any age of history, and in any part of the world, or in this country at any former time, a body of representatives better constituted than the British House of Commons—among whom more individual worth and integrity can be found, and more collective wisdom; or who have more truly represented the complicated and various interests of the

community, and more thoroughly understood them, then indeed it may be yielded, that an alteration would be expedient, if such an alteration were likely to produce an amendment. But in a state of society so infinitely complicated as that wherein we exist, where so many different interests are to be represented, and such various knowledge is required in the collected body, no system of representation could be more suitable than that which circumstances have gradually and insensibly established. Of the revolutionist, secret or avowed, adventurer or fanatic, knave or dupe (for there are of all kinds), we shall say nothing here, but address ourselves to the well-meaning reformer, who has no intention farther than what he openly professes.'

It is apparent that this is not purely assumption in favour of "things as they are." It is mixed with the usual assumptions and abuse against the people, the repetition of which seems never to tire.

Figure (1) is prefixed to an old assumption, that of the mixture and balance of the three powers; an assumption, groundless and mischievous, as has been abundantly shown, and as we shall prove on other occasions; but as it is an old, and was long an admitted assumption, as it is nothing to the purpose—for whether the government is balanced or not balanced, it still remains to be proved that it is good—we shall not at present trouble ourselves about it.

Figure (2) precedes a notable assumption. We need not enumerate the elements which constitute the increase of the influence of the crown. The man must be ignorant who knows not that some considerable time ago we had nothing which much deserved the name either of army or navy; we had no national debt; the taxes amounted to less than a million per annum; we had no colonies; for every shilling which the crown at that time had to bestow in purchase of servility it has now thousands and tens of thousands; and all the time since the Revolution something has been constantly adding to the restrictions upon the people; out of all which a mass of influence has arisen which renders the crown perfectly master of the parliament, and, by consequence, of all the powers of government. Now comes the assumption, and an astounding one it is.

All this is counterbalanced.

By what?

By the publication of the debates! Nay, all the powers of government are as a feather in the scale compared with this one circumstance!

Nothing can go beyond this.

The whole of the paragraph preceded by figure (3) is assumption against the people, mixed with abuse, and therefore needs no further comment.

Figure (4) is prefixed to two affirmations which, if any body disputes, it is certainly not the radical reformers. They do not say that the British constitution is the creature of theory: they think it is, in all those parts of it which they wish to see altered, nothing but the creature of aristocratical interest. As little do they say that it is the garment of the body politic, or like a garment. But the Quarterly Review has found out that it is something not less wonderful than a garment, namely, the skin. But what has it found that the skin is? This we may safely affirm to be its master discovery. The skin is the *life*. The body politic is a remarkable body; it wears its life on its outside, as a crab wears its bones. But the Quarterly Review has something still more wonderful behind. After discovering that the skin is the "life," it goes on, and finds that it is "rather the life itself." The "life" is "rather the life itself." This is something exceedingly subtle. As we have had many specimens of the *logic* of aristocracy, this we may consider as a taste of the metaphysics of aristocracy.

(5) "Under it we are as free as our thoughts." This is the aristocratical logic without reserve and without shame. If by "we," the Reviewer means himself and brethren, we admit his proposition. Freedom there is, in abundance, as he well knows, and more than freedom, to applaud the aristocracy and abuse the people. The want of freedom is all on the other side. And in the next sentences, marked (6), he calls for a still further abridgment of that freedom. Nothing less will satisfy him than "silencing" his opponents, not by argument, but the brute hand of power. And this he calls being as free as our thoughts.

Such is the way in which power, when tolerably sure of its footing, deals with truth, reason, and justice.

The reader will next look at figure (7). It is curious enough that the courage even of this unabashed assertor does not carry him so far as to deny, that the majority of the House of Commons is returned by the Treasury and a few powerful families. No impudence is equal to this. But there is still enough of the brave faculty at the disposal of aristocracy, and of both sections of the aristocracy, as to make them find, here and else where, pens and tongues in abundance, which proceed, by dint of assumption, to explain away the certain consequences.



Thus our Reviewer (8), "wealth and power must have their influence:" ergo, the lord mayor or the lord mayor's fool may know that a government essentially consisting of the Treasury and a few powerful families, leaves the people, by its necessary operation, as free as their own thoughts; in danger from nothing but the "abuse of freedom." The *termites*, *i. e.* the people, will destroy the fabric, *i. e.* a government beautifully composed of the Treasury and a few powerful families, unless they, the *termites*, are crushed, *alias*, *euphoniæ gratia*, "defeated by efficacious measures."

The passage indicated by fig. (9) to the end of the quotation is the usual assumption of excellence, grounded upon the representation of interests, which the Reviewer goes on, through several pages to expound. This is the class, or club representation of the Edinburgh Reviewers, which we have already noticed, and shall expose to the bottom on another occasion. Here the juggle is effected by an abuse of the word representation, which the Reviewers do not apply in the sense of a security for good government, but of a show. The people represented in an assembly, the majority of which is nominated by the Treasury and a few powerful families! The proposition carries its own imposture upon the face of it. Nothing is represented in such an assembly, in the only sense in which representation is good for any thing, in the sense of a security, but the Treasury and the powerful families. They enjoy representation in the true sense of the word, and much more; they enjoy by it security not only for their own rights, but for the power of invading other people's, with no other restraint but what their prudence, *i. e.* their foresight of the danger, *i. e.* of the people's resentment, may impose upon them.

These specimens must suffice to illustrate our Reviewer's mode of dealing with the people of England, and with "things as they are," denominated in the slang dictionary "the blessings of the British constitution;" though they may depend upon it that the people do not wish to part with the blessings, but only the curses. We shall next present a few instances of the application of the characteristic logic to the people of France and of America. As these are the people of modern times who are most distinguished for their efforts to throw off the yoke of aristocracy, every thing is to be done to make them appear excessively hateful.

Against the French, the specimens we shall take are from one of the most conspicuous articles in the Review, that on the character of Pitt, in the 7th number.

'Into the causes of the revolution, no further inquiry appears in this place necessary than may suffice to elucidate the character which it communicated to France, considered in her foreign relations. The

chief of those causes Mr. Gentz conceives, and, as we suspect, rightly, to have been the progress latterly made by the lower and middling classes of the French nation in knowledge and intelligence, unaccompanied, as that progress was, by a corresponding improvement in morals. The popular mind, conscious of power, and unprovided with the corrective of sound principle, became fevered and restless; and quickly acquired a degree of expansive force, which the gorgeous but slender frames of rank and privilege that inclosed it could ill resist. They were shattered to pieces, and Europe was covered with the glittering fragments. Released from their confinement, the spirits that had hitherto been struggling in common for a vent, now began to struggle mutually for the mastery. In fact, the anarchy which accompanied and precipitated the destruction of the old regime, was nothing else than *a conflict of minds*; a conflict, however, in which success would of course fall, not to refined talents or elegant acquirements, but to practical vigour, hardihood, and dexterity. In the result, therefore, a new energy was infused into every department of the state; but an energy which, having been originally composed of unhallowed materials and "strange fire," was not likely to have contracted any virtuous admixture from the feculent medium of blood and discord through which it had past. Such, apparently, in its rough outline, is the natural history of the French revolution, and, agreeably to this account, that event may perhaps be correctly defined to have been *the sudden development of malignant power*.

The birth of such a monster as the revolutionary system could hardly come to pass, unattended with prodigies and commotions throughout the western world. Intimately connected as the European commonwealth of nations had been for upwards of a century, it might safely have been foretold, both on the general principles of human nature, and from the narrower canons of political science, that a local affection of so violent a kind would prove but "the beginning of sorrows." It has, in effect, always appeared to us, that the revolution was not more the crisis of a previous situation of things than the war was the natural crisis of the revolution. The evil might, in all probability, have been adjourned, but it would have been adjourned, in the parliamentary phrase, only *to an early day*.

To verify this remark, we need only recur to the character of the revolution, already given. It was power; it was power suddenly conferred; *it was power suddenly conferred on malignity*. Any accession of strength that France would have gained towards the close of the last century, even by the most orderly, legitimate, and leisurely development of her resources, could not but have rendered her so far more dangerous to her neighbours. She had

long shown herself too ambitious for their peace and too great for their safety, and undoubtedly was not likely, by growing greater, to become less ambitious. But that power, which, in the keeping of even monarchical France, would probably have been abused, in the hands of revolutionized France, made giddy by the whirl of the change which she had undergone, and shaken from all the holds of moral principle, could only prove pestilent. Those statesmen who had set at nought every obligation, whether of law or of charity, that had contributed to bind together the polity of their own country, were ill qualified to become guarantees of the rights of nations. That spirit which, at home, had shown itself so insatiate of novelty, that, even in its crimes, it seemed to scorn all precedent, and would commit

“The oldest sins the newest kind of ways,”

could little be expected, abroad, to endure existing prejudices and venerate established forms. It seems plain, therefore, that the innovating mania, which had so thoroughly transformed the internal condition of France, must inevitably, in no very extended period, have produced a like effect on her foreign relations. Even supposing the other governments of Europe to have demeaned themselves on the occasion with more equanimity and dispassionate wisdom than, in so singular a situation of things, it would perhaps have been reasonable to demand of them, still nothing could have preserved them from being embroiled with the new state, short of an unqualified submission to its insolence and caprice.’

We cannot afford space to analyse the assumptions and abuse contained in this passage, as we have done in some preceding ones. They stand, indeed, so evident, that the example which we have set of this analysis may be easily applied to them. We shall barely advert to a few of the expressions.

“The lower and middling classes of the French nation had latterly made progress in knowledge and intelligence, *unaccompanied by a corresponding improvement in morals.*” How does the Reviewer know that? Are morals any thing else than a branch of intelligence? It is useless, however, to argue against a naked assumption, made for the purpose of abuse.

Take a passing glance at the rhetoric. Think of the “popular mind” being “enclosed;” and of “rank and privilege” being “frames,” and of these “frames,” namely, “rank and privilege,” which enclosed the popular mind, being “shattered to pieces” by the “popular mind,” which became steam for that purpose. Rank and privilege were the boiler, the popular mind was water within; knowledge and

intelligence were the fire put under the boiler; the boiler was gorgeous but slender; and no sooner did the steam begin to form, but lo! the explosion took place; and the glittering fragments of the boiler, a gigantic boiler, "covered all Europe." What school-boy work is this?

What is meant by "anarchy's" being "a conflict of minds?" "A conflict, in which success would fall, not to refined talents or elegant acquirements" (the "gorgeous but slender frames," we suppose, spoken of above), "but to practical vigour, hardihood and dexterity," *videlicet*, the steam, also spoken of above, which, by its "expansive force," shatters to pieces "glittering and slender frames."

We shall not meddle with a "new energy, composed of *strange fire*," nor with the passing of an energy through a medium, a "feculent medium;" he might have added, a very droll medium, if its composition and ingredients be considered. The sort of medium which blood would form mixed with water or mixed with earth, we can conceive: but what sort of a substance, liquid or solid, it makes in a mixture with discord, we have no idea.

We must bestow a little more attention upon the definition of the French revolution. Definitions are serious things. The Reviewer says, it may be *correctly* defined (indicating, of course, some peculiar excellence in the definition) "a sudden development of malignant power," the words, for greater emphasis, printed in Italics. It would be an equally correct, and a much more intelligible definition, to say, that it was *a sudden destruction of malignant power*; meaning, by malignant power, the former bad government. What is meant by that most affected phrase, the *development* of power? Power is first created and then it is exercised; and these two things, its creation and its exercise, constitute the whole of its history. Does the *development* mean the one or the other of these two things, or both, or neither? Both, we shall suppose, as that affords most of the semblance of a rational meaning. The French revolution, then, was the creation and exercise of power. Why, so was the starting of the Quarterly Review. So was the making of the "gorgeous and slender frame" (thank thee, Jew, for that word!) of this article, on the "gorgeous and slender frame" of the right honourable William Pitt. This, then, is a curious definition of the French revolution, which identifies it with the forth-coming of the Quarterly Review. But we have the qualifying word "malignant." Well, and is that inapplicable to the Quarterly Review? We have already afforded some, and as we go on shall afford additional means to the reader of answering that question satisfactorily to himself. "Agreeably to this account, that event" (*viz.* the publication

of the Quarterly Review) “may, perhaps, be correctly defined to have been *the sudden development of malignant power.*”

The man, however, who uses the term “malignant power” does not understand the meaning of words. Malignant is a quality of a mind. Nothing can be malignant but a mind. Power is not a mind. A man may be malignant, and, having power, may use it for the gratification of his malignity. But it would be just as congruent to call a misapplied broomstick malignant, as to call power by that name. The object, however, was to get a horror-raising and hatred-inspiring phrase, to apply to the French revolution, and “malignant power” appeared to be delightfully suited to the occasion. The term *malignity* is repeated with a *gusto* again and again. “The character of the French revolution,” says the Reviewer, “was power.” This is something fine as a definition of a character; “gorgeous” it is “and slender.”

“Power suddenly conferred on malignity;” this must mean, if it has any meaning, that the men into whose hands the power of government came during the French revolution, were malignant men; and that again must mean that they made a mischievous use of their power. It is not for the interest of the Quarterly Review, nor of those for whose use it is written, to provoke too accurate a comparison of the use made of power by the revolutionary governments in France, and that made by the governments which either preceded or followed them. This discussion, which, for the present, we must wave, may occupy our attention on another occasion.

Specimens of this finery are profusely scattered in this article. We can treat the reader only to a few, and must then hurry on to another topic.

‘It now seems generally admitted, that in the moving forces which operated that mighty change, whatever was not extravagant and overweening vanity, was deliberate crime.’

Through all the *utter and the middle darkness* of the reign of regicide.’

It was whenever the French arms had experienced some reverse, that these fiends of blood, the infamous *commissaries* of the convention, the Maignets, the Lebous, the Carrères, and the Collot-d’Herbois, were observed to exercise their peculiar and most diabolical refinements of cruelty.’

Here is mentioned an important fact, entirely in accordance with that theory which ascribes the principal part of the blood that was

shed by the revolutionary leaders to the terror in which they stood of a counter-revolution, and the measures necessary to prevent it.

‘The forked tongues of the popular leaders were systematically and incessantly employed in hissing forth the cant of *philanthropy* and *cosmopolitanism*,’ &c.

Let us, for the sake of brevity, concede it to have been possible, that without any predisposition to such views on the part of France, such effects should be produced on her by the *conditional* menaces of the sovereigns in question—that a timid whisper, of merely contingent hostility, should strike the ears of the revolutionists like the blast from the trumpet of Alecto, inspiring them with horrid recollections of war and havoc,’ &c.

Of what consequence can it be to ask, at whose bidding, or of what materials, the bridge was constructed, that opened an access to Europe from the pandæmonium of robbery and murder?’ &c.

Would it have been so mighty an advantage, if, for that vague and frenzied malignity which seemed to trample down kingdoms out of pure wantonness, there had been substituted something like the cool, deep, calculating malignity, which actually impels the present government of France along its measured march of desolation.’

But enough of this; we must now afford a sample of the treatment bestowed upon the people and government of the United States.

In the 41st No. occasion is taken of Mr. Fearon’s Sketches (this gentleman went to America for the purpose of reporting to certain individuals in England on the propriety of conveying themselves to that country), to hold up the Americans and their government to hatred and contempt.

First of all, those individuals who deputed Mr. Fearon are treated with excess of contumely for harbouring the design of going to America, as if an Englishman were *glebæ adscriptus*, and ought to be dealt with as a slave who runs away from his master, should he harbour a thought of quitting England; where taxes, and gagging bills, and libel law, and game laws, and unpaid magistrates, and aristocratical justice, and low wages, and the having nothing to do with the laws but obey them, constitute so many admirable grounds for the *amor patriæ*, that “feeling which ennobled the citizens of Sparta and Athens,” whom, be it remembered, the Quarterly Review cannot, on other occasions, find terms gross enough to disparage.

‘There is a numerous set of people in this country, who, having grown inordinately rich under its protecting shield, while the rest of the civilized world lay exposed to the ravages of war, are become feverish and discontented, because the return of peace has not instantaneously, and, as it were by magic, shaken from their shoulders the burthens necessarily created by that protracted state of hostility to which their fortune is mainly due. Too selfish to endure any reduction of their extravagant profits, or to await the relief which the reestablishment of tranquillity must gradually effect, they leave their country to support its burthens as it can, and are already on the wing, with their multitudinous acquisitions, for a foreign shore.

Among others of this description, forty families, principally resident, we believe, in the neighbourhood of Southwark, gaily formed themselves into an emigrating party to the United States—

Cedere namque foro jam nec tibi deteriùs quàm  
Esquillas a ferventi migrare Suburrâ—

to transfer their allegiance and their affections to another government sits as lightly upon them as to remove, in the fashionable season, from the Ward of Farringdon Without to Margate or Rotting-Dean. The feeling which ennobled the citizens of Sparta and Athens, and stood them in the stead of many virtues, the *love of country*, once the peculiar pride and boast of Englishmen, has no residence in the bosom of these persons. The endearing charities of life, the ties of blood, of society, of early friendships, of kindred habits, are all sacrificed by them to one sordid passion, while, rudely trampling over the graves of their forefathers, they rush in crouds to deposit their wealth where it may be safe from the claims of their native land.

‘Had the amiable con-fraternity, of whom we are speaking, been agriculturists, they would have transported themselves at once, and blindly plunged into the insatiable gulf which has already swallowed up so many thousands of their countrymen; but they were traders—cold-blooded, calculating men, who, in their own language, deemed it prudent *to look before they leaped*, and in the usual mode of business, to send out one of their members as a kind of *Rider*, to examine the country, and select the most favourable spot for settling, before they trusted themselves, with their accumulations, to the winds.

The person fixed upon for this purpose was Mr. Henry Fearon:—and as there was an evident solicitude in the party to procure a favourable report from the United States, the choice could not have fallen upon a fitter agent. A democrat fieffé, Mr. Fearon joined to a

sovereign contempt for the civil and religious institutions of England, of which he knew little, a blind and sottish admiration of those of America, of which he knew nothing at all. With the gullibility common to the party, he appears to have swallowed all the rancorous abuse of this country, and all the outrageous panegyrics on America, which he found in Cobbett, and Wooler, and Sherwin, with equal avidity and delight. Thus happily qualified for an impartial speculator, and furnished with "letters of introduction by Mr. Alderman Wood," he commences his narrative and his voyage on the 4th of June, 1817. The results of his travels are contained in "Eight Reports;" transmitted as occasion offered to the persons by whom he was deputed.'

The reader, we trust, will pardon us for a reflection or two upon this new crime, got up by the Quarterly Review; the crime of not remaining in whatever country one happens to be born.

How would the Quarterly Review like to apply this doctrine to some of those whom it is most anxious to please, among others, to the royal family, who are thus converted by the Quarterly Review into criminals, and charged with "sacrificing the endearing charities of life, the ties of blood, of society, of early friendships, of kindred habits, to one sordid passion; while, rudely trampling over the graves of their forefathers, they rush to deposit, not "their wealth," but what is much more valuable, their sacred persons and parental cares, "where they may be safe from the claims of their native land." Sentimental trash, applied to a mischievous purpose!

The Quarterly Review commits a gigantic blunder when it contrasts the *amor patriæ* of the Greeks with that of the English. Why had it not the sense to reflect, that if Englishmen are told they have nothing to do with the laws but obey them, the Greeks were very differently situated. The Greeks had something more to do with their laws than to obey them. This is what made men patriotic in ancient Greece. This makes men patriotic every where. Were the Helots at Sparta patriotic? Of how large a portion of the English people is it declared, of all who are not freeholders, that they are unknown to the laws? If you would obtain effects, good Mr. Reviewer, you must not forget causes.

After all, did the patriotism of the Greeks display itself in keeping at home; or was it a crime at Athens, as in the Quarterly Review, for a citizen to betake himself to another country? The Greeks were, perhaps, the most migratory of all the people upon the face of the earth. What population ever sent out so many colonies? How large a portion of the population did they form in the principal cities in Egypt, in Syria, and other countries? How many of their greatest men expatriated themselves, as Xenophon, who "trampling over the



graves of his forefathers," not only carried his wealth to Sparta, but committed another horrid crime in the eyes of the Quarterly Review, writing books which contained severe censure of the institutions of his native country. The reader may probably think that this is an extraordinary way the Reviewer has of dealing with matters of fact.

But power cares not what it says. This is one of its various properties. The consciousness of writing or speaking on the side of power, seems to create an exemption from the trammels both of truth and of reason. Not only can power silence opponents, by knocking them on the head, when they press too closely: but power dazzles the eyes, and captivates the fancy of ordinary persons, so that whatever power either does or says, commands their approbation. Is not the dress of the great the fashionable dress, their language the fashionable language, their airs and manners the fashionable air and manners, and their opinions, the fashionable creed? Writings on the side of power may, therefore, presume a great deal on the favourable sentiments of their readers; and they generally make ample use of this their privilege.

Passion is proverbially short-sighted. The hatred of the Quarterly Reviewers to a people which had set a dangerous example of throwing off the yoke of aristocracy, makes them here overlook the commission of another egregious blunder. They begin by describing Mr. Fearon as a person wholly unfit to be trusted for an observation or an opinion; but finding him afterwards very much disposed to find fault with what he saw in America, they treat him as an oracle; and every thing he says that can be turned to account for making the people of the United States appear either odious or ridiculous, is embraced as text of holy writ. On the other hand, Miss Wright, to whom we are indebted for a very interesting work, and who delighted in holding up the favourable aspect of things in the United States, is not only treated as at once wicked and contemptible, but wholly unworthy of belief. Whoever speaks against the Americans, is to receive implicit credit, and no questions asked. Whoever says any thing in their favour, is to be told that he or she is a liar, and a knave, and a fool; agreeably to the most approved rules of the aristocratical logic.

The following passage which stands as the criticism on the work of Miss Wright, is an instructive specimen of the art of assumption and abuse in the hands of a master performer:

"The fourth and last article is an impudent attempt, we conceive, to foist into public notice, under a spurious title, namely, that of an *Englishwoman*, a most ridiculous and extravagant panegyric on the government and people of the United States; accompanied by the

grossest and most detestable calumnies against this country, that folly and malignity ever invented. An Englishwoman, with the proper spirit and feeling attached to that proud title, would blush to be thought the author of such a work. We will not, we cannot, possibly, believe that one so lost to shame exists among us; and are rather disposed, therefore, to attribute it to one of those wretched hirelings, who, under the assumed names of “travellers,” “residents in France,” “Italy,” &c. supply the radical press with the means of mischief. Our first conjecture, indeed, on opening the correspondence, was, that we were indebted for it to the consistent Mr. Walsh, who, finding that his former work had made no converts on this side the Atlantic (with the exception of our northern brethren, to whom the subject endeared it), had attempted to revive it under a more taking title. A regard to justice, however, compels us to add, that the perusal of a very few pages convinced us that the calumnies are too stupidly outrageous to come from him; and, to say a bold word, we know of no other American that could justify even a guess. Such, however, as the correspondence is, we must proceed with it. We can smile at the bloated vanity which proclaims a Solon and Lycurgus to be mere simpletons in legislation compared with a Jefferson; and Hannibal a bungler by the side of a general Jackson, whose most glorious achievement, we believe (before his unparalleled campaign in the Floridas), was that of the murder of two unarmed Englishmen: nay, we can hear without much impatience, that the American government is the perfection of all human institutions—that justice is cheaply dealt out with such an even hand to high and low that slavery even ceases to be a curse—that a spirit of universal benevolence pervades all classes of society—that poverty is unknown, oppression unfelt, and dishonesty unpractised—but, when we are told, “that the people of the United States are far superior to the English in all intellectual endowments; in the decencies of life; and in their general conduct towards each other and to strangers—that they have not, like us, *disgraced* themselves with an established church, supported by penal laws, the work of statecraft and priestcraft united”—in short, “that relief from all the evils which the old governments of Europe had inflicted upon the poor and industrious is only to be found in America”—it becomes a duty to rise up and expose the fallacies, in order to check the ruinous consequences which they are but too well calculated to entail upon those credulous people who are liable to be deluded by them.

A single extract from the letters of the pseudo-Englishwoman will be sufficient to show the general feeling by which the writer is influenced towards England. In speaking of the affair of Frenchton, on the river Raisin, a story is told of the massacre of “a detachment of the choicest sons of Kentucky, by the Indians *under* colonel Proctor, after a surrender by capitulation on honourable terms,”

which concludes thus:—"The British commander marched off his troops, gave his prisoners in charge to the savages, and left them, with the wounded and the dying, to be tomahawked and roasted at the stake." A more infamous and detestable falsehood than this, was never fabricated. Colonel Proctor left no prisoners in the hands of the "savages;" and every one of those who were captured by the abused and plundered Indians themselves was brought by them to head-quarters, and taken the utmost care of until the whole were given over to their own countrymen. A *detached* body of Indians, indeed, falling in with some of these "choicest sons of Kentucky," did, we believe, tomahawk a few of them.—And why? Let the Kentuckians themselves answer the question: it has, in fact, been answered by one of their own writers, and stands unrefuted to this hour. These "choice spirits" had seized a party of Indians but a few days before, the greater part of whom they not only *scalped*, according to their common practice, but coolly and deliberately amused themselves *by cutting razor-strops from their backs* while alive!\*

The overflowing rancour which uniformly characterises this writer's notice of the English, is exchanged for the most abject sycophancy whenever America is mentioned; the violation of truth and decency is always the same, in both cases. She is not afraid to assert (p. 346) that, "during the late war, a British deserter was never knowingly employed on board an American ship!" Now there is not a fact on record more notorious than that of the establishment of an organized system at all the American ports for the purpose of inveigling men from our service to man their ships of war. It is known—that this system of seduction was even extended to the crews of boats sent on shore with flags of truce—that the men thus obtained were triumphantly paraded through the streets with bands of music—and that the several collectors of the customs were always at hand to furnish them (for two or three dollars) with "certificates of citizenship." Of the innumerable facts which lie before us, we will trespass on the reader's indulgence for one or two only; and this for the sake of putting beyond question the habitual disregard of truth by this abandoned prostitute of the name and character of an "Englishwoman." '

Enough! enough! even for the strongest stomach! To have told the truth, that Miss Wright, and Mr. Fearon, both apparently enthusiasts for liberty, saw things, the one with the peevishness of disappointment, because he did not find every thing so good as a heated imagination had led him to expect; the other with admiration, not perhaps sufficiently discriminating, because she found so many things better than in the country she had left behind; would not have suited the purpose of this Reviewer,

anxious as he was for setting up another crime, a new sort of treason; which, instead of *lèse-majesté*, may be called *lèse-anglicité*; a crime consisting of two ingredients; first, sense enough to discern that there are many things in the institutions of England calculated to injure the people for the benefit of the aristocracy; and, secondly, spirit enough to declare a wish for a remedy. Who can be an Englishwoman with these frightful ingredients in her composition?

In the article in our first number, in which we began the analysis of the sinister interest under which writers that work for the aristocracy are laid, we have seen that nothing is of more importance to a bad government, bad by an undue mixture of aristocratical power, than a bad system of law, and a bad religion; bad, in as far as they are calculated to serve as props to the aristocratical power; but the more bad they are, sure of being the more lavishly eulogized by the advocates of aristocracy, at the same time that every friend of the people who attempts to reveal their badness, is sure to be the more violently and savagely reviled.

We cannot pass these topics without affording a slight sample of the mode in which the aristocratical instruments, assumption and abuse, are applied to them.

In the article on Bristed's Statistical View of America, we have the following passage, which answers, as will be seen, a double purpose.

'Among the numerous institutions to which England is indebted for its comforts, its security, and its prosperity, we cannot but consider our courts of law to be the most prominent. There is a peculiar character of dignity attached to our judges, which gives them a respectability, almost allied to religious veneration. The nature of their education, which requires a considerable degree of seclusion, and their stations, which forbid them from being foremost in the circles of even innocent levity, have a tendency to raise their characters, and to inspire a confidence in their decisions, which must be unknown to the people of America. We hear of one of their judges appearing on the bench with a countenance battered in a boxing-match; of another shot because he had approached to attack his neighbour with pistols in his bosom and a concealed dagger; of some engaged in duels as principals and seconds, and of others posted as cowards for declining such contests. In the management of elections, in the fraud of substituting one set of ballots for another, on which the success of the candidate often depends, the judges are the most adroit actors.'

We add the following because it is short; and because it so coolly assumes that one of the greatest drawbacks on American prosperity, the imperfection of its civil and penal codes, copied as the Reviewer truly says, but too servilely from England, is the grand cause of that prosperity.

'In tracing the causes which have forwarded the prosperity of North America, we shall find *the foundation of them all to be laid in the English constitution and the English laws*. In a country the far greater portion of whose population is planted in hamlets and villages, and whose employment is chiefly the cultivation of the soil, the security of persons and property is the most essential ingredient in public prosperity. The laws of England are the best foundation for this security, and these, throughout the United States, have regulated the decisions of their courts of justice. The trial by jury, the gratuitous administration of inferior and local law by justices of the peace, the unbought police by sheriffs, coroners, and constables, are all derived from similar institutions of the parent state, and are adhered to with a strictness, which their practical effect on both countries fully justifies.'

On its perpetual assumptions of perfection in the system of law, judges included, we cannot at present enlarge; the nature of that perfection we shall hereafter have abundantly numerous occasions of displaying.

The assumptions about religion are of two kinds; the one set regarding the ecclesiastical Establishment; the other, the Creed of the church of England.

In favour of the Establishment it is habitually assumed, that the man who questions its goodness is an enemy to the constitution, and a lover of anarchy. In favour of the Creed it is assumed, that whoever disputes it is an atheist, and being an atheist, is exempt from all moral obligation, and ready for any and every crime. These are the standard assumptions, involving abuse. The few passages we shall select exhibit chiefly varieties.

'It is a right inherent in every society, to prescribe the conditions on which its members shall be admitted to offices of trust; and when the magistrate endows and incorporates the religion professed by the most numerous part of the community, so that it becomes the religion of the state, entitled to certain honours and emoluments annexed to the discharge of certain duties, the party who contracts for the payment may lawfully stipulate as to the nature and condition of the correspondent offices to be performed. This is the original principle of articles of religion, which, under various modifications, have, in almost every age, and under every

establishment of Christianity, been tendered to the acceptance of aspirants to the office of public teachers. The necessity of such a conduct is so universally admitted, that even those who dissent from all establishments, and clamour against all such impositions, as either fetters or snares to the consciences of men, virtually adopt it.—Against the doctrine of subscriptions in general, there ought, in consistency, to be no objection. The Bible, indeed, is an inspired test, and to that all are willing to conform themselves. The end of articles, however, being the preservation of religious peace and order, let it be considered how far a mere subscription to the Bible, and a declaration of conformity to the doctrines contained in it, would answer that end. According to the account of the respective parties, the Arminian and the Calvinist, the Unitarian and the Methodist, the Quaker and the disciple of Swedenborg, all find their peculiar dogmata in the Bible, and all conform to its doctrines. Such a subscription, it is obvious, would be equivalent to none—would open a door to universal confusion, and, perhaps, end in general infidelity. Ministers of opposite principles would succeed each other in the same church; the people, bewildered and distracted by contradictions, would first quarrel and separate about particular doctrines, then become indifferent to all, and, lastly, believe and practise nothing.

It is, then, not against the doctrine of subscription to articles of religion in general, but to those of specific churches, or to some individual articles among them that objections are to be made. Applying this to the articles of the church of England, it must in the first place be observed, that they were compiled in an era of religious light and knowledge, *which has never since been surpassed*, and from which *we* have certainly declined; that, amidst the incurable differences of human opinion, they have, during a period of more than two centuries and a half, obtained the cordial approbation of the learned, the pious, and the upright; that, notwithstanding the assent required to such a multitude of propositions, they have troubled the consciences of few, and excluded fewer still; and that, in the mean time, they have not only preserved their own church in a state of edifying harmony and peace, but formed a rallying point for numbers, who, from the want of such a standard, might have lost themselves in doubt and error. It cannot but be allowed then that there exists, in favour of our articles, a strong antecedent presumption.

We merely throw out this as an answer, and a sufficient answer it is, to the crude calumnies of men who affect to speak of them as the product of some barbarous age, stuffed with the metaphysical jargon of the old schoolmen, and such as no inquisitive and well-informed person, in these enlightened days, can either subscribe or teach without a certain measure of hypocrisy and prevarication.'

The assumptions and abuse contained in the above passage, the reader will perceive without any commentary of ours; but we particularly request his attention to the latter portion of the first of the paragraphs, in which, in order to make out his point, in favour of religious tests, the author is obliged to broach some most extraordinary doctrines.

“The Bible,” he says, “is an inspired test, to which all are willing to conform themselves.” But belief in the Bible, he immediately tells us, answers no purpose. He says “it is obvious that such a belief” (for he surely does not make subscription one thing, and belief another) “would be equivalent to none, and end, perhaps, in general infidelity.”

This is a declaration, as express as words can make it, of the unfitness of the Bible to serve as a standard of faith. Instead of the Bible, a composition of men must be obtained; and this must take the place of the Bible. The inspired penmen, or the inspiring Dictator of the Bible, did not accomplish what (with reverence be it spoken) they ought to have accomplished. The church of England sets aside their composition, and presents a far better composition of its own. The Romish church hold the same argument; but they hold it with consistency, and with no little show of reason. From the goodness of God, they say, we distinctly infer, that he would not leave his creatures to grope in the dark about the way of their eternal salvation; hence, the reasonableness of presuming on a revelation of his will. That revelation was made; but it pleased the divine goodness to make it in terms so vague and obscure, and hence so extremely susceptible of different interpretations, that it left the human mind in a state of nearly as great uncertainty as that in which it unhappily wandered before. To this divine book an interpreter was wanted; and the same argument which shows that it was conformable to the divine goodness to give a revelation of the divine will, shows that it was equally conformable to it, and necessary to complete the scheme, to give an infallible interpreter.

This we say is consistent doctrine; but to go the full length of the Romanists in condemning the Bible, and then to say that we are to take the composition of fallible men as a substitute for it, appears to us, what we can call by no other name than rank infidelity. If this be so, the Quarterly Reviewers are, for we do not impute to them such an aberration as intentional, infidels, nay preachers of infidelity, without knowing it. This is going dangerous lengths in defence of the church.

But in the very next paragraph, the Reviewer pronounces a condemnation of his church, unwittingly, we doubt not, because most imprudently, such as, had it come from unhallowed pens,

unhallowed we mean by the unktion of aristocracy, would have been a proof of atheism and sedition. So utterly worthless, he says, have been the exorbitantly paid clergy of the church of England, from the time of the compiling of her articles, to this day, that while every other class of men have been advancing in knowledge, and perfecting their respective sciences, while such progression has been making in every other quarter that can be named, in the quarter of theology, there not only has been no progress, but there has been retrogression. No wonder that the clergy of the church of England are enemies of improvement. An order of men who do not improve, have the greatest interest in hating and reviling those who do.

The following passage is a short one, and a fine specimen of the assumptive branch of the logic which we have undertaken to illustrate.

'A state is secure in proportion as the subjects are attached to the laws and institutions of their country; it ought, therefore, to be the first and paramount business of the state, to provide that the subjects shall be educated conformably to those institutions; that they shall be "trained up in the way they should go;" that is, in attachment to the national government and national religion. The system of English policy consists of church and state; they are the two pillars of the temple of our prosperity; they must stand together, or fall together; and the fall of either would draw after it the ruin of the finest fabric ever yet reared by human wisdom under divine favour.'

One of the most instructive of all the exhibitions which the Quarterly Review has made of itself, is in the case of Mr. Hone, to which, for want of space, and of time to examine the points at issue between them, we cannot do justice, but which we must not pass without conveying to the reader some idea of the actings of the Quarterly in this respect.

'Nothing but the execution of a public duty would have tempted us to defile one line of our journal with the notice of a wretch as contemptible as he is wicked. It is indeed a source of real gratification to us, that, in proceeding to give our readers some account of the book before us, we may at once dismiss Mr. Hone from our consideration. He is described to us as a poor illiterate creature, far too ignorant to have any share in the composition either of this, or of his seditious pamphlets. He only supplies the evil will, and the audacity: the venom is furnished by the dastard behind. Our future observations will, therefore, be confined to the real editor of this nefarious publication.'



The occasion of all this abuse was that of a publication by Mr. Hone, of the apocryphal gospels and epistles, with some historical notices in a preface. It is well known that various writings, to which the term apocryphal has been properly applied, have come down to us from a remote antiquity, and form a part, and an important part of the historical materials of the times. Assuredly Mr. Hone, or any other man, had a perfect right to present these documents to the public. But the Quarterly Review is pleased to assume, that Mr. Hone has made the publication with "the sole aim to destroy the credit of the New Testament, and to shew that the most silly and drivelling forgeries can be supported by the same evidence which we use to establish the authority of the Scripture."

This the reader will observe, is pure assumption; and as it infers what the Quarterly regards or pretends to regard, as the most dreadful of crimes, the wickedness of imputing it without foundation is extreme. We believe that the accusation is false. Mr. Hone declares his belief of Christianity, in the clearest and most unequivocal terms. Most assuredly it is not upon the assumption of the Quarterly Review that we shall disbelieve him; after the proof which we have had of its habitual readiness to assume whatever it has occasion for, in matters of fact, as unscrupulously, as in matters of opinion.

But we must not pass another of these assumptions, in which the very principle of free discussion and religious liberty is involved. Supposing it were true, as it appears to be false, that Mr. Hone did not think the evidence for the truth of Christianity satisfactory, and that he did think, as the Quarterly is pleased to express it, "that the most silly and drivelling forgeries can be supported by the same evidence which we use to establish the authority of our Scripture," who ought to have a right to say to him, that he shall not declare such his opinion? It is the spirit of persecution, in its full growth, to say that one man has not as good a right to declare that opinion as any other man to declare a different opinion. Why should these misguided advocates of Christianity perpetually insist upon the suppression of evidence in its behalf; and preach by their actions, a truer test of their sentiments, than their words, that Christianity can only be supported, if the other side is not allowed to be heard?

'We pass from the preface to the work itself, which opens with the wretched tract called "The Gospel of the Birth of Mary." "In the primitive ages," says the editor, "there was a gospel extant, bearing this title, attributed to St. Matthew, and received as genuine and authentic by several of the ancient Christian sects. It is to be found in the works of Jerome, a father of the church, who flourished in the fourth century, whence the present translation is made. His contemporaries Epiphanius, bishop of Salamis, and Austin also

quote a gospel under this title." To each of the assertions contained in this passage, namely, that the gospel which the editor presents to his readers was received by several ancient sects—that it is to be found in St. Jerome, and that it is quoted by Epiphanius and Austin, we now proceed to give a direct denial, accompanied by proof that the editor was aware of the falsehood of them all!

Mr. Hone published a reply to this article, in which he showed, in our opinion satisfactorily, that this denial of theirs in every one of its points, remained unsupported, and that they had resorted, for their purpose, to gross misrepresentation and falsehood. Their attack upon him was wound up in the following meek and Christian language:

‘To press any further inquiry into the system pursued in this publication, and to penetrate deeper into the dark recesses of its falsehoods, is a task which we cannot inflict on ourselves, and which we are persuaded our readers will not require of us. Controversy, with a learned and candid adversary, conducted on proper principles, invigorates the mind; but the detection of the errors of hopeless ignorance, and the artifices of incurable dishonesty, is a task wearisome and revolting beyond conception. We have proceeded thus far because we conceive it a public duty to prove beyond doubt or contradiction, that Hone has a set of writers in his pay, with whom truth is an idle name, and honesty a by-word and a jest; men who, for their own evil purposes, are anxious to destroy every principle and feeling which binds the citizen to his country, and the spirit to its Creator. And assuredly no more satisfactory proof of wilful falsehood could be afforded, than we have found in the pages of the book before us. Its author has not been led into the crime of deceiving others by being the victim of deception himself; he has not produced false statements from misapprehension; he has not fallen into error through oversight or negligence. These things are the lot of human nature; and he who knows and trembles at his own weakness will be slow in condemning others, and in ascribing to an evil heart what may be the fruit of the same frailty in his brother. But in this case, charity can prompt no extenuation of the crime, and justice to others demands, that the deepest brand of shame should be stamped upon it. The pages of that work, from which Hone’s editor has borrowed all his matter, contain a clear and a distinct refutation of every statement which he has published. The poison and the antidote were placed before him at once, and he could not learn one of the falsehoods which he has uttered, without knowing, at the same time, that it was a falsehood. He has chosen, therefore, to deceive, without being deceived himself, and with a deep and desperate malignity endeavours to convince others of what he knows to be false, and to lead them away from the truth which he recognizes

and hates. To him we do not address ourselves: the voice of reproof and reproach would be directed in vain to one, who, before he sat down to his diabolical task, must have silenced the louder calls and admonitions of his own conscience. But we would earnestly exhort those, who, from an idle curiosity, are induced to purchase Mr. Hone's publications, and thus supply fuel to the flame, to consider\* "that such pernicious works would neither be published nor written, if they were discouraged, as they ought to be, by public feeling; and that every person, therefore, who purchases such books, or admits them into his house, promotes the mischief, and thereby, as far as in him lies, becomes an aider and abettor of the crime." ' "

This needs no commentary. If it were possible for the cause of Christianity to be disgraced by the misconduct of its defenders its genuine friends would have serious cause of alarm. To an exposure of the groundlessness of all these various accusations, how is it that the Quarterly Review replies? By taking up and refuting the counter allegations of Mr. Hone? No. What then? By repeating its refuted charges, and calling names. Of Mr. Hone's reply they say;

'Having said that the pamphlet before us, is published by this notorious person, and put together by himself, or one of his party, we need not add that it is written in a spirit of the most vulgar and contemptible ferocity.'

We affirm that it is written with temper and moderation; and when the reader has satisfied himself of that matter of fact, he will know what to think of the Reviewer. We add a few more specimens of the language, not "of the most vulgar and contemptible ferocity," but Christian meekness, and gentleman-like delicacy, applied to Mr. Hone, on this new occasion: "A bold bad man;" he and "his coterie," than whom "a more worthless crew never sold themselves to work wickedness;" "ignorance and falsehood;" "dishonesty, the character of the party;" "amazing audacity;" "the flagitious editor;" "impudent falsification;" "poor creature, bereft of all his senses;" "impudent falsehood;" "this poor creature;" "this wretched man's follies;" "this miserable man;" "the wretched book by which he attempted to pervert the faith, and destroy the happiness of countless thousands;" "that monstrous compound of ignorance, sophistry, and falsehood;" "ignorance and baseness." When we add that all these phrases, and more of the same stamp, are applied to Mr. Hone and his writings in the course of half a sheet of the Quarterly's letter-press, we suppose we may repeat in application to this Reviewer, what this Reviewer says in application to Mr. Hone, "this specimen of the taste and delicacy of this amiable person will, we judge, be sufficient."

The Quarterly Review, on such occasions, comes up nearly to the mark of St. Jerome; who, by the by, seems to be a favourite with the Quarterly Review. It speaks of the writings of this Saint, under the title of the "Golden Stream." We have given one specimen of the "Golden Stream;" it may be worth while to present a few more. It is still Vigilantius who is the object of abuse, for having written against the worship of reliques.

O portentum, in terras ultimas deportandum! Rides de reliquiis martyrum; et cum auctore hujus hæreseos Eunomio ecclesiis Christi calumniam struis. Spiritus iste immundus, qui hæc te cogit scribere sæpe hoc vilissimo tortus est pulvere, imo hodieque torquetur, et qui in te plagas dissimulat in cæteris confitetur; nisi forte in morem gentilium impiorumque, Porphyrii, Eunomiique, has præstigias dæmonum esse confingas, et non vere clamare dimones, sed sua sœmulare tormenta.

Vigilantius was guilty of another heresy, in questioning the sanctity of fasting and of celibacy. "Illico ab Hieronymo," says Le Clerc, "quasi homo veneri ac gulæ deditus, invidiosissime traductus est; quemadmodum paria ab eodem eadem de causa passus jam erat Jovinianus." Then follow the words of the Saint: "Exortus est Vigilantius, seu potius Dormitantius, qui immundo spiritu pugnet contra Christi spiritum; . . . dicit esse . . . continentiam hæresin, pudicitiam libidinis seminarium. . . . In isto Joviniani (whom he had on former occasions defamed) mens prava surrexit. . . . Ille, Romanæ Ecclesiæ auctoritate damnatus, inter phasides aves et carnes suillas non tam emisit spiritum quam eructavit. Iste caupo Calagurritanus, et in perversum propter nomen viculi mutus Quintilianus, miscet aquam vino, et de artificio pristino suæ venena perfidiæ Catholicæ fidei sociare conatur, impugnare virginitatem, odisse pudicitiam, in convivio sæcularium contra sanctorum jejunia proclamare, dum inter phialas philosophatur, et ad placentas liguriens Psalmorum modulatione mulcetur."

*"Talia, et acerbiora etiam,"* adds le Clerc, *"contra Jovinianum acerrimus convitiator effundit."*

In another place, introducing his quotations from Jerome, he says, *"Solis ferme scriptis contra Vigilantium utemur, in quibus hominem, ut quidem videtur innocentem, omnibus invidiæ telis confixit. . . . Denique convitiatorum plaustra in eum congerit."*

It is not on theological subjects alone that the Quarterly Review is thus careful of its purity of mouth. In an article, entitled "On the Rise and Progress of Popular Disaffection" Mr. Cobbett is styled one of "a whole litter of libellers," "an incendiary," "a miscreant," "a villain," "a miscreant, who eloped from his creditors," "a brutal

ruffian, endeavouring to subvert the institutions of his country by arousing the poor and the ignorant against all who were above them," "vulgar and ferocious spirit." All this within the compass of two pages.

The Scotsman newspaper has, from its commencement, been conducted not only with a knowledge and talent, but with a dignity and decorum which may be regarded as constituting an æra in that line of publication. As such a degree of excellence had no precedent, so (with the exception of the Morning Chronicle, which recently, during a short period, has surpassed all example) it has had no rival. But alas! it is on the side of good government, and not on that of "things as they are." The Quarterly Review, therefore, steps out of its way to speak of it in the following terms:—

"This paper, which, from its inveterate scowl, appears to issue from the cave of Trophonius, has the faculty of drawing to itself the worst qualities, the scum and feculence of the worst Jacobinical journals, which it doles out, from week to week, in a tone of dull unvarying malignity, at once wearisome and disgusting.

Every other disaffected journal has its moment of relaxation from spleen and ill-will, from persecuting all that is great, and ridiculing all that is high and holy; but this paper never remits its frantic warfare. Even Cobbett (its admired prototype) occasionally contrives to diversify the savage growl of the tiger with the mop and mowe of the ape; but the "Scotsman" never lays aside the sulky ferociousness of the bear.

Most of our readers, we presume, have now, for the first time, learned the existence of such a paper. In fact, its language, which is utterly abhorrent from British feelings, naturally confines it to a particular circle—and to this we leave it.'

There is but one topic more in respect to which we can afford on the present occasion to illustrate the practice of the Quarterly Review; and that is, the Liberty of the Press. On that subject, however, we shall content ourselves with a few specimens, adding very little in the way of commentary, as it has already, to a certain extent, been treated of separately, and will soon be taken up in the same way again. It may, in the meantime, be regarded as a principle which we do not think there is occasion to spend many words in proving, that every cause, or party, affords so far evidence of its being good, as it is friendly to the liberty of the press, and is willing to stand examination; so far evidence of its being bad, as it is unfavourable to the liberty of the press, and unwilling to stand examination; that is, to bear the test of unrestricted censure. The

reader will now see what evidence of itself and its cause is in this respect afforded by the Quarterly Review.

We are sorry for the length of the following passage from the article on parliamentary reform, in the 31st No., but it is all instructive in the highest degree.

“They who seek to lessen the influence of the crown, keep out of sight the increased power which has been given to public opinion by the publication of the parliamentary debates, and the prodigious activity of the press.—The first of these circumstances alone has introduced a greater change into our government than has ever been brought about by statute; and, on the whole, that change is so beneficial as to be worth more than the additional expense which it entails upon us during war. This momentous alteration gives, even in ordinary times, a preponderance to the popular branch of our constitution: but, in these times, when the main force of the press is brought to bear like a battery against the Temple of our Laws; when the head of the government is systematically insulted for the purpose of bringing him into contempt and hatred; when the established religion is assailed with all the rancour of theological hatred by its old hereditary enemies, with the fierceness of triumphant zeal by the new army of fanatics, and with all the arts of insidious infidelity by the Minute Philosophers of the age; when all our existing institutions are openly and fiercely assaulted, and mechanics are breaking stocking frames in some places, and assembling in others to deliberate upon mending the frame of the government—what wise man, and what good one, but must perceive that it is the power of the Democracy which has increased, is increasing, and ought to be diminished?”

Of all engines of mischief which were ever yet employed for the destruction of mankind, the press is the most formidable, when perverted in its uses, as it was by the Revolutionists in France, and is at this time by the Revolutionists in England. Look at the language which is held by these men concerning the late transactions, and see if falsehood and sedition were ever more audacious! “Perhaps,” says the Examiner, “there may be a plot somewhere,—in some tap-room or other; like the plot of Despard, who was driven to frenzy by ill-treatment, and then conspired with a few bricklayers in a public-house, for which he was sent to the gallows, instead of the care of his friends!” “We feel,” says *this flagitious incendiary*, “for the bodily pains undergoing by Mr. Platt, and think his assassin (unless he was mad with starvation) a scoundrel; and some of the corruptionists, who in luxury and cold blood can *provoke* such excesses, *greater scoundrels!*” As if of all “scoundrels,” the man who can in this manner attempt to palliate insurrection, treason, and murder, were not himself the greatest.

Mr. Cobbett goes further than this: with an effrontery peculiar to himself, notorious as it is that the rioters were led from Spa-fields by the man who harangued them there, and that the tricolored flag which they followed was carried to Spa-fields to be hoisted there for their banner—he says, “it is well known to every one in London, that the rioters had no connexion whatever with the meeting in Spa-fields:” And though the existence of St. Paul’s Church is not more certain than that an attempt was made to murder Mr. Platt, whose recovery is at this moment doubtful, this convicted libeller has the impudence to express a doubt of the fact, for the purpose of making his ignorant readers in the country disbelieve it. “The riotors,” he says, “consisting chiefly of starving sailors, though they had arms in their hands, did no violence to any body, except in the unlawful seizure of the arms, and in the wounding (*if that really was so*) of one man who attempted to stop them, and who laid hold of one of them!” Another of this firebrand’s twopenny papers is before us, in which he says that the ministers, the noblesse, and the clergy of France wilfully made the revolution, in order to prevent the people from being fairly represented in a national council. “It was *they* who produced the confusion; it was *they* who caused the massacres and guillotining; it was *they* who destroyed the kingly government; it was *they* who brought the king to the block!” And in the same spirit which dictated this foul and infamous falsehood, he asks, “was there any thing too violent, any thing too severe, to be inflicted on these men?” He says that “Robespierre, who was exceeded in cruelty only by some of the Bourbons, was proved to have been in league with the open enemies of France.’ ”

We can only afford room for another sample, taken from a review of some works on England, among others, of that of Simond, in the 30th No.

‘ “The liberty of the press,” says M. Simond, “is the palladium of English liberty, and at the same time its curse—a vivifying and decomposing principle, incessantly at work in the body politic. It is the only plague, somebody has said, which Moses forgot to inflict on Egypt. This modern plague penetrates, like the vermin of old, into the interior of families, carrying with it defamation and misery.” The private nuisance, however, has been in a great degree checked by the heavy damages which were awarded some years ago in a case of flagrant slander; before that time the infamous attacks which were made upon the characters of women, married or unmarried, rendered this abuse a national disgrace. But the public evil continues, and exists in an aggravated degree. “There is not,” says the American traveller, “another government in Europe who could long withstand the attacks to which this is continually exposed;” and again: “the threatening storms of faction hovering incessantly over the British horizon,—the exaggerations of

debates,—the misrepresentation of party papers,—give to this country the appearance of being perpetually on the brink of revolution.” In his judgment the danger is more apparent than real, because military usurpation is impossible in a country like England, where the people are by long habit and principle averse to a military system, and because an ambitious reformer would find himself installed as minister by his success, and must then inevitably discover that the reforms concerning which he had long and loudly declaimed are impracticable. This indeed is certain. But it is not of usurpation that we are in danger—usurpation, whether civil or military, is one of the latter stages of revolution; and overturn! overturn! overturn! is as much the maxim of the reformers, as it is the text of the Luddites, their practical disciples.’

The press has in it a decomposing as well as a vivifying principle:—let us beware how we suffer the decomposing one to predominate! It has already been at work too successfully and too long. The outrages of the Luddites—in consequence of which the manufacturers are removing from Nottingham, and the next generation may perhaps see grass growing in the streets of that now populous city—were not occasioned by any grievances real or imaginary, nor by any actual distress; they have proceeded from a spirit of insubordination, created, fostered, and inflamed by the periodical press. The agricultural riots were not occasioned by distress—the unhappy culprits who suffered for them under the sentence of the law were men of substance. It was not “Poverty and his cousin Necessity who brought them to these doings,” and to that deplorable end,—it was the spirit of factious discontent, excited for the purposes of revolution by demagogue orators, and demagogue journalists, who now do not even affect to conceal the object at which they aim. If one man instigates another to commit murder, the instigator, as well as the instrument, is punished: here the instruments alone have suffered, and the greater criminals proceed with unabated or even increasing zeal in their endeavours to provoke fresh excesses, and hurry on fresh victims to destruction, without compunction for the past, and regardless by what means they may accomplish the consummation which they seek.’

A provincial paper is now lying before us in which it is affirmed, that a systematic revolution has been effected by the politics of Mr. Pitt. The liberties of the country having been overturned, and the whole wealth of the nation absorbed by taxation, “what the people are instigated by their sufferings to do afterwards,” the incendiary says, “is not a Revolution, it is the just and natural effort of men to recover the possession of prosperity for themselves and their posterity—it is the uncontrollable exertion of a people striving to regain their rights, to exist as men, and to act as a community. The



scheme of public subscription, he says, is a specious mode of delusion, which the honest and independent poor even in the midst of their want justly regard as an insult. The alleviation of their miseries can proceed only from the restoration of their rights as men: patient endurance can never be the fate of this realm—we will not be still and die quietly while a drop of vitality remains.” This is a chance specimen of the language which is at this time preached at public meetings, and has long been promulgated by the provincial as well as the London press. The orators and journalists of this active and noisy faction tell the poor that the subscription which would alleviate their immediate necessities is a mockery and an insult; and instead of giving them bread, or devising means for employing them in public works, they advise them to cry out for such measures and pursue such conduct as lead immediately to popular revolution—of all curses the greatest which the Almighty in his anger could inflict upon this nation. One orator exhorts the people to refuse payment of the taxes; another recommends that the national debt should be extinguished by a vote of parliament—parliament of course being previously reformed, so that it may consist of representatives who will not scruple at passing such a vote; a third advises that the tithes be sold and the produce funded; a fourth demands universal suffrage—and some of these united politicians engage never to cease their exertions till they shall have obtained what they call speedy, radical and effectual reform—patient endurance, they tell us, shall not be their fate, they will not be still, their cry shall be too general to be mistaken and too powerful to be resisted. Were there any limits to human folly and human wickedness, it would be incredible that there should be men erroneous enough, and criminal enough—with the example of France before their eyes (fresh and reeking as those horrors are!) to hold forth language like this, and exert themselves zealously and perseveringly to convince the mob that the physical force is in their hands, and that it is their own fault if they submit longer to be governed by the educated and intellectual part of their countrymen. Have these persons ever asked themselves what would be the consequence of the measures which they advise? if universal suffrage were established, whether it would afford universal employment for the quiet and industrious part of the people as surely as it would for the worthless, the turbulent, the mischievous and the wicked? if the church property was seized, whether the title deeds of the landholder would long be considered as giving him an indefeasible right to his estates?—if the national debt were extinguished, whether the public would be benefitted by the ruin of the funded proprietors, that is, whether the body would derive advantage from having one of the limbs paralysed, and whether national prosperity be the natural and necessary consequence of national bankruptcy, the breach of national faith and the loss of national character? finally, if the people, according

to the advice of one of these popular representatives, were to refuse payment of the taxes—What then? Let these men suppose themselves successful in their projects, and following in imagination the career of their ambition, ask themselves this question at every step—What then? If they should succeed in instigating the people to resistance, to rebellion, to civil war, to revolution, What then? What might be the consequences to this great—this glorious—this venerable country, He only can tell without whose inscrutable will no calamity can befall us; the consequences to themselves may be foretold with perfect certainty—guilt, insecurity, fear, misery, ruin, unavailing repentance, violent death, and infamy everlasting. It was remarked by one of the numerous French demagogues who fell into the pit which they had digged, that Revolutions were like Saturn and devoured their own children. Should there be a Revolution in the other world, said Danton to one of his friends, when they were on their way to the guillotine—take my advice and have nothing to do with it! Danton asked pardon of God and man for having instituted the Revolutionary Tribunal: it was only on the first anniversary of its institution that he was carried before it to receive sentence himself,—so short is the reign of a Revolutionist!

Perhaps if M. Simond had seen England under its present aspect, he might have thought that the danger was real as well as apparent. But there is a *vis conservatrix* in the state, and the preventive means which exist are easy and effectual. It is only necessary to enforce the laws and to stop the progress of sedition by such punishment as shall prevent a repetition of the offence—any other is absurdly inappropriate.'

Outcries of this sort against the press are endless in the pages of the Quarterly Review.

There are some other characteristic features of this production, which we had intended to display in this article; but it has already extended to such a length, that we must reserve them for some future occasion.

[\[Back to Table of Contents\]](#)

## **Art. X.**

### ***Edinburgh Review, Number LXXX. Art. IV.***

THE disposition of his property by will has been permitted to the proprietor, in very different degrees, in different ages and nations. In some, he has been empowered to dispose of the whole. In others, his power has been restricted in favour of his children or parents, or even of his more remote relations.

By the Roman law, as finally settled by Justinian, the father might disinherit any or all of his children for certain causes defined by the legislator, provided the cause or causes were expressly mentioned in the testament. If the cause or causes were not expressly mentioned, or could not be proved, a *legitimate portion*, as it was called, of the father's property went to the children, in despite of the will, in shares determined by the law of succession.

The legitimate portion thus reserved to the children varied in amount with their number. If there were four, or fewer, the legitimate portion to be divided amongst them, amounted to a third of the whole property. If there were five or more, it amounted to a half. In every case, therefore, the disposable portion (the part of his property, which the father might deal with at his pleasure) amounted, at least, to a half.\*

In those parts of old France, in which the authority of the Roman law prevailed (*pays de droit écrit*), a legitimate portion, corresponding for the most part in amount with that which we have described, was in like manner reserved to the children. In the districts in which the law consisted of local usages (*pays de coutumes*), the rule in this, as in all other respects, seems to have been infinitely various.\*

By the law now in force in France, the gratuitous dispositions which the father may make of his property, whether they be made by gift or will, or whether they be made in favour of a child or a stranger, are limited to half of it, if he die, leaving one child; to a third, if he leave two; and to a fourth, if he leave three or more. If he leave more than one child, the two thirds, or three fourths, which are thus reserved as the legitimate portions, descend (as would be the case with the whole, if he died intestate) to his children in equal shares.†

This law has been severely censured in the last number of the Edinburgh Review; and had the writer simply contended that the restrictions which it imposes upon the power of willing ought to be withdrawn, he would have met with our hearty assent, and we should have permitted his Essay to rest in peace. To insist on the numerous and, we think, cogent reasons, which lead us to concur with him to that extent, were beside our present purpose; though we may venture to submit them to our readers on some future occasion, if we should find them not altogether intolerant of discussions of this nature. The occasion, however, which provokes the present article, calls upon us to intimate one of these reasons. In our opinion, an approximation to equality in the conditions of the children is much to be desired; and we think that the power of willing tends more certainly to this desirable end than any scheme of succession that any legislator could contrive. That the power is much abused in England to the opposite end, we admit. This abuse, however, as we shall shew presently, is not the consequence of the power, which we would leave to the proprietor, of selecting the person or persons upon whom his property shall devolve at his decease. That the cause, to which this abuse is almost universally attributable, may not only be removed by provisions of the most simple kind, but would be obviated in France by certain existing provisions of her code, though the restrictions which we have mentioned were withdrawn, we shall also, we think, demonstrate, before we close our inquiry.

The view which the Edinburgh Reviewer has taken of the matter differs very widely from ours. He condemns the present French law of succession, because it tends, in his opinion, to equalize the conditions of the children, and disables the proprietor from disturbing that approximation to equality.

To secure the inequality, which he thinks desirable, he would not, indeed, cast the whole or the bulk of a man's property, in his own despite, upon one of his children to the exclusion of the rest, but he is "fully convinced that the *custom of primogeniture*, or the custom of leaving the whole, or the greater part of the paternal estate to the eldest son, to the exclusion of his brothers and sisters, is a good one, and has been productive of the greatest advantage." [P. 360.]

In a word, his arguments, so far as they are of any weight, tend to establish these positions: 1. That an unlimited power of willing ought to be permitted to the proprietor: 2. That the proprietor would exercise this power to the best advantage, by leaving the whole or the bulk of his property to his eldest son; or, as it is not uncommonly expressed, by *making* an eldest son: 3. That if he die intestate, the whole or the bulk of his property, ought to descend on that same son.

Positions more erroneous, and, so far as the sophistry of the writer and the authority of the Journal are likely to make an impression, more mischievous than these last, it has rarely happened to us to meet with; and we have accordingly been tempted to unmask the futility of the arguments by which they are maintained.

Before we proceed to examine his arguments, we must observe that the expressions, "Institution and Custom of Primogeniture," are generally used by the Reviewer; and, though sufficiently incorrect, are adopted by us in our answer. By "the institution of primogeniture," we understand him to mean any law, which carries the whole or the bulk of an *intestate's* property to the eldest son. By "the custom of primogeniture," we understand him to mean the practice of *making* an eldest son. In this last case, we may observe, the testator generally gives the property to his eldest son for life only; adding dispositions, which have the effect of passing it, after the death of the son, to one of the children of the latter absolutely. To this practice, known in France and England, under the various names of substituting, entailing, or tying up from alienation in strict settlement, the Reviewer's favourite custom, as we shall shew hereafter, owes its existence. If the proprietor (as is now the case in France, with a slight exception) were obliged to impart to the immediate objects of his choice, the absolute dominion of the property, the power of willing, however unlimited in other respects, would rarely, we think, be abused in favour of a single child. As compared with this power of substituting or entailing, what the Reviewer calls the institution of primogeniture is perfectly harmless. Though we think that all the property of an intestate ought to descend to all his children equally, it is obvious that a law, which carries the whole or the bulk of it to the eldest son, may be completely corrected by the power of willing. With these explanations, which to some will appear insufferably trite and tedious, but which may aid the apprehension of readers not familiar with subjects of this nature, we proceed to scrutinize the arguments by which the Reviewer endeavours to establish his erroneous and mischievous positions.

"The institution or custom of primogeniture (says the Reviewer) by giving the estate to the eldest son, forces the others to quit the home of their father, and makes them depend for their success in the world on the fair exercise of their talents and industry. . . . Necessity is not merely the mother of invention, but it is so in a great measure also of the passion which stimulates us to endeavour to rise in the world, and to emerge from obscurity. If you would have a man display all the native resources of his mind—if you would bring all his faculties and powers into full activity—you must deprive him of every adventitious assistance, and render him exclusively the architect of his own fortune. . . . Security against

want is, you may depend upon it, the greatest enemy to activity, and persevering and arduous exertion: and if the institution of primogeniture has, as is really the case, a tendency to deprive a large portion of society of this security, and to compel them to enter with vigour and energy on the great *arena* of ambition and enterprise, this single circumstance is sufficient to throw the balance of advantage greatly in its favour. . . . But the degradation in the ideas of all classes respecting the mode in which gentlemen ought to live, would probably be the worst effect of the establishment of a system of equal inheritance. The institution of primogeniture, by giving the great bulk of the father's property to the eldest son, not only compels the younger children to become industrious, but it also stimulates them to exert themselves to the utmost, to emerge from the depressed condition in which they are placed, and to rise to an equality with their elder brother. We are also disposed to think, that the state and magnificence in which our great landed proprietors live, act as powerful incentives to the industry and enterprise of the mercantile and manufacturing classes, who never think they have accumulated a sufficient fortune until they are able to emulate the splendor of the landlords; whereas had these great properties been frittered down by the scheme of equal division amongst children, the standard of competence would have been lowered universally, and there would, in consequence, have been less exertion amongst all classes of the community.'

—*Ed. Rev.* vol. xl. pp. 363, 364, *passim*.

This stale sophism (for it was long ago thrown out by Sir William Blackstone\*) may be distinctly expressed thus. Poverty, or the fear of poverty, is a motive to industry and frugality. Another motive to industry and frugality is the desire of obtaining wealth. But if a few be rich, and the many be poor, the desire of obtaining wealth will be stronger and less speedily satisfied than if wealth be more equally distributed. It will be stronger, because it is only in a state of great inequality that large fortunes are found: and as large fortunes yield more enjoyment to their owners than moderate fortunes, so do they set off the advantages of wealth in a way that is more alluring to the aspirants. It will be less speedily satisfied, in as much as a large fortune is not so soon got as a moderate fortune, though never so vehemently desired. Hence it follows that the industry, the frugality and, by consequence, the wealth of the community must needs be incredibly augmented by the custom of primogeniture. For, by excluding younger children from the property of their parents, it vastly enlarges the number of individuals, who, in fact or apprehension, are exposed to poverty; whilst, by preventing the division of estates, and keeping wealth

together in large masses, it gives intensity and steadiness to the desire of acquiring it.

In our opinion, an institution or custom must be praised or blamed as it tends to increase or diminish the sum of happiness. In a word, the test to which it must be submitted is, *utility*.

Now, so far as happiness is the effect of wealth, the happiness of the community must depend upon two things: the quantity of its wealth as compared with the number of its members, and the manner in which it is distributed. That the more there is for all, the more may fall to each, is clear: and it is not less indisputable (however it may be disputed) that a portion of wealth, if distributed amongst a given number with an approach to equality, will give a greater sum of happiness, than if the bulk of it be heaped on one or a few of the number, and the residue be shared by the rest in such pittances as will barely afford a subsistence.\* So far, therefore, as happiness is the effect of wealth, those institutions and customs are most to be praised, which most conciliate augmentation in the quantity of wealth with equality in the distribution of it. These ends, perhaps, are conciliated amongst the middling class in England as far as they can be. The proprietor being invested with the absolute dominion of his property, wants no motive to industry and frugality, whilst the custom, which happily obtains amongst that rational class, of leaving their property to their children with a view to equality, is perpetually operating to impart the advantages of wealth to a large portion of the community. Admitting, what we deny, that the custom of primogeniture adds to the sum of industry and frugality, still the Reviewer's reasoning proceeds upon the mistake of substituting the means for the end. Industry and frugality are only desirable as they tend to add to the sum of happiness; yet for the sake of augmenting industry and frugality, he recommends to proprietors a disposition of their property, which must confine the enjoyments of wealth to a small number, and reduce the many to indigence. In what respect does his reasoning differ from that celebrated fallacy, which is at the bottom of the mercantile system? With money, said the advocates of this system, every other commodity may be had. Money, therefore, must needs be a most excellent thing. But it is impossible to have too much of so excellent a thing, and the surest way of getting the most of it, is to export the produce of one's own labour and capital, and to import nothing but money in return. This reasoning, which ends in a conclusion that forgets the beginning, is not a bit more fallacious than the Reviewer's. As these reasoners forgot that money is only excellent as it enables one to get other commodities, and that it were absurd to forego the use of other commodities for the sake of getting money, so does the Reviewer forget that industry and frugality are only means towards the grand end of all, and that it

were absurd to augment the quantity of industry and frugality by subtracting from the sum of enjoyment. Curious that he should slide into a fallacy, which he and his brother economists would handle with no great tenderness, if it happened to slip from the lips of a merchant of the good old school!

We wonder it never occurred to the Reviewer, that his darling stimulus of poverty would be much more effectual to his end, if elder sons also were constantly cut off from the inheritance. Since industry is so excellent a thing that it may fairly be purchased at the expense of poverty to the many, we would have him be consistent, and augment, to the very utmost, the quantity of this excellent thing by inflicting poverty upon all. By simply destroying every man's property at his death, poverty might soon be obtained in the requisite degree. We grant him there would be no enjoyment. But what would that matter? All would be exquisitely poor, and the industry of the community would be augmented to an extent that is scarcely credible. We believe, however, on second thoughts, that the Reviewer's scheme has the advantage of our own. In our solicitude for his consistency, his other stimulus escaped us. In the case which we have supposed, there would be poverty to urge, in plenty; but then there would be no large fortunes to allure. We must grant it were much better if the whole of every man's estate passed upon his death to some single successor. In a few years we should have a government, which, in spirit and practice, not less than in constitution, would be purely aristocratical. The large fortunes of the few would be an inspiring sight to the multitude; and with such an instrument in their hands as the power of taxing, these few, we dare say, would not allow the other stimulus to sleep. In candour we must concede that the scheme is most subtly devised to bring both incentives into play.

It is truly astonishing to observe the extent to which this fallacy of sinking the end has imposed upon men's minds. We have been assured, and with an air of conviction in the speaker, that war and war expenditure are good things, because they bring on taxation, and taxation incites to industry. An eminent economist seems to be fully satisfied, that we may actually suffer under a general glut of commodities; and this, from merely forgetting that production supposes labour, and that no man will labour unless he intend to consume. Even Mr. Ricardo, to whose piercing and comprehensive genius political economy is indebted for its pretensions to the name of a science, is sometimes entangled in this besetting sophism. When treating of the causes which accelerate or retard accumulation, he sometimes forgets, for a moment, that accumulation, like every thing else, is subordinate to the great end, happiness. A fallacy which could impose, though but once, and for



an instant, upon the mind of that great man, is certainly pardonable in another.

Though we have been tempted to aim a blow at this hydraheaded fallacy, we might have left it to do its worst, without endangering our case; for we maintain that the custom or institution of primogeniture, instead of increasing, diminishes industry and frugality. With regard to the eldest sons, the consequences are indisputable and undisputed. In this respect, it generates a class of men, who, from the want of every motive to exertion, are indolent; and who, from the craving for stimulants which indolence engenders, and from the large funds at their command, are profuse. With regard to the younger children, the consequences are equally certain. If the custom prevailed universally, the wealth of the community would be engrossed by a few, and the younger children having no capitals to begin with, would have no means of “emerging.” Reduced to earn a subsistence as drudges to their seniors, they would certainly be compelled to labour, but would not be inspired with that hope of bettering one’s condition which prompts to animated exertion. To talk of men being exclusively the architects of their own fortunes is to talk idly. A man who rises to opulence from abject poverty, is a remarkable man; and institutions or customs are not to be adapted to remarkable men or to remarkable incidents, but to common men and the common course of events. In the common course of events, wealth is made by wealth; a fortune is augmented but not created; and the man who starts with drudging, lives and dies a drudge. And here observe an absurdity with which this argumentation of his is pregnant. Why would the Reviewer expose this large portion of the community to poverty? Not because poverty is a good, but because it stimulates the poor man to the acquisition of wealth, and probably ends in his acquiring it. He must admit this, or he must admit that his scheme is nothing more, at bottom, than a pretext for heaping wealth upon the few at the expense of the many. Now, if poverty stimulates the man who has been excluded from his father’s property, it also stimulates the man whose father had no property to leave. It, therefore, stimulates all men who are poor; and, by consequence, all or most men who begin poor, end in becoming rich. We are heartily glad to find that such is the matter of fact, but we confess it had escaped our observation.

The Reviewer may say that he is not so austere as to insist upon a complete exheridation of the younger children, but would compassionately throw them a trifle—*pecunia pusilla*—from the mass of their father’s estate. We answer, that the portion subtracted for the younger children, would be large enough to give them effectual aid in their attempts to “emerge,” or it would not. If it would not, the Reviewer’s concession is nugatory; and he

deviates from his own principles, without obtaining the advantage of mitigating their rigour. If it would, an approximation to equality would be the consequence; and where would be his *stimuli*? This dilemma would clearly hold in the huge majority of cases; in all those cases, in which the fortune is not extremely large, or the number of children is not extremely small. The same objection holds as to any advances which the father might make in his lifetime to the younger members of his family; since these could not be made without lessening the inheritance. Every attempt to elude the consequences which we have drawn from the Reviewer's principles, must lead to their abandonment.

It is clear, therefore, that if the Reviewer's principles were pursued to their legitimate consequences, the middling sort of people would nearly disappear, and society would be pretty distinctly divided into two classes: a few rich, and many poor. It is equally clear (though that would be a matter of subordinate importance) that his own preposterous purpose would not be obtained; and that there would be less of industry and frugality, and, by consequence, less of wealth, than if wealth were less unequally distributed.

We have seen that if the Reviewer's principles were pursued to their consequences, the younger children of most proprietors would be condemned to poverty and labour. Confined, as his favourite custom has hitherto been, to the aristocratical classes, the consequences have been somewhat different. It has often consigned the younger children to poverty, but has rarely driven them to any useful employment. In those parts of France in which the custom prevailed extensively, such of the younger sons as could not be thrust into the church or the army, commonly dragged on a life of thorough laziness, and abject destitution.\* In Portugal,† and in other parts of Europe, it was not uncommon for them to live upon alms. Now-a-days, the fellow of *Will Wimble* could scarcely, perhaps, be found in this country. But not further back than the time of *Addison* and *Steele*, not a few of the younger sons of English country gentlemen led a mendicant sort of life about the great houses. Nor is there any thing in this, that any man might not anticipate. The basis of the custom is family pride; and was it to be supposed that even a younger son of a good house would descend to any useful occupation? The blood of the gentle beggar would have boiled at the suggestion. But a still more mischievous consequence of this lauded custom remains to be noticed. As it necessarily tends to perpetuate aristocratical power, so does it lead to a most terrible abuse of that power. The younger children, cut off from the bulk of the paternal estate, and excluded from the more useful occupations by the prejudices of their class, are not uncommonly provided for at the expense of the people. Nor is this all. The people might think themselves happy if they escaped so.

Receptacles cannot be provided, at the public expense, for the dependants of the domineering class, without something of a pretext. Hence, larger establishments of all sorts than are needed by the community; and hence, not unfrequently, as a pretext for these overgrown establishments, unnecessary and wasteful wars. To countries which enjoy the blessings of *virtual representation*, the conclusion, as must be perceived, will not at all apply; but in most other countries, this is the way in which the few are instinctively led to pursue their own narrow interests at the expense of the many: and we may be sure that no small portion of these sinister interests springs directly from this vaunted custom of primogeniture. The Reviewer, indeed, says it would be very easy for him to show, that if large landed estates were gradually reduced by equal division amongst children, the consequence “on the political interests of the country” would “be fatal in the extreme:” and as a specimen of what he could do in the way of demonstration, he forthwith presents us with the following passage:

‘Far from joining in the outcry that has so frequently been raised against the magnitude of the property in the hands of the aristocracy, we consider the existence of a numerous and powerful body of landed proprietors, without artificial privileges, but possessed of great natural influence, as essentially contributing to the improvement and stability of the public institutions of such densely-peopled countries as France and England; and as forming the best attainable check to arbitrary power on the one hand, and to popular frenzy and licentiousness on the other.’

[P. 374.]

Now suppose that this “numerous and powerful body of landed proprietors” were virtually the sovereigns. Suppose, too, only suppose—for it were uncandid to pretend that the thing ever happened—just, we say, suppose that these virtual sovereigns, with a view to raise their rents, were on the point of passing a law to exclude foreign corn from the country, thereby depriving the people of cheap bread, and (as an able writer in the *Edinburgh Review* hath it) depressing the rate of profit. Does the Reviewer mean to say that his “body of landed proprietors,” indignant at their own sinister intent, would interpose their “great natural influence” between themselves and the rest of the community? or what is it that he means to say?

To behold these “natural guardians” of our excellent constitution rushing with patriot rage between themselves and the people, and shielding the people from their own “arbitrary power,” were, doubtless, a sublime and a touching spectacle! So vulgar, however, are we—so little can we enter into the sentiments of the gentler

and chivalrous classes, that we cannot help thinking the “check” would be applied to the “frenzy and licentiousness” of the hungry multitude. If the Reviewer will ease us of these suspicions, he shall find that his disinterested zeal in the cause of aristocratical government will but twinkle in the blaze of our own. Not doubting the cogency of the reasons which he withholds, but somewhat dissatisfied with those which he has advanced, we take leave for the present of our “natural representatives,” and proceed to close, with a few parting words, our examination of his boasted *stimuli*.

If the arguments which we have just examined were worth a straw, they would tend to prove (as we shall shew immediately) that the descent or testamentary dispositions of all property ought to be regulated by the institution or custom of primogeniture. We have, accordingly, supposed that it was the wish of the Reviewer to give the widest extension to this institution or custom, and have combated his arguments upon that supposition. We must, however, admit that his scheme of succession and disposition by will is intended to apply to landed property only. Obscurely perceiving the enormous evils of excluding younger children from all property, or fearful of shocking the sentiments which prevail upon this subject, amongst all such members of the “mercantile, manufacturing, and monied classes generally,” as have not given in to the poor affectation of aping aristocratical practices, he tacitly concedes that all property, excepting property in land, may be distributed without inconvenience amongst all the members of the deceased proprietor’s family [P. 364.] That he should make this concession, speaks well for his humanity or prudence; that he should make this concession, and yet insist on the arguments which we have just examined, speaks anything but well for his logic. These arguments apply to all property, or they are applicable to none. They tend to prove that the whole, or the bulk of every property should devolve by succession or will upon the eldest son, or they tend to prove nothing as to property in land. He cannot limit these arguments to that narrower purpose for which he would make use of them. To borrow the terms of that art, which as a Scottish philosopher he has probably been taught to despise, he cannot be permitted to limit to the *species*, what, if predicable at all, is predicable of the whole *genus*. The younger child of a merchant, banker, or of any other wholesale or retail dealer, would feel the stimulus of want as keenly as the younger child of the landed proprietor; whilst the enjoyments extracted by an eldest son from a large fortune, heaped upon his head at the expense of his brothers and sisters, would hardly escape the observation of the poorer sort of men, though that favoured son might chance to be the first-born male of a fortunate and thrifty cotton-spinner. In a word, poverty urges the poor man to exertion, whatever his origin may have been; whilst the advantages of wealth will force themselves upon his attention,

in whose hands soever it may happen to be placed. To maintain, therefore, for *such* reasons, that property in land ought to go to the eldest son, and to admit, in the same breath, that property in moveables should be distributed amongst all the children, is to talk most inconsistently and absurdly.

Having shewn that the Reviewer, as to these arguments, has reduced himself to absurdity, and (what is of more importance) having shown the emptiness of the arguments themselves, we now proceed to the examination of another argument which he has drawn from the depths of the science of political economy, and which he ushers to the notice of his readers with something of pretension and parade. This argument, which has at least the merit of being strictly applicable to the descent and testamentary dispositions of landed property, may be briefly stated thus: in every country, in which landed property is habitually divided amongst the children of the deceased proprietor, whether by virtue of the law of succession or of the customs of the people in disposing of their property by will, the land will be occupied in small portions, to the great detriment of agriculture [pp. 362, 364, 365, 366, 367, 370, 371, 372, 373, *passim*]. We shall be unable to refute this sophism to the complete satisfaction of our readers, unless we premise a few observations as to the advantages which really ensue from laying out the land in large farms. We must, therefore, beg their patience whilst we address ourselves to this subject in as few words as possible.

It is to be desired in agriculture, as in every other branch of production, that labour and capital should be applied as productively as possible; and, confining the position within the limits which we shall immediately suggest, we admit that the division of the land into large farms augments the productiveness of agricultural labour and capital. Let us suppose two portions of land, each of the same extent (say five, four, or three hundred acres), and each of the same fertility; that one of them has been laid out in a single farm, the other divided into several farms; and that the capital actually invested in one of the portions is precisely equal, as to cost, with the capital invested in the other. Let us suppose, moreover, that the number of labourers working upon the large farm is precisely equal to the aggregate number of labourers severally working upon the small farms; including, in this last case, amongst the labourers, the farmers or occupiers themselves; each of whom, aided by some very small number of workmen for hire, would probably be compelled to labour with his own hands. Without any minute analysis, it will sufficiently appear that the labour and capital on all the small farms are less productive than the equal quantity of labour and capital engaged in the cultivation of the large one. In the first place, several sets of farm-buildings

have been needed on one of the portions, whilst only one set of such buildings has been needed on the other; and although the cost of erecting and repairing the single set of buildings on the large farm, has exceeded the cost of erecting and repairing any one, or perhaps any two or three, of the several sets of buildings on the small ones, it must yet have fallen short of the aggregate cost of erecting and repairing the whole of those several sets. In consequence of this difference between the respective costs of merely laying out the two portions, more of the capital invested in the undivided portion has been applicable to stocking or to procuring working cattle, machines, and other implements. More numerous or, at any rate, more costly and efficient instruments of production have been commanded by the one capital than by the other, though the capitals expended are precisely equal. Secondly, the capital and labour on the undivided, is more productive than that on the divided portion, in consequence of a greater economy in the use of these instruments. When the farm is large, the outlay for instruments of any one sort may be more accurately apportioned to the intended effect. A pair of horses, for instance, might be absolutely required to do the business on a farm of a few acres, and yet it might be impossible to find profitable employment for all the work that they could perform; whilst on a farm of three times the size, three times the business might be done with five horses, because all the work that they could perform might be profitably employed. With that portion of his capital which has been thus saved, the occupier of the undivided portion might procure additional instruments, to which there was nothing analogous on the smaller occupations of his neighbours, or might substitute more costly but more efficient instruments for the cheaper but less efficient ones with which they would be obliged to content themselves. The smaller occupiers, it is true, might purchase instruments in common, and might use them alternately; which is said to be the practice in some parts of France. This expedient, however, would not stand them in any very great stead. Many of the instruments of production are not susceptible of this joint ownership and alternate use; and as to such of them as are, the numerous arrangements for using them by turns, which the ever-varying exigencies of agriculture would render necessary, could not be devised and carried into effect without much loss of time and labour. Thirdly, the several employments carried on on the large farm might in some measure be assigned to the several labourers employed upon it; whilst each of the labourers working upon the smaller occupations, would be called upon to lend his hand to all employments, and would be obliged to pass frequently from one to another. The labour employed by the occupier of the undivided portion would not only be aided by more efficient instruments, but would also become more productive in consequence of its less imperfect division. The effects of the division of labour upon its

productive power have been so completely analyzed in the celebrated dissertation of Dr. Smith, and are so familiarly known through the wonders which it has wrought in manufactures, that it would be superfluous to insist further upon this part of our subject. The analysis which we have now brought to a close is extremely imperfect, but is sufficient to establish the conclusion, that the division of land into large farms augments the productiveness of agricultural labour and capital. We will now suggest the limitations with which this conclusion must be taken.

The Reviewer seems to have formed a very exaggerated conception of the extent to which the division of labour may be advantageously introduced into agriculture: an error into which he has probably been led, by exclusively looking at the vast effects which it has produced in manufactures. To perceive that the division of labour cannot be advantageously carried to the same extent in agriculture, it is sufficient to perceive, that most of the processes in manufactures may be carried on at all times and seasons, whilst each of the more important processes in agriculture can only be carried on at a certain season of the year. This single distinction leads to the most important consequences. To pursue them, step by step, through their various ramifications, were equally tedious and unnecessary. It results, in general, and that not less obviously than inevitably, that the agricultural labourer cannot be confined to the repetition of any single process, but must engage successively in a great variety of employments. The advantages, therefore, of large farms are principally derived from the use of more efficient instruments. Even in this respect, the limits to which farms may be advantageously extended are speedily arrived at. If the capital engaged will command the best instruments of production, and the farm be of such an extent that none of their productive power is lost, a further extension of the farm could do no good, and might possibly do harm. Though the capital were increased with the extension of the farm, and were as well adapted as before to its extent, the return to the capital when increased would not be much more, proportionably, than the previous return. For by the supposition none of the additional instruments procured would be of a more sufficient kind than the instruments previously in use, whilst the increase in the number of labourers, consequent upon the enlargement of the capital, would not be followed (as might happen in manufactures) by any considerable improvement on the previous distribution of employments. The extension, therefore, of the farm could do no good. It might, however, do harm. For it might happen that the capital, when increased, would be necessarily more than the extended size of the farm required; in which case, the proportional return would be diminished: and if, for this reason, the capital were not increased at all, it would be no longer competent to the due cultivation of the land. If the farm, for

instance, which required five horses, were so extended as to require six, and another horse were added to the capital, the return to the work done by these six horses would not be proportionally more than the previous return to the work done by the five. But if the farm were so extended as to require the work of five horses and half the work of another, one of the disadvantages we have mentioned would be the consequence. Either the capital would be increased by an additional horse, and half the power of a horse would be thrown away; or no additional horse would be procured, and there would be less horse-power than the extended size of the farm required. The same reasoning is obviously applicable with respect to all the more important instruments of production; such, we mean, as can only be procured in certain indivisible quantities. But the grand limiting circumstance to the extension of farms with advantage, is the increasing difficulty of superintendance. The necessity of inspecting the operations of workmen engaged on distant parts of an extensive surface, and of promptly making the various arrangements which the varying and pressing exigencies of the seasons require, render the superintendance of a moderately-sized farm more laborious than that of an extensive manufactory. Every body that knows any thing of farming, and of the attempts made by great landlords to cultivate portions of their own land, knows that the life of a farmer is one of incessant vigilance, and that farming will not prosper, as a commercial enterprise, if that vigilance be wanting. It results, that as soon as farms are sufficiently large to absorb such capitals as will command the best instruments of production, the productiveness of labour and capital cannot be materially augmented by any further extension of their size; and that they cannot be advantageously extended even to this limit, in those cases in which they would consequently become too extensive for the complete superintendance of the capitalist. The limits to which they can be extended with advantage must vary with the peculiarities of every individual case; but the limits in every case will be attained more speedily than the Reviewer appears to imagine. Though we have thrown out these remarks for the purpose of correcting his exaggerations as to the advantages of large farms, they were not strictly necessary to our proper purpose. The argument we are about to expose would not be less sophistical, though farms might be advantageously extended beyond the limits which we have assigned.

The argument, be it remembered, is this: That in every country, in which landed property is habitually divided amongst the children of the deceased proprietor, whether by virtue of the law of succession, or of the customs of the people in disposing of their property by will, the land will be occupied in small portions, to the great detriment of agriculture. Two suppositions are involved in this argument: 1. That in every country in which landed property is thus



habitually divided, the owners of the land must be extremely numerous: 2. That the owners of the land being extremely numerous, the farms or occupations into which the land is distributed must be extremely numerous also. Both suppositions are false: false as they regard the practice of dividing amongst the children by will: false even as regards that scheme of compulsory division, which, for reasons adverted to at the beginning of the present article, we are strongly inclined to condemn. If we shew that the law, which necessitates a division, has little or no tendency to break down the land into small occupations, or even to multiply the number of land-owners, it will follow that the practice of dividing by will can have no such tendency.

We will suppose that a French farmer dies, the owner of a farm, which, partly by virtue of the law, and partly by his disposition of the disposable portion of his property, becomes divisible upon his death amongst all his children; and that we may put the case more strongly against ourselves, we will moreover suppose that these children are all sons, and have all been trained to their father's calling. The children having acquired the property in the farm in equal shares, any of the following courses would be open to them: 1. They might divide the farm into distinct portions, occupying and cultivating these portions severally. 2. Leaving it undivided, they might carry on their father's business in partnership. 3. One of the brothers might occupy the whole farm, paying to the other brothers a fixed remuneration for the use of their shares; or the whole farm might be let to a stranger. 4. One of the brothers might purchase and take conveyances of his brothers' shares, paying them the purchase money at the time, or giving them a mortgage upon the farm for securing the payment of it with interest. If he had not funds of his own to pay them at the time, he might easily borrow at interest, and secure the lender by a mortgage upon the farm. 5. All the brothers might concur in selling the farm to a stranger.—The Reviewer contends that they would almost infallibly pursue the first course; that "when an estate is divided into equal portions to each child, the paternal home will be deserted by all but the eldest son, and in general there will be as many separate mansions and families as there are children." [P. 364.] We maintain that they would almost infallibly not pursue the first course, but would resort to one of the expedients which we have suggested, or to some expedient that would be precisely tantamount in its effects. To determine what they would do, let us ascertain what it would be their interest to do. If they would not probably do what it would be their interest to do, it follows that human conduct can never be anticipated, and the proud structure of economical science falls at once to the ground.

If the farm were broken down into distinct occupations, the capital invested in the farm must also be distributed; a considerable portion of it necessarily consisting of capital and labour, which had been expended upon the soil and was inseparably united to it; and the rest, though adapted to the farm as a single occupation, being too extensive for any one of the smaller occupations into which the farm was now divided. Now it follows from what we established when insisting on the advantages of large farms, that the capital thus distributed would be a less efficient aid to labour than it was when applied in mass. To obtain with it the same return that was obtained by the father, more labour must be expended. If more labour were not expended, the return would be diminished. But whether more labour were maintained out of the same return, or the same labour out of a diminished return, the nett produce—the surplus remaining after maintaining the labour—would be less than it was before the farm was divided. Each, therefore, of the brothers would obtain a smaller nett return to his share of the capital, than he would have obtained had they carried on their father's business in partnership, and applied the capital in mass to the cultivation of the whole farm. That we may obviate all confusion in the ideas, we will remark that this conclusion would not be affected, though the labour were performed wholly or in part by themselves. Upon that supposition, they would combine the characters of labourer and capitalist, and we must deduct from the gross return the value of what they would receive as wages if they let out their services to hire. But the evil which we have suggested is not the only evil they would suffer by breaking down the farm into small occupations. The land, having been previously occupied as a single farm, could not be divided without a great destruction of the capital invested in it, and a great outlay of fresh capital. The existing fences and boundaries must make way for the new fences and boundaries, which the new division of the soil would require. The farm-house and buildings which sufficed for the whole land, as a single farm, would only suffice for one of the several occupations; and on each of the others a cottage (or as the Reviewer hath it, a mansion) and farm buildings must be erected in proportion to its size. The total loss which they would sustain by this indiscreet division would be enormous. Not only would the value of the father's capital be reduced by the value of the fresh capital which the division would oblige them to expend, but the rate of profit upon the capital thus reduced would be greatly diminished in consequence of its disadvantageous application. It would clearly, therefore, be the interest of the children to carry on the father's business in partnership, rather than break down the farm into distinct occupations. The Reviewer, indeed, stoutly affirms that they could not do this. "Farming," says he, "cannot be advantageously carried on by joint-stock companies." This assertion, unsupported as it is by the slightest attempt at a reason, is hardly worthy of notice. We

will, however, remark, that farming in France was not uncommonly carried on in this manner before the introduction of the present law of succession: a fact for which we shall immediately cite very good authority, and from which a vulgar reasoner would incline to infer that the thing may be practicable still.

If the children could not agree to carry on the father's business in partnership, it would be more to their interest to let the farm in one of the ways which we have pointed out, than to occupy it severally in minute portions. If the farm, with the capital invested in it at the father's death, were let to a single lessee, the capital in his hands would not only remain undiminished, but would continue to yield an undiminished rate of profit. But if the capital in the hands of the lessee would continue to yield an undiminished rate of profit, the rate of the interest which he would pay for the use of the capital (and which would probably be confounded, under the name of rent, with rent properly so called) would naturally be adjusted to that undiminished rate of profit; for the rate of interest depends upon the rate of profit. The consequences are, that if the farm were let to a single lessee, each of the lessors would receive interest, calculated at a higher rate of profit, upon a comparatively large capital; whilst, on the other supposition, each of them would be engaged in applying a smaller capital, yielding a lower rate of profit, to a detached portion of the land. One advantage he would certainly derive from cultivating rather than letting. On the first supposition he would obtain profit; on the second, he would only receive interest. But if the enormous loss, which he would sustain on the first supposition, both in amount of capital and rate of return, be set off against the difference between profit and interest, there will, we think, be little or no doubt as to the course which he would naturally pursue. If this consideration alone were not quite sufficient, there is another which would come in aid of it and would infallibly determine his choice. If he cultivated a detached portion of the farm, much of his time would be occupied in the business of superintendence. If he let his share of the farm, the management of his capital invested in the farm would devolve upon the lessee. But the lessor would have other capital, or he would not. If he had, he would be released, by letting, from the trouble of managing his capital invested in the farm, and could give his undivided attention to the employment of his other capital. If he had not, he could engage himself with his lessee, or with any other farmer, as a labourer for hire; and being now engaged as a labourer only, would be able to turn his labour to better account than if he partly employed his time in working with his own hands, and partly in the superintendance of capital.

The same, or nearly the same reasoning is obviously applicable as to the other expedients which we have suggested. The purchase-

money payable to each child on the sale of the farm would resolve itself into two portions; one of them being the equivalent of his property in the mere soil; the other, of his property in the capital which had been invested in the cultivation of it. If his purchase-money were secured upon the farm, the interest which he would receive in respect of this last portion of it, would be tantamount, or nearly tantamount, to what he would receive in respect of his capital, if the farm were let; the only difference being, that he would receive it, in the one case, under the name of interest, whilst he would probably take it, in the other, under the denomination of rent. To apply these propositions in detail were superfluous labour. It is obvious that the same considerations, which would determine him to let rather than occupy, would also determine him to sell and leave his money upon the land, if in consequence of other considerations, he found it inconvenient to let. If he sold his share in the farm, receiving his money down, the same or precisely analogous consequences would follow. For he would either put out his money at interest in some other quarter, or would himself employ it productively. On the first supposition, he would merely receive interest from a stranger instead of receiving it from the lessee, or purchaser. On the second, the advantages he would derive from the equivalent of his capital would exceed the advantages he could have obtained from the capital itself, had he squatted himself down with it upon a corner of the paternal farm. The equivalent would constitute a larger capital, and could be invested in a more profitable employment. It is almost superfluous to observe, that if one of the brothers took the farm on lease or bought it upon credit, he would be as much benefitted by either of these arrangements as the brothers who let or sold. His share in the father's capital would remain undiminished; and being blended with the shares of his brothers, would continue to yield an undiminished rate of profit. Being released from the care of superintending their capitals, they would be able to turn themselves to other employments; whilst he would obtain an equivalent advantage in the difference between the profits which he would extract from those capitals, and the interest which he paid for the use of them.

Some such arrangement as we have described would be so strongly recommended to the children both by family affection and personal interest, that they would hardly fail to come to it of their own accord. If the father, however, had reason to apprehend that his children would break up his farm, contrary to their interest, he might provide them with an additional motive to keep it entire. Bequeathing the disposable portion of his property to his children in equal shares, he might enjoin upon them, by his will, an arrangement to the effect which we have described; and might then insert a clause, depriving of his share in the disposable portion, any

of the children who should refuse to obey the command. Can any thing be imagined more obvious, easy, and effectual? Can it be believed that any of the children would injure himself doubly—would repudiate his share of the disposable portion, and reduce the value of his legitimate share by enforcing an improvident division—merely to satisfy a fantastical desire of tilling with his own hands a few of the paternal acres? So ridiculous a whim might possibly find its way into the airy head of a poet, but would never disturb the calculations of a discreet farming man, of one “who glorieth in the goad, and whose talk is of bullocks.”

We have hitherto argued upon the supposition, that the children of the deceased proprietor are all of them sons, and have all of them been trained to their father’s calling. But how numerous and powerful would be the dissuasives from a division of the land, if some of the children (as would almost infallibly happen) were infants, or women, or had been engaged in very different occupations! We cannot help conceiving (though the conceit may be something of the strangest) that the trader, manufacturer, working artizan, or seaman would hardly abandon the trade in which he had been exercised, or even embroil himself by deputy with a calling to which he was a stranger, to the mere end (for no other can be imagined) of reducing the value of his share in the paternal estate. If this recondite reflexion had occurred to the Reviewer, he would have probably inferred, with us, that the law which secures the land to the children equally, has no tendency whatever to turn them into so many landlords. He does, indeed, affirm that wherever this law obtains, the children of landed proprietors will generally be brought up to agricultural occupations.

‘Every system,’ says he, ‘which has for its object to enforce an equal division of landed property, must necessarily occasion too great an increase of agricultural population; and must also operate to reduce landed property into such minute portions as will neither afford sufficient employment to the families occupying them, nor allow of their being cultivated in the most improved and cheapest manner. The strong predilection entertained by the great bulk of mankind for the pursuits of their fathers, has been universally observed; and if this be true in general, it is particularly so in the case of those who are brought up in the country. But the existence of a law, compelling every father to divide his estate equally among his children, must obviously afford the greatest possible facilities for gratifying this natural inclination. It will give most individuals the power of continuing in that line of life in which they have been educated, and which must, in consequence, be endeared to them by all those youthful associations which exert so strong an influence over future conduct.’

In a sonnet or pastoral poem, this would be merely dull. In an essay, which affects to settle a question in Economics and Legislation, it provokes to animadversion. Admitting that the mind of the farmer's son is more thickset than is customary with these endearing associations; admitting his unusual predilection for the pursuits of his father and grandfather, this predilection, it is obvious, makes nothing towards the conclusion, unless it would prompt the farmer's children to divide his inheritance improvidently. A man, to be sure, who has an itching predilection, will try to ease himself of it in some way or other, but when he can make his choice, between a course which will do him harm, and a course which will do him none, the odds, we fancy, are, that he will rather take the latter. That the children might appease their predilection without tearing the inheritance to rags, has been sufficiently shewn already. But we deny that civilized men have any such strong predilection for the pursuits of their fathers.

Communities in the infancy of reason—communities which are the creatures and the slaves of custom—brute communities, may be fraught with this strong predilection, just as they are bloated with an absurd conceit of their own institutions and manners, and are inspired with virulent antipathy to the institutions and manners of their neighbours. This predilection existed amongst the ancient inhabitants of Egypt. It exists to this hour amongst the people of India. But where no bad laws, no religious prejudices obstruct the distribution of labour and capital through the various trades and professions, every man, according to his means, chooses the calling which promises the most advantages, and pursues the same reasonable course in fixing the destination of his children. For be it observed, the trade or profession of the son would naturally be determined by his parents; and though the child might be blinded, by his predilection for his father's calling, to the superior advantages presented by other callings, the father or mother of the child, who had had some experience of life, would hardly be led astray by any such delusive fancy. To say that in France the agricultural population bears a disadvantageous proportion to the population engaged in other pursuits, is to say nothing to the purpose. As the division of the land into small farms (a proposition which we shall establish immediately) is not the consequence of the law of succession, but of the general poverty of the people, so the disproportion spoken of, is not the consequence of any ridiculous fancies, but of the greater demand for agricultural labour, which the general poverty engenders. As capitals of the more costly sort, as the instruments for abridging labour are accumulated, the demand for mere animal exertion decreases; a larger proportion of the community is disengaged from the necessary business of obtaining food, and is employed in preparing the comforts and the ornaments of existence. We can venture to assure the Reviewer,

that the greater influx of labourers into the agricultural callings, which is to be observed in France, is not the effect of Arcadian simplicity, but of the same laws of supply and demand, which determine a greater proportion of the English people to manufacturing and commercial pursuits. Indeed, it is obvious that if this predilection existed amongst the French peasantry, it would also exist amongst the English. No difference in the rate of wages would tempt the son of an agricultural labourer from the employment of his father; and a large portion of the labour, which is now turned to other branches of production, would be wastefully expended on the soil.

Having shown that the interest of the children would lead them to concur in some such arrangement as we have described, we will now briefly shew, that the children of French proprietors, when placed in a position exactly similar to the one which we have supposed, did ever in fact pursue that reasonable course. According to the customary law, which obtained in Paris, and in many other parts of France before the Revolution, the legitimate share of the children was half of the father's property. At Bordeaux, where the rule of the civil law obtained, the children, according to their number, were entitled to reserve a half or some smaller portion. It appears, however, that though the father was thus invested with the power of leaving at least half to any one of his children or to a stranger, it was the general practice, in those great and wealthy cities and in the neighbouring districts, to leave the disposable portion to the children equally; the effect of which practice was, that the children took equal shares of the father's property. Did any of the Reviewer's imaginary consequences follow? No such thing. If it happened that an occupation (*une terre*) could not be divided without lessening its value, one of the children bought the interest of the others, accounting to them for the value out of his own share in the whole property, or, if need were, raising the purchase money by loan. *Monsieur Le Conseiller Maleville* (a lawyer of such eminence, that he was commissioned with the celebrated *Tronchet* and two others to prepare the draft of the Napoleon Code) is our authority for the law and the practice [See the Discussions on articles 913, 914, of the code, in the *Conférence du Code Civil*]. The testimony is of the more weight, inasmuch as M. Maleville, in the course of the discussion, insists, with the Reviewer, upon the tendency of a forced division to break down the land into small occupations; and recommends, for this reason amongst others, an increase of the disposable portion. To the decisive fact which he admits, he opposes nothing but a conjecture almost as feeble as the Reviewer's reasonings. He thinks that in the agricultural districts, money could not be raised by loan, as at Paris or Bordeaux: and that the children, though inclined to leave the inheritance ungarbled, would consequently be obliged to divide it.

The difficulty, if it ever existed, of raising money in the agricultural districts on mortgage, was probably owing to two causes: the backward state of France, before the Revolution, as to internal communication; and the detestable variety and uncertainty of the written laws and unwritten customs, which were then in force in that ill-governed country. His uncertainty as to the state of the law in a remote and obscure district, with his consequent uncertainty as to the soundness of the owner's title and as to his remedies for the recovery of his money, would naturally disincline a monied man, residing in one of the great cities, from making advances upon land situate in that district. But now that the senseless restrictions, which obstructed the free circulation of capital,\* are altogether, or in great measure, removed; now that the French people (amongst the other benefits which they have won by their strenuous and noble struggles for good government) enjoy the inestimable good of living as one family, under written and, comparatively speaking, knowable laws, it is obvious that no such difficulty as that which M. Maleville suggests would oppose itself, in any part of France, to any arrangement which the children might think to their advantage. The values being equal, and the titles equally clear, the Parisian capitalist would as readily advance his money upon land in Brittany or Provence, as upon land in his own department.

But this difficulty, if it existed, would certainly not stand in the way of the other expedients which we have mentioned; and we are accordingly informed by *M. Le C. Berlier* (whose talents and knowledge appear to great advantage in many of these discussions), that those expedients were commonly resorted to by the children of small proprietors; the class, according to the Reviewer, in which the tendencies to an improvident division, exist in their utmost force. It appears from the testimony of *M. Berlier*, that the small French proprietors rarely thought of making a will; and that the inheritance, either by the law of succession obtaining in the district, or by an understanding between the proprietor and his children, was taken by the latter in equal shares. Did they proceed forthwith (as according to the Reviewer's scheme of human nature, they ought to have done) to mangle their little property? Not a bit of it. They either carried on their father's business in partnership; or if their positions in life made it inconvenient to them to turn their little farm to account in that manner (*faire valoir la petite ferme en société*), one of them took the whole of it, paying rent to the others for the use of their shares. [See the Discussion above referred to].

By a law passed in the year 2 of the Revolutionary æra, (*Loi du 17 Nivose an II.*) the whole estate of a deceased proprietor was secured to his children in equal shares; excepting a sixth part of it, which he was allowed to dispose of either by gift or will to a



stranger. As in favour of any or all of his children, he was disabled from disposing of even this sixth; so that if he intended that *they* should take it, it was to go to them equally by descent. This law, enacted to break down large properties, and thus prevent the resurrection of that aristocratical power, under which the French people had been recently smarting, made way, about six years after, for a law not essentially differing from the provisions of the Napoleon Code. Now, if any institution would tend to split occupations, it is the institution which we have just described. We are informed, however, by *M. Le C. Boulay* (the mover of the law by which it was abrogated, and who had taken pains to ascertain its effects), that it was followed by no such consequences. In those parts of France in which small properties had previously prevailed, the arrangements formerly in use were still resorted to. The son who had been engaged in cultivating the land (commonly the eldest), took, as before, the whole inheritance; the rest of the children receiving an equivalent for their shares.\* [See the same Discussion.]

It appears from this body of evidence, that the children of French landed proprietors, long before the introduction of the present law of succession, were daily acquiring rights tantamount to those which that law confers, and yet never abused them to the purpose which the Reviewer has so strangely imagined. Mark, too, the source of the testimony, and the occasion upon which it was delivered. It is the testimony of lawyers, of law-givers, versed in the habits of their countrymen as to the disposition of property, and engaged at the instant in legislating for a mighty nation.

If a law, necessitating the equal division of property amongst the deceased proprietor's children, can have little of the tendency ascribed to it by the Reviewer, the practice of equally dividing by will can clearly have none. Not insisting again on the expedients which the children would resort to, we will just hint at the precautions which the parent might take. Directions that land shall be sold, and the produce of the sale be divided equally; devises of land to one of the children, charged with portions or annuities to the rest; these and various other devices for equalizing the condition of the children without garbling the estate, are so obvious, so practicable, and in this country are so frequently practised, that we wonder they never occurred to the Reviewer; and occurring, did not instantly convince him that his argument, as it applies to division by will, was altogether illusory and worthless. Even on his own scheme of extreme inequality, these devices must be frequently resorted to. It often happens that a landed proprietor has nothing but his land; and, in such cases, the land must yield to the younger children that portion, however trifling, of their father's

estate, which it appears from some of his expressions he is not unwilling to concede them.

From the more general reasonings which we have examined, the Reviewer descends to argue from what he calls experiment. "We have long been witnesses," says he, "to the effects of the custom of primogeniture as applied to the succession to landed property." That we have witnessed, and witness, in England, the co-existence of two facts, namely, the habit amongst the larger proprietors of making an eldest son, and the prevalence, in some parts of the country, of large farms, we admit: that the one is the cause of the other, we deny. If it were permitted to infer from the mere co-existence of the facts, that our good farming is the effect of this custom, it were permissible to attribute the commercial prosperity of London to the Monument by which it is overlooked. By reasoning like this, we might drive the Reviewer to the direct contrary of his conclusion. In most of the countries of Europe in which the land is transmitted in large masses from one generation of proprietors to another; in Russia, Poland, Hungary, Bohemia, in many, if not in most, of the German states, it is very generally occupied in small portions by miserable peasants. Throughout the middle ages, in every country of Europe, the land, for the most part, was cultivated by serfs. Even in England, the tendency to unite farms is but of yesterday, and it is only in the wealthier districts that considerable occupations are nearly universal. Here is a much wider basis for an induction than that which the Reviewer has laid down; and if we could condescend to argue after the same fashion, we might simply insist upon these numerous coincidences, and conclude universally thus—wherever the custom of primogeniture obtains, there must farming be bad. But not only has the alleged cause been attended, for the most part, with a dissimilar set of appearances; the appearances in question (the existence and preservation of large farms) are, in many instances, observed, though the imputed cause has never intervened. Though the land in England be generally owned by large proprietors, much of it is owned, either absolutely or on long beneficial leases, by men of the middling classes. But it is a fact that the farms which belong to the proprietors of this class, are commonly disposed of by will, with a view to equality amongst the children; and are never frittered down in the manner imagined, in consequence of such dispositions. This is utterly irreconcilable with the Reviewer's hypothesis. In a country in which farms of an advantageous size are daily passing unimpaired through this process of division, it is impossible to ascribe the existence and preservation of large farms to the aristocratical custom of primogeniture.

But the most striking illustration of the absurdity of this reasoning, is furnished by Ireland. In Ireland, the laws relating to the descent

of landed property, and to what are vulgarly called entails, are the same in all essentials as in England. In Ireland, as might be expected from the comparative rudeness of the people, family pride is not only more intensely, but more extensively felt than in England. In Ireland, therefore, the law affords the same facilities for making an eldest son; whilst the motives to the practice are not only stronger, but operate upon a larger class. Yet it does so happen, that, whilst English forms are generally of an advantageous size, the land in Ireland is still more generally occupied, in small portions, by the poorest farmers in Europe. The custom of primogeniture prevails at least as extensively amongst the larger Irish proprietors as amongst the same class in England, but is attended in the several countries with appearances in direct contradiction.

We wonder it never occurred to the Reviewer, to ascribe the large farms and the good farming in England, to her *abundant capital*. We wonder the more, inasmuch as in a passage relating to Ireland, he has exactly touched upon the cause of her small farms and bad farming: *acu rem tetigit*. It is beyond a doubt, that the small farms and the bad farming, not only of Ireland but of France also, arise from the *want of capital*. Not only so; it is equally indisputable, that, in every country in which *capital is deficient*, farms must be small, and farming bad. Having no funds in advance for the payment of any considerable number of labourers, no means of procuring the costly instruments by which labour is saved, the farmer in poor countries must confine his care to such a portion of land as his own labour, aided by that of his family, and perhaps a few workmen for hire, will suffice to cultivate. With only a few pounds in his pocket, and a pair of sorry cattle at his command, it were impossible for him to enter, to any purpose, upon the cultivation of a considerable farm. In a general dearth of capital, it matters not a rush to the present purpose, whether the land be owned in large or in small quantities, or whether that portion of it which is not actually under cultivation lie without an owner, open to any casual occupant. If the land, in a state of general poverty, be appropriated in large quantities, the cultivation of a large portion of it may be prevented altogether, but large farms and good cultivation will certainly not be the consequence. At the outset of every community, whatever be the form into which society is thrown, the land must be cultivated in small portions, and the cultivation must be bad.

As wealth increases, as capital accumulates, farms enlarge, and a better method of cultivation is introduced. The profits to be made by skilful farming are gradually discerned; and as soon as they exceed the profits in other branches of production, a portion of the monied capitals is turned to the soil. Considerable portions of land

are purchased or hired by larger capitalists than had formerly engaged in farming; or what answers the purpose of the capitalist just as well (for the rate of interest depends on the rate of profit), advances are made by the capitalist to the farmer, who is thus enabled to enter, by purchase or hire, upon a larger farm, and to introduce a mode of culture more profitable to himself and more advantageous to the community. This is the way in which large farms have gradually grown up in England. This is the way in which the small French farms will gradually be united into larger occupations. France has hitherto been a poor country: under the better institutions which she has obtained by her struggles for reform, her capital is rapidly increasing; and we may be sure that a due portion of it will find its way to the land, so soon as the profits to be made by it in extensive farming shall exceed the profits to be made by it in manufacturing or commercial employments. The custom of primogeniture, instead of accelerating, would retard this natural process. The custom of primogeniture (as we have already indicated, and shall show more fully in another division of this article) can never obtain to any extent unless certain restraints be imposed upon alienation. But in the proportion in which the difficulties of purchasing land increase, will the inducements to turn capital to land diminish. If his means be equal to purchase, every man will purchase land rather than hire it; whilst no man will expend his capital on land which he holds by lease, so liberally as he will expend it upon land of which he has the absolute dominion. If the custom of primogeniture had never obtained in England, the land would by this time be very generally occupied by capitalists of the most respectable sort. The greater part of it would be laid out in occupations of the most advantageous size, each of them owned by a wealthy occupier. As the case is, much of the land in the country is never brought into the market, but is transmitted by a chain of wills and settlements from one generation of proprietors to another: the proprietors for the time being are generally disabled from granting very long leases, and are often unwilling to grant them of even moderate length; and thus multitudes of wealthy capitalists, who would willingly invest their capitals under more enduring interests, are altogether repelled from the soil.

It thus appears that a due portion of the existing capital of the community will be invested in agriculture, if there be no custom of primogeniture, nor any other bad custom or institution, to obstruct its determination to the land. We must here, however, remark that small farms and bad farming will, in many instances, be perpetuated, even in the most advancing countries, by the mere fact of their having already obtained. Originally, as we before observed, the land was necessarily occupied in small farms with small capitals. Now, if in a more advanced state of society, several of these small farms were united into one, and a capital adapted to

its size were invested in the cultivation of it, there is no doubt that the produce of this capital thus advantageously applied, would exceed the produce of all the smaller capitals put together. This change, however, could not be brought about without destroying a large portion of these smaller capitals. The farm houses, buildings, and fences, for instance, which were severally adapted to the smaller occupations, must be abolished or become useless, and a farm house, buildings and fences, suited to the occupation of the land as a single farm, must be erected at a considerable expense. Whether the change could be accomplished with advantage, would depend upon two considerations: the probable loss in the destruction of capital; and the probable gain by an increase in the rate of return. It might very probably happen that the loss would outweigh the advantage. Here, then, in as far as the destruction of capital is concerned, is the converse of the case, which we insisted on at length in an earlier part of the present article. The same interest, which, in that case, would certainly prevent the division of a single farm might, in this instance, be opposed to the union of distinct occupations. Thus it is, that though the division of the land into small farms originates in the want of capital, they cannot be always blended, as capital accumulates, into farms of a more advantageous size. Thus it is, that the imperfect agriculture of poor and barbarous ages, must in all countries be prolonged to no inconsiderable extent, through ages of advancing opulence. Owing to this cause, it will be long ere the agriculture of France be improved by her increasing capital to an equal extent with her manufactures. To this and to the vicious custom of primogeniture, we must ascribe the small farms and the rude cultivation, which, wealthy and civilized as she is, may still be detected in England.

It appears, we think, very satisfactorily from what we have premised, that the large farms and the good farming of England cannot be the consequences of the custom of primogeniture; nor the small farms and the bad farming of France, the effects of her law of succession; that the abounding wealth of England would have probably flowed to the soil in still larger quantities, had the custom of primogeniture never obtained; and that the law of succession, which is now in force in France, has certainly not aggravated the consequences of her defective capital. Why it is that capital has accumulated in France less rapidly than in England, is a question to which, we think, we could find a satisfactory answer, but which the scope of our inquiry, as well as the limits we are confined to, forbid us to meddle with.

To follow the Reviewer through the various other facts, real or supposed, which he has pressed into the service of his argument, were to repeat, with a few slight variations, what we have already insisted on. Admitting them to be true, they are beside the

question. Had he shewn, by indisputable testimony, that French farms are commonly small, that French farming is commonly bad, that the number of the people engaged in agriculture bears a large and disadvantageous proportion to the number engaged in other pursuits, still he would have shewn just nothing to his purpose, failing, as he has, in connecting these unfavourable appearances with the present law of succession. The testimony, for instance, of Mr. Birkbeck (p. 365) simply tends to establish, what we care not to deny, the division of the land into small occupations. This gentleman, it is true, is pleased to infer that this division of the land is the consequence of the law of succession. But who but this Reviewer confounds an attestation to a fact with a conclusion which the witness may have built upon it? With regard to Mr. James Paul Cobbett, he merely tells us that he “heard great lamentations in Normandy on account of the effects of this revolutionary law” (p. 367). But from how many did these complaints proceed? Who were his witnesses to the effects of this law, and to what, precisely, did they attest? Was he informed by many and credible persons, that the children of deceased proprietors had, in numerous cases within their own observation, actually broken down the landed part of the inheritance into several occupations? or, judging from a few instances of improvidence and perverseness, were his witnesses merely opining that it was the general tendency of the law to split the land? How many of these witnesses lied for the purpose of putting forward a favourite theory? How many of them were elder brothers “lamenting” the extinction of the good old custom of primogeniture? These and a thousand scruples more must be thoroughly cleared up, before the hearsay evidence of Mr. James Paul Cobbett will go for any thing with any body but the Reviewer. What is the worth of this crude stuff, dropped we know not how, why, or by whom, and swallowed without scrutiny by a flitting tourist, when weighed against such authorities as those which we have cited, and opposed to the moral certainty which arises from the interests of the children? Nor is this all; Mr. Cobbett himself destroys the effect of his own evidence, such as it is, by telling us in the same breath, with a tone of admiration, that “in many families” (as he had actually been assured) “the several members had come to an agreement to act according to the old custom, and thus prevent the parcelling out of their estates!” as if there were aught so worthy of amazement in many or all men agreeing to do what they are strongly prompted to do by their own manifest and urgent interests. Before the conviction which we entertain can be shaken by testimony, we must have the testimony, not of travellers skimming over the face of the country, not of strangers and sojourners in the land, but of numerous men of business, residing in the various departments, and attesting to it as a fact, which their avocations have called upon them to observe, that the children of deceased proprietors do actually, in the majority of cases, divide

the landed part of the inheritance into several occupations. Testimony such as this would constrain us to believe, not, indeed, that the same institution would be followed by the same consequences in any other portion of the earth, but that the French people were a peculiar people; a nation of men *sui generis*, who were daily engaged in doing what their own great and manifest interests would naturally determine them to abstain from.

But the most remarkable instance of the Reviewer's eagerness to seize on every straw that might serve him as matter for building up his conclusion, is his quotation from the well-known book of Mr. Arthur Young, who travelled through a great part of France in the year 1789, and who attests to the small farms and the bad farming which were then prevalent in that country. That the Reviewer should ascribe the small farms and the bad farming of the year 1789 to a law which was introduced thereafter, is certainly in consonance with the rest of the reasoning which runs through this exquisite performance.

The number of French landed proprietors, as deduced from the returns to the land-tax, is equally beside the question (p. 369). It simply proves what nobody denies, that they constitute a considerable portion of the whole population. We should not have thought it worthy of our notice, if it were not for the blundering or disingenuous manner in which the Reviewer has applied the fact. Of 4,833,000, the whole body of proprietors, 3,665,300 derive a yearly income of about 51 shillings each from their respective properties; being, in truth, mere day-labourers, each of them owning a cottage with a garden attached to it. Of the 1,167,700, who remain after deducting the mere day-labourers, 928,000 derive a yearly income of about £.17 11s. each from their respective properties; being also, substantially, day-labourers, though engaged during a part of their time in raising produce for sale from their own little farms. The 239,700, who make up the rest of the whole body, are either mere landlords, or combine the character of landlord and capitalist, and, instead of subsisting wholly or partly upon wages, derive their incomes from rent or profit, or from one of these funds blended with the other.

The use to which the Reviewer would put these facts is remarkable. Because there are 4,833,000 proprietors, of whom 3,665,300 are mere day-labourers letting out their services to hire, and of whom 928,000 are nearly in the same condition, he will have it, or he hopes his readers will infer it, that there are, at least, 4,833,000 farms in France. By merely counting into the number of English tenancies, the cottages with gardens attached to them, which are in the possession of day-labourers, we might show that the whole or the greater part of the agricultural population belongs to the

class of tenants: Then, substituting “farmers” and “farms,” for “tenants” and “tenancies,” as he would have his readers substitute “farmers” and “farms,” for “proprietors” and “properties,” we might prove that the land in England is laid out into farms innumerable; and thence infer (with much cackling at our fancied triumph) that English farms are almost universally small, and English farming thoroughly execrable.

Our limits will not permit us to pursue the Reviewer through the few remaining facts which he has cited in support of his argument. With the aid of the suggestions which we have thrown out, it may be perceived at a glance that they are utterly inapplicable to his purpose. In a word, there is abundant evidence to show, that French agricultural capitals are small and inefficient; there is no evidence to show, that the heirs of French landed proprietors are so foolish as to render them still smaller and less efficient by an injudicious and wasteful division.

Approving the custom of primogeniture, the Reviewer, consistently enough, approves of restraints on alienation; at least, to the extent to which they may be imposed in England. “Whatever,” says he, “may be the other defects of the law of England, we believe most of our readers will be of opinion, that there is little to amend in that part of it which has reference to entails.” We who think that the custom of primogeniture is pernicious, and is kept alive in England by “that part of her law which has reference to entails,” cannot acquiesce in the opinion which the Reviewer supposes to be so indisputable. That the power of entailing or substituting is the basis of the custom of primogeniture; is the cause of those abuses of the power of willing, which prompted the French legislators to reserve legitimate portions; and that those abuses would be prevented by certain provisions of their code, though that reservation were abolished, are opinions which we announced at the outset of our inquiry, and which we now proceed to maintain. That we may explain distinctly the nature of these provisions, we will ascend for a moment to the remote sources, from whence the French substitutions were principally derived. Our sketch of their origin and progress may not be uninteresting to the reader, and will tend to lay open the historical blunders which the Edinburgh Reviewer has committed. When a writer diffuses erroneous and mischievous opinions, it is permissible to show that he is not over well acquainted with the subject which he affects to discuss.

To give validity to the testamentary dispositions of a Roman citizen, it was necessary that an heir or heirs should be named by his will, and that one of these heirs should be both willing and able to take the inheritance at his decease. Now, as the testamentary heir, who took the property, was also bound to satisfy the debts of the



testator, it not unfrequently happened that the person named as heir refused to meddle with the inheritance. Sometimes, too, it fell out, that the person named as heir, either died in the life-time of the testator, or became subject to certain disabilities which prevented him from taking by will. That he might provide against these contingencies and prevent his testamentary dispositions from falling to the ground, it was permitted to the testator to name an heir or heirs, upon whom the inheritance should devolve at his decease, in case the heir or heirs first-named should be unwilling or unable to take it. The heir or heirs first-named were said to be *instituted*, in the strict acceptance of the term: the heir or heirs who were to take in the events which we have mentioned, were said to be *substituted* in the place of the first. But the heirs who were immediately substituted in the place of the instituted heirs, might also be unwilling or unable to take at the testator's decease. That he might provide against these events also, it was further permitted to him to substitute other heirs, in the place of those who were substituted in the first degree, and so on from degree to degree through any number of degrees. By these substitutions, from their frequency called *vulgar*, the testator's property was not rendered unalienable for a single instant; but the absolute dominion of it passed, at his decease, to such of the instituted or substituted heirs as then stood first in the order of heirs who were both willing and competent to take.

A Roman youth being incapable of making a will till he attained the age of puberty, it was permitted to the Roman father, who instituted his infant child as his heir or one of his co-heirs, to substitute, in the place of the infant, an heir or heirs, upon whom the property should devolve, in case the infant died before his incapacity determined. By this substitution, called *pupillar*, the property was no more tied up from alienation than by the one which we described before. It is true that it remained fixed in the infant, from his father's death till he himself attained the age of puberty, or died within it: But the infant, as such and by virtue of the laws relating to incompetent persons, was not able to alien till he attained that age; so that if he died within it, and the substitution took effect, it merely carried the property to persons of the father's choice, from the heirs who would have succeeded to the infant by virtue of the law of succession.

If the child instituted as heir or co-heir, though of age, were insane, deaf, dumb, or had been interdicted by judicial sentence, on account of infamous prodigality, from disposing of his own property, it was permitted to the parent to substitute, in the place of the instituted heir, an heir or heirs, upon whom the property should devolve, in case the former died before the interdict were withdrawn, or the insanity or other disease were radically cured. To

this substitution, called *Quasi-pupillar*; the observation made upon the last is also applicable. Pending the interdict or the disease, the instituted heir, by the laws relating to incompetent persons, was incapable of alienating by will or otherwise; and if the substitution took effect, it merely carried the bequeathed property to the substituted heir, from these who would have taken from the instituted heir as his successors by the rules of descent.

The vulgar and pupillar substitutions (for the quasi-pupillar was introduced as late as the reign of Justinian) were the only substitutions in use amongst the more ancient Romans. There is certainly nothing in them of the nature of modern entails; and limiting the proposition to the republican ages, or even extending it to the earlier ages of the empire, Dr. Smith was most probably correct (in spite of the Reviewer's criticism) when he affirmed "that entails were altogether unknown to the ancients." Under the emperors (who laboured by every art to win the affections of the soldiery\*) the soldiers, as they were relieved from the observance of the formalities with which civil testaments were accompanied, so were they permitted to depart from the rules by which substitutions were commonly governed (*omnes fere leges substitutionis negligere*). A civil testament imparted to the heir, who took at the testator's decease, the power of dealing at his pleasure with the property bequeathed; or if it did not, he was not restrained from alienation by force of the will, but by some general law regarding incompetent persons under which he happened to fall. By *military testament*, the heir who took at the testator's decease, might be confined to a life estate in the bequeathed property; and the testator might substitute an heir, upon whom the property should devolve at the determination of that restricted interest. This military testament, which without regard to his competence or incompetence, and by its own proper force, tied up the immediate taker from alienating the property, probably suggested the idea of those entails by way of trust, which we will now briefly describe.

The Reviewer is mistaken in supposing, that the trusts or *fidei-commissa* of the Roman jurisprudence were devised for any such purpose as that of entailing. Though afterwards perverted to that mischievous purpose, they were devised and introduced to the laudable end of evading certain absurd laws, by which certain classes of persons were disabled from taking property: more especially to the end of evading the Voconian Law; which excluded women from succeeding to intestates, and limited extremely the amount of what they might take by will. This end was accomplished as surely as it could be, in the following manner. The testator, by his will, instituted some capable person as his heir, who took his property at his decease, and was the only heir and proprietor of

whom the judge could take cognizance. To the bequest, however, was added a prayer (*verba precativa*) that the heir would make over the bequeathed property to the incapable person whom the testator intended to take it. If the heir (*fiduciarius*) felt himself bound in honour to fulfil the testator's intention, he accordingly made over the property to the real object of the testator's bounty (*fidei-commissarius*). If he thought that the confidence which had been placed in his honour imposed no such obligation upon him, or he were regardless of the obligation which he felt, he neglected to fulfil the testator's intention, and with perfect impunity, so far as the laws could touch him, he kept the property to himself. The prejudices which had dictated the disabling laws gradually wearing away, and flagrant instances of breach of confidence frequently occurring on the part of fiduciary heirs, the legislature at length interposed, though not earlier than the age of Augustus, and added the legal sanction to the mere moral obligation. To follow the history of these *fidei-commissa* beyond the point we have attained, were beside our present purpose. Suffice it to say, that they were commonly regarded from this time forward as merely convenient methods of conveying property by will.\* The *fidei-commissarius* was looked upon by the legislature as substantially the proprietor; he might recover the property by action from the fiduciary heir, and even force him to accept the trust; he might recover the property by action from any third person who happened to detain it; and the fiduciary heir, who at length became entitled to certain advantages as a compensation for the obligations imposed upon him, was regarded as a channel or conduit for conveying the dominion of the property to the object of the testator's bounty.

In the cases which we have just mentioned, the fiduciary heir was a mere trustee, bound to make over the property, at the testator's decease, to some third person who was the real object of his bounty. Trusts, when resorted to for this purpose, were called *express*. Sometimes, however, the testator intended that the fiduciary heir should enjoy the income of the property during his own life; and, in such cases, the fiduciary heir was commanded (for here a mere request would not suffice) to bequeath the property by his own will to a person or persons fixed upon by the author of the trust (*testator fidei-committens*). *Fidei-commissa*, when resorted to for this purpose, were called, we know not why, *tacit*: and imparted to the fiduciary heir the complex character of beneficiary and trustee. He was to take the income of the bequeathed property during his own life, but was expected to transmit the principal by his own will to some secondary object of the original testator's bounty. These tacit *fidei-commissa*, which had precisely the effect of the military substitutions mentioned above, were certainly introduced at a much later period than those which we described before; though the time at which they were introduced, or the time

at which the legislature made them legally binding, are not to be ascertained (if indeed they can be ascertained at all) from the limited sources of information which are placed within our reach. By one species of these tacit *fidei-commissa*, called *fidei-commissa familiæ*, the testator commanded the fiduciary heir to transmit the bequeathed property by his own will, either to such members of the heir's family as at his decease would be his successors by the law of descent, or to such members of the original testator's family as at the death of the heir would be the nearest of kin to the original testator himself. And here, as in the first-mentioned case, the persons who, by virtue of this nomination, became entitled to the property on the death of the fiduciary heir, might recover the property by action from any third person to whom the heir might have aliened it either in his life-time or by will. Whether the author of the trust was legally empowered to prohibit the second takers from aliening, and to direct the property to *their* descendants from generation to generation, does not distinctly appear. If *fidei-commissa* tending to a perpetuity (*in perpetuum concepta*) were at any period legal, they were afterwards restrained by a constitution of Justinian; which, as construed by high authority, opened the entail at the death of the fiduciary heir, and vested the property absolutely in the person or persons, who, by the will of the original testator, became entitled to succeed to it on the happening of that event.\*

All that relates to these *fidei-commissa familiæ*, in the ample treatise of Heineccius on the Roman law, according to the Pandects, is contained in a single note;† and Gibbon, whose chapter on the Roman jurisprudence is written with singular care, scarcely adverts to their existence. Hence we incline to differ from the Reviewer, and to believe that they were of rare occurrence. From all that we have collected, we also incline to think, that these entails by way of trust, instead of carrying the entailed property through four generations, as he imagines, were confined within the same limits which are now set by the English Law to restraints upon alienation.‡

By a misapplication of the Roman law term "substitution" (a misapplication frequent with the modern civilians), the entails which we have just described were introduced into France, under the name of Trust Substitutions; *Substitutions Fidei-commissaires*: "a feudal idea," says Gibbon, "grafted on the Roman jurisprudence." Employing henceforth the word "substitution" as synonymous with the word "entail," we may observe, that the creator of the French substitution (like the creator of the English estate tail) was empowered to tie up the property from alienation, to an extent that was altogether indefinite. Giving the property to the instituted heir for his life only, he might mark out a line of heirs

(generally lineal male descendants of the instituted heir or of himself) through which the property should devolve, on the death of the instituted heir, till the line became extinct. Like the Roman *fiduciarius* in the entail by way of trust, the instituted heir, with each of the heirs who followed, was entitled to enjoy during his own life, but stood charged in trust (*grevé de substitution*) to transmit the property to the person who might be entitled to succeed to him by the gift or will of the founder. By an ordonnance issued from Orleans in 1560 (for which France, if we mistake not, was indebted to the illustrious Chancellor *De L'Hôpital*), substitutions were thenceforth restrained to the third degree, counting from the author of the trust: that is (if we seize its purport correctly), the property after passing from the instituted heir, through the hands of the heir who was substituted to him, was to vest in the next, by force of the ordonnance, freed from all restraints on alienation.\*

By a law passed in October 1792, substitutions in any degree were prohibited. By the authors of the Napoleon Code, they were in some measure permitted, though the name, with strange fastidiousness, was peremptorily suppressed.

By donation or will, a father or mother may give the *disposable portion* of his or her property, wholly or in part, to one or more of his or her children, in such manner, that it shall be secured to the children, born or to be born, of the immediate donees. The power, however, is severely restricted in every direction. For, *first*, it is only the *disposable portion* of his property (a half, third, or fourth) that the parent can direct to any of his grand-children. The *legitimate portion* vests absolutely in the children by virtue of the law which reserves it, and may not be tied up from alienation (*frappée de substitution*) by any disposition of the parent. *Secondly*: Though the parent may give the disposable portion to a single child for life, in trust to make it over to *his* children, born or to be born, the gift is void, unless the donee for life (who is said to be *grevé derestitution*) be bound to make it over to *all* his children, in *equal* shares. *Thirdly*: At the death of the donee for life, the property vests absolutely in his children; or if any of them be then dead leaving children, the share of any such pre-deceased child goes to *his* children then living, absolutely and in equal shares.

The law reserves to the ancestors of a proprietor who dies without children, a *legitimate portion* of his property: a half, if there be then living one or more ancestors in each of the lines paternal and maternal; a fourth, if there be then living one or more ancestors in one of the lines only. Whether the whole, three fourths, or the half of the property be left to the disposition of the proprietor, consequently depends on the several events of his dying without

ancestors then living, or of his leaving ancestors in one or both of the lines. By donation or will, a brother or sister dying without children, may give the whole or the *disposable portion* of his or her property, wholly or in part, to one or more of his or her brothers or sisters, in such manner that it shall be secured to the children, born or to be born, of the immediate donees. The restrictions laid on these substitutions are precisely the same as those which are imposed upon substitutions permitted to parents.

Excepting certain dispositions by which property may be attached to titles of nobility, the substitutions permitted to parents (through children) in favour of grandchildren, and to brothers and sisters (through brothers or sisters) in favour of nephews or nieces, are the only dispositions, as we believe, by which the immediate taker of the gift may be restrained from alienation: certainly they are the only dispositions by which property may be tied up for a life in being, and directed, at the extinction of that life, to a person not in being when the disposition begins to operate.\* Considering how few persons die without leaving descendants or ascendants, how small must generally be the amount of the disposable portion, and how many are the chances that even this small portion will be minutely subdivided at the expiration of the life interest—it is clear that this limited power of entailing will seldom enable a proprietor to direct the mass of his property through a single generation; and that in these rare instances, it will hardly reach a second generation, without falling immediately to pieces.

By the law of England, as now settled, property may be rendered unalienable during a life or lives in being, and for the further period of twenty-one years, and a few months more.

Not being limited by reserves to children or ancestors, nor restricted by any such provisions as those which we have just described, this power of entailing affords large facilities to the pernicious practice of making or preserving a family. A testator, for instance, may leave the bulk of his property to his eldest son for life, and secure it to his eldest male descendant living at the death of the son. If a son of the eldest son be living at the death of the testator, the bulk of his property may be directed, through his eldest son and the eldest son of that son, to his eldest male descendant living at the death of the survivor. Not to perplex our readers with this or with more complicated cases, we will insist, for an instant, on the first and simpler case. In that case, the younger children of the testator are cut off with pittances, that the bulk of his property may pass to his eldest son; the younger children of the eldest son are confined to pittances out of the settled property, that the bulk of it may be transmitted to the eldest male descendant; and thus two generations of younger children are excluded from

the paternal estate, that the name of the testator may receive or retain the illustration which is derived from large possessions. Nor does the evil stop here. If the descendant who acquires the absolute dominion of the property, be imbued with the aristocratical prejudices which prompted the original settlement, he bequeaths the settled property by his own will to the same purposes: though more generally, perhaps, it is settled anew in the following manner. The person who would take the dominion of the property on the death of the surviving tenant for life (suppose them son and father) concurs with the latter in loosening the existing fetters, and in resettling the bulk of it in such a manner, that it will probably travel to some descendant of the son, as it travelled to himself from the founder of the first settlement. And thus, by a chain of wills or deeds or both, property may be transmitted in large masses through many generations of elder sons, to the exclusion of as many generations of younger brothers or sisters.

With the exception, perhaps, of a case or two which we shall point out as we proceed, we are very decidedly of opinion, that all such dispositions in favour of mere private persons, as affect to restrain the immediate taker of the gift from dealing with it at pleasure, ought to be peremptorily prohibited. Before we insist on the advantages which, in our opinion, would arise from prohibiting restrictions on alienation, we will pass in review the few cases, in which they might be applied to some better purpose than the creation or preservation of a family.

It may be said, that they afford protection to infants; to married women; to the children of the immediate donee; and that they save the madman or the prodigal from the consequences of his madness or prodigality.

The infant, as such, being protected by the law of infancy, needs not the protection of any domestic legislator. The absolute dominion of the property may, therefore, be safely imparted, though it happen that the donee is an infant.—The same observation applies to the insane. So long as his disease continues, he is under the protection of a general law; and the subject of the gift is transmitted in safety to his descendants or other successors.—It is expedient that married women should be capable of enjoying property apart from their husbands; and the rules of the English Common Law in this respect are every way worthy of the savage and stupid ages in which that chaos arose. There is, however, no reason why a married woman should be restrained from alienation. If dispositions of her property were wrung from her by the violence of her husband, they would, of course, be invalid. That any disposition of the principal was the deliberate act of her judgment and will, might easily be ascertained by a previous

examination by the judge.—The consequences of prodigality to the prodigal himself, afford no good reason for the permission of restricted gifts. There is no reason why the father of a dissipated son should not be reduced to the alternative of giving him nothing, or of placing what he gives at his absolute disposition. The prodigality of the son will naturally limit the bounty of the father; and this evil consequence of his past imprudence, will as naturally stay the son in his ruinous course. If he pause not at so serious a rebuke, he is altogether incurable and worthless: fit only to serve as an example to others of the poverty and misery which follow at the heels of extravagance.—With regard to his wife or to such of his children as are born in the testator's life-time, the case is equally clear. It is in the power of the testator to leave to the prodigal a small portion of his property, and to give the residue directly to the wife or children.—The case of unborn children presents some difficulty; and it was the supposed expediency of enabling parents, brothers, or sisters, to provide for the unborn children of an imprudent relation, that mainly determined the authors of the Napoleon Code to permit the substitutions which we have described.\* The case, however, might be provided for, without much infringing upon the principle for which we contend. Some small share of the property which the parent leaves at his decease, he might be permitted to settle on any of his children and their descendants, subject to the restraints imposed on the substitution, which is permitted to parents by the French Code.

And here we must take leave of this part of our subject. The several positions, which we have just advanced, cannot be maintained in a detailed manner within the narrow space which is allotted to us. We have submitted the points which call for consideration to the eye of the reader, who will easily supply by his own reflections the reasons which we are constrained to omit. Questions of this kind are most important and interesting; but, when not perplexed by abrupt technical language, are amongst the easiest that can be submitted to the human understanding.

For the same reason, we must confine ourselves, for the most part, to simply pointing at the evils which, in our opinion, would be suppressed by prohibiting restrictions on alienation. 1. The person, who takes the limited interest, is debarred from employing the property in commerce (in the largest sense of the word), and from improving it to his own advantage and that of his family. 2. By these restrictions the improvement of agriculture is retarded. Men of wealth, intelligence, and of an independent spirit, will not consent to accept of limited and precarious interests; and if the deed or will empowered the tenant for life to make long leases, it would virtually empower him to alien. 3. Not feeling that interest in its improvement which is inspired by absolute dominion, the tenant for



life often neglects the property, and sometimes impairs it as far as he can, that he may wreak his spleen on his immediate successor. The shocking spectacle of a father tenant for life, enjoined from wasting the property, at the instance of his son in remainder, has more than once been exhibited in English courts of equity. And this naturally suggests the more general consideration which follows. 4. If a legitimate portion of the parent's property ought not to be reserved to the children, the power of disposing, by will or otherwise, ought not to be abridged or taken away by the *fiat* of a domestic legislator. The donor or testator is not constrained to select an unworthy successor; and if the immediate successor be endowed, in the ordinary degree, with prudence and other virtues, he ought not to be deprived of that absolute power over the property, and of that consequent influence with his family, which were enjoyed by the author of the settlement. That the rights enjoyed by one generation should be withheld from the next, is, in our opinion, monstrous. Very generally speaking, the men and women of every succeeding generation are every way wiser and better than any of their predecessors. The silly or designing cant, which one sometimes hears, about the wisdom and virtue of ancestors, and the folly and corruption of our own times, is belied by all the evidence which discloses the character of our forefathers. It is impossible to establish this proposition without a large induction from minute particulars; but whoever has looked, to any useful purpose, into any of the memoirs which have been transmitted from the last century, or into the works of imagination which depict the manners of the period,\* will assent to it on the simple statement. The truth is, that the imposition of these restraints is rarely or never prompted by any rational regard for the safety and happiness of posterity. They are either suggested by a wish of domineering from the grave, or by the desire of making or preserving a family: Generally, by the last.† And this conducts us to the greatest of all the evils which arise from the practice of entailing.

If not abridged by some such provisions as those which we have cited from the French civil code, the power of entailing perpetuates the custom of primogeniture; and with that custom, aristocratical ascendancy and aristocratical misgovernment. In spite of the limit, as to mere duration, which has been set by the English law, for ages past, to restrictions upon alienation, property in large masses is transmitted from generation to generation almost as certainly as ever. The limit which was set to the course of the French substitutions, so long back as the middle of the sixteenth century, was equally ineffectual. So soon as or before they expired they were very generally renewed.\* And the reason is obvious enough. The poorer and punier members of the aristocratical body, aped the practices of their superiors; and were bent on tying their properties

to their family names, though they thereby consigned the younger branches to abject and hopeless poverty.‡ The wealthier and powerful members of the body were less irrational. Though determined by family pride to exclude their younger children from their own property, they turned their “great natural influence” to the obvious and inviting end of providing for these excluded children at the cost of the suffering people. As their own estates were entailed on their elder sons, so was the public purse entailed on their younger children. That receptacles might be ready for the spawn of the nobles, costly establishments were raised and kept a-foot by taxes wrung from the commonalty: and that this provision might be further extended and secured, men of ignoble birth were very generally excluded from all such places in the public service as gave honour or profit to the holders.‡ We deeply lament that the Grand and Necessary Reform was not accomplished with greater discrimination and forbearance, but no reasonable man can wonder that a nation thus pillaged and insulted was provoked to break its chains on the heads of its hateful oppressors.

To inquire how this matter would probably stand in a country which was *virtually represented*, were to enter upon a difficult and a “delicate investigation.” Since there are no decisive facts upon which an opinion can be formed, we must be satisfied with throwing out a few vague conjectures, the creatures, perhaps, of imagination, rather than of reason and experience. We incline, then, to surmise, that so far as regarded the constitution of her legislature, her aristocracy would be thoroughly despotic: but, then, we think it likely that an irrepressible, though irregular, publicity would be given, through the newspapers, to most of its proceedings. By the judge-made law of libel, which would probably obtain in such a country, any censure, merited or unmerited, upon any body or any thing, would, strictly speaking, be criminal: and so often as it was thought discreet to apply this handy instrument, censure upon the ruling few would be visited with appalling punishment. Practically, however, much latitude would be permitted to the publication of opinions through the press. This publicity, thus surreptitiously given to the proceedings of the legislature, and this freedom of discussion, though precariously enjoyed, would be followed by important consequences. The insolence and rapacity of the ruling few would be kept in constant check; and as compared with that of Old France, the government would be good. These checks, however, are very insufficient securities against the abuse of aristocratical power: and to maintain the custom of primogeniture amongst the governing class, the people would be taxed and pillaged with little moderation, though, certainly, with much of decorum. Offices, which had survived the ends for which they were created, would be kept alive at the public charge, because the emoluments of such useless

offices would yield a convenient provision for the younger children of the aristocracy. Colonies useless to the mother country would be retained at an enormous cost, that governments and other appointments might be ready for the same interesting class. Occasionally, a promising young man of a powerful family would be sent, with an extravagant salary, to improve his diplomatic talents as resident at some petty court. The army would be many times larger than the wants of the community required; since military commissions are something of a provision for such younger sons as hang rather heavy on hand. Fresh commissions would be sometimes granted to the like useful persons, though the half-pay list were groaning with the names of experienced officers. An officer's advance through the grades of the army or navy would be slightly accelerated or retarded by connexion or want of connexion with members of the "influential" class. To maintain a church hateful to the huge majority, the tithe-tax would be inexorably levied on the inhabitants of a sister country: though with a reverent regard to the "sacred" character of the impost, we presume they would be taxed for the good of their souls, and not to any carnal and sinister end. That the rich livings would be in the gift of certain predominant families; that they would yield a snug provision to the younger members of these families; and that the church and the tax would be perpetuated that this provision might be prolonged, are manifestly wild and vulgar conceits begotten by "infidelity" on a diseased imagination. In spite, however, of our anxiety to extenuate the vices of this system, we must pretty generally conclude that the community would be smartly ransacked for the benefit of the domineering body. So confidently would they look to the taxes as a resource for their younger children, that an instance might possibly happen of a great man leaving to his younger sons a provision out of his own estate, subject to determine so soon as they should be endowed with places or other appointments. But we have wandered too long in this imaginary region; and we will now examine the consequences of suppressing restraints on alienation in a country which was *really* represented. To imagine they would ever be prohibited by virtual representatives, were a fancy, if possible, more strange and far-fetched than the wild and vulgar conceits which we have thought it necessary to reprehend.

After the expiration of one entail, the property, as we have seen, is probably settled anew by the person who happens to acquire the absolute power of disposition. More generally still, an existing entail is not permitted to run its allotted course, but is destroyed by the tenant for life, in concurrence with the person in remainder, and the property is instantly resettled. In fact, the estates of powerful families are rarely free, for any considerable period, from the fetters of strict settlement. The chances of their being reduced by alienation are, therefore, extremely small.

If these restrictions were peremptorily prohibited, large properties, even in ill-governed countries, would seldom be transmitted entire through many generations of proprietors. One proprietor would dissipate or impair the property, that he might satisfy a taste for expense. Another would be inclined to divide it for the rational and humane purpose of dealing equally with his children. And as these and other inducements to alienation would always be backed by the instant power of aliening, a large fortune would rarely or never be transmitted to any very distant descendant of the person who had originally acquired it. Nor is this the only consideration. The probability that his fortune would be speedily dissipated or divided, would force itself upon the attention of every testator. He would see that the bulk of his property, let him do what he might, could not be kept long in conjunction with his family name. The temptation to heap it on the head of a single child, would be reduced to little or nothing: and room would be made in his mind for those sentiments of even-handed justice, which dictate the testamentary dispositions of men of the middling class.

In a country protected from pillage by a body of *real* representatives, a peremptory prohibition of entails would at once, and for ever extinguish the pernicious custom of primogeniture. In such a country (as we must clearly discern by merely opening our eyes upon the United States of America) public establishments would be severely adjusted to the real wants of the community; and places in these reasonable establishments would be filled with little or no regard to the family connexions of the candidates. Romantic as it must doubtless appear to a rapacious and sordid oligarchy, a place in that country is actually given to one man rather than another, not because the place is convenient to the candidate or his connexions, but because he is deemed more competent than his rivals to perform the duties of the place.\* In a country, therefore, which was really represented, there would be no likely means of putting off a family upon the public: but every man would be reduced to the alternative of providing for his younger children out of his own estate, or of leaving them without provision. This consideration, coupled with the others which we have suggested, would infallibly determine the dispositions of almost every testator. Every parent would bequeath his property with a view to equality amongst his children; and by this simple prohibition of restraints on alienation, properties would be reduced, in the course of a single generation, to those moderate dimensions which comport with the general happiness,

It follows from what we have established, that the French Reformers made a great mistake, when they abridged the power of willing as it relates to the selection of successors. In trying to prevent the resurrection of the old aristocratical power they did

wisely and well. The existence of such a power would have been dangerous in the extreme to the stability of a representative government. It was their imperious duty to abate that insufferable nuisance. With such wealth and influence in their hands, the few would have laboured by force or fraud to resume the power of oppressing, and in some unhappy moment of despondency and supineness, the many would have fought with unequal arms to repel the approaching oppression.\*

The end, however, would have been surely accomplished by the mild expedient of suppressing substitutions. Is it said that this process is less rapid than the other, and that it was necessary to provide against instant danger? The answer is obvious and conclusive. Peril so urgent could not have been averted by compelling the large proprietors, at their deaths, to divide their properties amongst their children. At such a crisis, the obstinate and malignant enemies of the general happiness (if it be possible to resist them at all) must be smitten with the sword of justice, or encountered in the field of battle. Nothing can be alleged for reserves in favour of children, considered as a security against aristocratical oppression. As against an instant and pressing danger, they were ineffectual; and distant danger would have been completely obviated by merely suppressing substitutions.

The temptation to make an eldest son being once removed, abuses of the power of willing would rarely, we think, occur: and we are deeply convinced, that any attempt to restrain the proprietor from selecting the successors to his property must be followed by serious evils. Having attentively considered the articles of the French code, which reserve legitimate portions, and the provisions which it was necessary to introduce *as consequences of those articles*, we are satisfied we could make out a case, which would lead the reader to regard them with something approaching to abhorrence. Attempts on the part of fathers and mothers to defraud all their children in favour of strangers, or to defraud some of their children in favour of others—consequent suspicion and discord between the members of a family—a partial destruction of paternal and maternal authority—gross inequality in the conditions of the children, for want of the equalizing hand of a parent, master of his property; these and many evils more, which our limits forbid us to suggest, must often, we think, be consequences of reserving these legitimate portions. That wills would rarely be unjust were the practice of making an eldest son once discontinued, is a proposition which we are equally unable to maintain in a detailed manner. Our limits will simply permit us to suggest a few questions, which may serve the reader as occasions for reflection. How many unjust wills made by men of the middling class, have occurred to his observation? In how many instances has the injustice been done to

children in favour of strangers? If the instances of unjust wills appear to be many, is it not in reality because they were few, and that they excited for that reason unusual attention and indignation? Will not the fear of incurring this indignation naturally restrain the testator from flagrant injustice? Is not the act of making a will that act of a man's life, which (generally speaking) he performs with the most deliberation? And is he not, by consequence, unusually alive to all those considerations and motives which determine men to do justly with the greatest force?

In fine, our opinion of this matter may be briefly and generally summed up thus: We think that every person of mature age and sound mind should be left to dispose of his property at his own discretion, subject only to the simple and not severe condition of imparting the same absolute dominion to the object or objects of his bounty.

[\[Back to Table of Contents\]](#)

## Art. VIII.—

*The Book of the Church.* By Robert Southey, Esq. LL.D. Poet Laureate. 2vols. 8vo. Murray, London.

*Strictures on the Poet Laureate's Book of the Church.* By John Merlin.

*The Book of the Roman Catholic Church: In a Series of Letters, addressed to Robert Southey, Esq. LL.D. on his Book of the Church.* By Charles Butler, Esq.

MISLED by the name, we originally intended to place Mr. Bentham's Book of the Church, side by side with Dr. Southey's Book of the Church; that readers might have the "bane and antidote both before them." This idea was necessarily renounced as soon as we had read the volumes before us. What they furnish is not a Book of the Church, in any respectful sense of the word. It is an old woman's story-book; containing tales about the changes of religion, and the lives of the workers of wonders, in Great Britain, from the time of the people who set up rocking stones, and venerated the misletoe, to the time of those who sent our legitimate sovereign to count his beads at Rome.

In the quality of matron of the nursery-telling stories to children,\* we might not have great fault to find with this author. In fact we should not have deemed his faults worth noticing. But his book is so contrived, as to appear what it is not. It has put on the mask of history, and it is desirable that this should be torn off. It is the duty of an historian, as it is that of a judge, to state the evidence with equal care, with equal fulness, and equal accuracy, on both sides. Mr. Southey's practice brought vividly to our recollection the following anecdote, related by Mr. Wakefield. "In the lamented year 1798, a judge was notorious for his severity to all the prisoners who were tried, and for his gross partiality. One unfortunate wretch, brought before him, had met with some accident, in consequence of which his jaw bone, on one side, had become much enlarged. The judge, ambitious of sporting his wit, could not omit this opportunity, and remarked to the prisoner's counsel, that his client would have made an excellent lawyer, as he had so much jaw. I do not know, replied the facetious barrister, whether he would have made a good lawyer, but I am sure he would have made a bad judge, for *his jaw is all on one side.*"†

There are indications that the Church, as often happens to elderly persons, is falling into her dotage. Among these symptoms, one of not the least remarkable is this Book of hers, from the pen of one who proves himself her son, by so many decisive marks of

consanguinity. It is a poor imitation of a stale trick of the Romish church. Nothing is more notorious than her books of the lives of her saints, or the use she makes of them. Robert Southey's is a book of the lives of the saints of the English church, and he desires to derive from it a similar advantage.

The Romanists collect tales of the pieties, and the sufferings, and the doings, of numbers of individuals. Then comes the application, how admirable the church which has produced such admirable men, and on account of which such admirable men have undergone actively and passively—the things which are set forth. On all such persons as can feel, but cannot reason—a large class—this is expected to produce a great effect. In less enlightened ages, in the hands of the Romish priests, it did produce extraordinary effects. Mr. Southey imagines, that even in the present age it may produce some effect; especially upon “children;” for whose use, and that of another class, namely those who are already prepossessed with opinions favourable to the trick, he gives plain intimation that it is principally intended. Our story-teller prefaceth in following wise:

‘Manifold as are the blessings for which Englishmen are beholden to the institutions of their country; there is no part of those institutions from which they derive more important advantages than from its Church Establishment, none by which the temporal condition of all ranks has been so materially improved. So many of our countrymen would not be ungrateful for these benefits, if they knew how numerous and how great they are, how dearly they were prized by our forefathers, and at how dear a price they were purchased for our inheritance; by what religious exertions, what heroic devotion, what precious lives, consumed in pious labours, wasted away in dungeons, or offered up amid the flames. This is a knowledge which, if early inculcated, might arm the young heart against the pestilent errors of these distempered times. I offer, therefore, to those who regard with love and reverence the religion which they have received from their fathers, a brief but comprehensive record, diligently, faithfully, and conscientiously composed, which they may put into the hands of their children. Herein it will be seen from what heathenish delusions and inhuman rites the inhabitants of this island have been delivered by the Christian faith; in what manner the best interests of the country were advanced by the clergy even during the darkest ages of papal domination; the errors and crimes of the Romish Church, and how, when its corruptions were at the worst, the day-break of the Reformation appeared among us: the progress of that Reformation through evil and through good; the establishment of a Church, pure in its doctrines, irreproachable in its order, beautiful in its forms; and the conduct of that Church proved both in adverse and in prosperous times, alike faithful to its principles when it adhered to



the monarchy during a successful rebellion, and when it opposed the monarch who would have brought back the Romish superstition, and together with the religion, would have overthrown the liberties, of England.'

This deserves a commentary, because it contains the substance of the whole book, and exhibits a fair specimen of the spirit in which it has been composed.

The argument is worth observing: put into regular form it stands thus:

Every church which can enumerate votaries who have suffered and lived in such a manner as to excite applause, is an excellent church:

Church of England can exhibit such votaries; witness the contents of the present pages:

*Ergo*, church of England is excellent church.

What strikes one, first, in this reasoning, is the exquisite folly of it. When one comes to one's second thought, it occurs that Mr. Southey may have had his reasons.

It is not what arguments are good, but what arguments will answer his purpose, that sometimes is the main look out of an author. In this point of view, the reasoning of Mr. Southey may not be the worse for its being absurd. The dignitaries of the church, we understand, are active in circulating his production; in hopes no doubt that the same sort of advantage which the Romanists have derived to their church from stories of its saints, may redound through a similar channel to theirs.

To return to the sapient inference, the grand proposition of this book, that a church is excellent, if it has had men that would suffer for it—let us ask, if there ever was a church without such men? The fact is proverbial.

Of whatso'er descent their godhead be,  
Stock, stone, or other homely pedigree,  
In his defence his servants are as bold  
As if he had been born of beaten gold.

The motives are no mystery at this time of day, which mounted Simeon Stilites on his pillar, which lay the Indian Yogee on a bed of spikes, which made, but a few years ago, the convulsionaries in Paris submit to the pains of the cross, which supported Servetus, as well as Cranmer, at the stake. When credit is to be gained by suffering, when was there a want of parties to suffer? Suffering, in

favour of almost every cause, gains it credit, and excites admiration of him by whom it is voluntarily undergone. If this is a proof of a good cause no cause was ever so bad as to be without it. Thus Mr. S. himself:

‘It was deemed meritorious to disfigure the body by neglect and filth, to extenuate it by fasting and watchfulness, to lacerate it with stripes, and to fret the wounds with cilices of horsehair. Linen was proscribed among the monastic orders; and the use of the warm bath, which, being not less conducive to health than to cleanliness, had become general in all the Roman provinces, ceased throughout Christendom, because, according to the morality of the monastic school, cleanliness itself was a luxury, and to procure it by pleasurable means, was a positive sin. The fanatics in Europe did not, indeed, like their predecessors in Syria and Egypt, cast off all clothing, and, by going on all-fours, reduce themselves to a likeness with beasts, as far as self-degradation could effect it, in form and appearance, as well as in their manner of life; but they devised other means of debasing themselves, almost as effectual. There were some saints, who never washed themselves, and made it a point of conscience never to disturb the vermin, who were the proper accompaniments of such sanctity; in as far as they occasioned pain while burrowing, or at pasture, they were increasing the stock of the aspirant’s merits, that treasure which he was desirous of laying up in heaven; and he thought it unjust to deprive his little progeny of their present Paradise, seeing they had no other to expect! The act of eating they made an exercise of penance, by mingling whatever was most nauseous with their food; and it would literally sicken the reader, were the victories here to be related which they achieved over the reluctant stomach, and which, with other details of sanctimonious nastiness, are recorded in innumerable Roman Catholic books, for edification and example! They bound chains round the body which eat into the flesh; or fastened graters upon the breast and back; or girded themselves with bandages of bristles intermixed with points of wire. Cases of horrid self-mutilation were sometimes discovered; and many perished by a painful and lingering suicide, believing that, in the torments which they inflicted upon themselves, they were offering an acceptable sacrifice to their Creator. Some became famous for the number of their daily genuflections; others for immersing themselves to the neck in cold water during winter, while they recited the Psalter. The English saint, Simon Stock, obtained his name and his saintship for passing many years in a hollow tree. St. Dominic,\* the Cuirassier, was distinguished for his iron dress, and for flogging himself, with a scourge in each hand, day and night; and the blessed Arnulph, of Villars, in Brabant, immortalized himself by inventing, for his own use, an under-waistcoat of

hedgehog-skins, of which it appears five were required for the back, six for the front and sides.

The strength of the will was manifested in these aberrations of reason, as prodigiously as strength of body is sometimes displayed in madness; nor can it be doubted, that these fanatics, amid their pain, derived pleasure as well from the pride of voluntary endurance, as from the anticipation of their reward in heaven. The extremes of humiliation and debasement produced also a pride and self-sufficiency not less extravagant in their kind. They, whose austerities were the most excessive, were regarded by the people as living saints, and exhibited as such by other members of the community, who had the same belief, but not the same fervour; or who, not having the same sincerity, considered only in what manner the madness of their fellows might be turned to advantage.'

Southey is perfectly right. The "pride of voluntary endurance" does afford a "pleasure;" and, under circumstances of excitement, so great a pleasure, as overbalances all the terrors of bodily torture, and of death itself. Of so vulgar a fact in the history of human nature, having also the powerful testimony of Dr. Southey in its favour, we need not consume our limited space by offering any illustration. The desirable thing would be, to shew, on what frivolous occasions the phenomenon, in its most perfect state, is apt to exhibit itself.

But the martyrs of the Church of England were not merely sufferers; they were more; they were, in one word, which imports all excellence, *saints*.

The martyrs of all churches are saints. Saintship hardly ever means any thing else, than a wonderful attention to the ceremonials of religion, with a superiority to the pleasures of sense. The same turn of mind which renders a man superior to the pains of the body, and makes him brave torment, is likely to make him a model of abstinence, where abstinence as well as suffering is a source of admiration. The very worst orders of the Romish Church, those by which the abuses of religion were carried to the greatest height, had shining characters to obtain credit by. We adduce again the evidence of Dr. Southey. Of the mendicant orders he says,

'The influence which these orders obtained was, for a time, prodigious; it was produced partly by the pure enthusiasm of the virtuous members—partly by the reputation of others (for they could boast some of the subtlest and profoundest intellects that the world has ever seen)—and partly by the implicit belief with which their enormous fables were received. Elated by success, and, as it seems, secretly conscious how little the system which they taught

resembled the religion of the Apostles, they conceived a plan for superseding the Gospel; and this was so congenial to the temper of both orders, that it is doubtful whether it proceeded from a Dominican or Franciscan. The opinion which they started was, that as there were three Persons in one Godhead, the scheme of Providence was, that there should be three dispensations, one from each Person. That of the Father had terminated when the Law was abolished by the Gospel; that of the Son was now drawing, in like manner, to its close, and was to be superseded by that of the Holy Spirit. The uses of the Gospel, therefore, were obsolete; and in its place they produced a book, in the name of the Holy Ghost, under the title of the Eternal Gospel. The first dispensation had been for married persons; this had prepared the way for the clergy in the second; the regulars, being as much purer than the clergy, as these were than the Jews and Patriarchs, were, under the third, to become rulers of the Church, with greater authority than had ever been granted to the Apostles. Under the first, men had lived after the flesh; under the second, in a mixed state between the flesh and the spirit; in the third, they would live wholly according to the spirit, and the scheme of Providence would be fulfilled. In this, however, they went too far: the minds of men were not yet subdued to this. The Eternal Gospel was condemned by the Church; and the Mendicants were fain to content themselves with disfiguring the religion which they were not allowed to set aside.'

If the Church of England, then, ever so much abounded in martyrdom and saintship, it would be to none, but to people of the weakest intellects, the smallest proof of any excellence belonging to it; but the fact is, that the Church of England is remarkably ill-supplied with such ornaments. For one martyr that the Church of England can produce, the Church of Rome can produce thousands.

In respect to saints, her decorations are still more deficient. In fact it is one of the most remarkable things about the Church of England that she has produced so few men eminent for any thing, even for the priestly virtues, leaving altogether out of the question those moral and intellectual qualities, by which the interests of the species are promoted. What men has she to compare in all the apostolical virtues with a Wesley, or a Whitfield? Whom has she to produce that can be named along with Fenelon, for the virtues of humility, meekness, benevolence, and self denial, combined with the most sublime genius? Whom has she to compare with Bossuet and Massillon for eloquence? With Pascal, for almost every gift?\*\_ This book, in fact, is the strongest of all proofs of the beggarly state of the Church of England, in respect to men of eminence, when it is obliged to chuse for the most distinguished ornament of that church, such a man as Laud; who pursued none but the most vulgar objects, and by none but the most vulgar means; who had nothing

in his composition but what was mean; a flatterer and intriguer; a backbiter and slanderer; deceitful, envious, jealous, cruel; a man who ranked low even in the vulgar walks of literature; whose understanding was at once contracted, and perverted; who had a mind formed for little objects which he pursued, and with the fury of a little mind, as great ones; scrupulous in the small moralities, while he made a sacrifice of the greatest; a man with whom the interests of his own order were every thing; the interests of the rest of mankind nothing.

But we must not anticipate. Laud will meet us again. He is Southey's hero; and we shall have occasion to examine, pretty fully, of what *lignum* his Mercury is made.

We shall not think it necessary to pay much attention to Southey in the early part of his work. It is merely the vulgar view of the ecclesiastical affairs of England, down to the commencement of Non-conformity; and if it can do no good, it will do little harm. We have long lives of St. Dunstan, and St. Becket, full of stories, intended to be entertaining ("to children") of which the following may be taken as a sample.

'The Anglo-Saxon monasteries had never been under any uniform discipline; each followed its own rule, independent of all others. Glastonbury at this time was mostly filled with monks from Ireland; it was favourite ground with them for St. Patrick's sake, and as they had no large endowments, they contributed to their own support by educating the children of the nobles. Dunstan was one of their pupils. In such a school local associations would produce and foster ardent enthusiasm, or audacious craft, according to the disposition of the individual. A feeble body and a commanding intellect predisposed him for both in turn. He was of diminutive size from his birth, and by severe application to study brought on a disease, in which, after having been delirious for many days, he was thought to be at the point of death. But feeling at night a sudden excitement as if health were restored, he rose from his bed, and ran towards the church to return thanks for his recovery. The doors were closed, but he found a ladder left there by workmen, who had been repairing the roof; by this he ascended, and in the morning was found asleep in the church, unconscious how he had come there. They who larded the history of his life with miracles, assert, that as he was going there the devil beset him with a pack of fiendish dogs, and was driven away by his strenuous exertions; and that angels had borne him down where it was not possible for him to have descended without supernatural assistance. Divested of such machinery, the fact appears to be, that, in an access of delirium, or perhaps in his sleep, he had got into the church, by some perilous mode of descent, which he would not have attempted

in his senses; he himself at the time might easily believe this to be miraculous, and from thenceforth he was regarded as a youth of whom something extraordinary was to be expected.'

Mr. Southey, however, occasionally quits the office of the story-teller, to assume that of the Theological Doctor in his chair. We must exhibit a little of him in that capacity.

'Britain has the credit or discredit (whichever it may be deemed) of having given birth to Pelagius, the most remarkable man of whom Wales can boast, and the most reasonable of all those men whom the ancient Church has branded with the note of heresy. He erred, indeed, in denying that there is an original taint in human nature—a radical infirmity—an innate and congenital disease—to the existence whereof the heart of every one, who dares look into his own, bears unwilling but unerring testimony; a perilous error this, and the less venial, because it implies a want of that humility which is the foundation of wisdom, as well as of Christian virtue. But he vindicated the goodness of God, by asserting the free-will of man; and he judged more sanely of the Creator than his triumphant antagonist, St. Augustine, who, retaining too much of the philosophy which he had learnt in the Manichean school, infected with it the whole Church during many centuries, and afterwards divided both the Protestant and the Catholic world. Augustine is too eminent a man to be named without respect; but of all those ambitious spirits, who have adulterated the pure doctrines of revelation with their own opinions, he, perhaps, is the one who has produced the widest and the most injurious effects.

Augustine was victorious in the controversy: his, indeed, was the commanding intellect of that age. The opinions of Pelagius were condemned, but it was not possible to suppress them; and the errors of both soon became so curiously blended, that it would be difficult to say which predominated in the preposterous consequences to which their union led. From the African theologue, more than from any other teacher, the notion of the absolute wickedness of human nature was derived; and the tenet of two hostile principles in man, which had led to such extravagancies among the Eastern Christians, was established in the Western Church. Through the British heresiarch, the more reasonable opinion, that the actions of good men were meritorious in themselves, obtained. Cassian, whose collations were the great fount of monastic legislation in Europe, held that modified scheme, which has been called the Semi-Pelagian. But with him, and with the monks, the opinion ceased to be reasonable: the extremes were made to meet; and the practical consequences, deduced from the monkish doctrine of merits, coalesced perfectly with the Manichean

principle, which had now taken root in the corruptions of Christianity.'

What is done here by the author, is, to declare for the Arminian theory of Christianity against the Calvinistic. Not contented with determining that the one is true, the other false, which, upon the *ipse dixit* of Mr. Laureat Southey, might have been deemed sufficient; he goes on to condemn the Calvinistic or Augustinian doctrine, as productive of the most injurious effects.

By what warrant does he take upon himself to pronounce, that Calvinism leads to worse consequences than Arminianism? Does he produce any reason for his imputation? Not the shadow of a reason: nor can he. Does he not know—he does know—that those who hold the opinions corresponding, or most nearly corresponding with the Calvinistic, are distinguished, and always have been, for an exact and scrupulous observance of the precepts of the Gospel, above all other denominations of Christians. Does this betoken evil tendency? How does Mr. Southey reconcile experience with his theory? Alas! it is one of the last of considerations with Mr. Southey to reconcile his dogmas either with reason or with experience. How he comes by them we shall not undertake to say. How he defends them he affords the public occasion enough to perceive.

One of not the least remarkable qualifications of Dr. Southey for writing the Book of the Church is, his gross ignorance of almost every topic of dispute which is included within the limits of the undertaking. He talks here, for example, of the Manichæan school, not only like a man who had now heard of it for the first time, but like a man who supposes it to be the very reverse of what it is. He describes it as bearing an affinity to the Augustinian or Calvinistic doctrine; whereas, the fact is, that the Calvinistic, of all the theories of Christianity, the most perfectly excludes Manichæism; while the Arminian doctrine is justly chargeable with being Manichæism at the bottom; and when analysed to its elements, with being strictly resolvable into that ancient and exploded heresy.

The Manichæans held, that God admitted the existence of evil, because, from the existence of some unknown, but uncontrollable cause, which they called the principle of evil, he was not able to prevent it. The Calvinists say, that all the evil which exists in the universe, was not only permitted, but ordained by God—ordained for certain good purposes, of which it is beyond our competence to judge. Can any two doctrines be more completely opposed to one another than these?

On the other hand, the Arminians say, that God, so far from ordaining, did not intend evil. But moral agents must be free

agents, and being free they must be fallible—hence the origin of evil, not with, but contrary to, the will of God. In other words, God was unable to prevent it, owing to some unknown, but uncontrollable cause. And what is this, in reality, but the principle of evil of the Manichæans? So utterly incapable is Mr. Southey of treating of subjects of the utmost importance, on which he has assumed the title to decide.

In the following effusion of zeal against the Catholic church, the author is betrayed into sins against his own church:

“The uses of conscience were at an end when it was delivered into the keeping of a confessor. Actions, then, instead of being tried by the eternal standard of right and wrong, on which the unsophisticated heart unerringly pronounces, were judged by the rules of a pernicious casuistry, the intent of which was, to make men satisfied with themselves upon the cheapest terms. The inevitable effect was, that the fear of human laws became the only restraint upon evil propensities, when men were taught to believe that the account with Divine Justice might easily be settled.

If the boundless credulity of mankind be a mournful subject for consideration, as in truth it is, it is yet more mournful to observe the profligate wickedness with which that credulity has been abused. The Church of Rome appears to have delighted in insulting, as well as in abusing it, and to have pleased itself with discovering how far it was possible to subdue and degrade the human intellect, as an eastern despot measures his own greatness by the servile prostration of his subjects.’

“An eternal standard of right and wrong—on which the unsophisticated heart unerringly pronounces;” If there is such a standard, so unerringly perceived, what becomes of the argument for the divinity of the New Testament, derived from the excellence, unattainable by human reason, of its morality?

“The fear of human laws became the only restraint upon evil propensities:” Human laws, then, are adequate, without religion, to the support of human society—contrary to the argument, in favour of religion—the famous argument of Warburton, for example, to prove the Divine Legation of Moses—that human society cannot subsist without the aid of the motives arising from the religious sanction. Southey’s ignorance and rashness make him a very dangerous advocate.

The “credulity of mankind” is, no doubt, as Southey represents it, one miracle; and the manner in which it “has been abused” another. But this is a delicate subject for a Church-of-Englandist to



handle; and we advise the sound heads of that body to keep Mr. Southey's pen away from it.

To set up the Church of England, for which purpose he wrote its Book, Mr. Southey imagined he had two things to do. The first was, to pull down the Church of Rome; the next was, to pull down the Dissenters. The first he essays in the early part of his work; to the last, the concluding part of his achievement is devoted. For his demerits, in respect to the Mother Church, we shall leave him to his Catholic critics, of whom we see that a sufficient number have taken up the pen; and as far as rashness, and ignorance, and groundless abuse, are concerned, have had no difficulty in making out a case against the panegyrist of England's "excellent church."

Merlin, which is the anagram of Milner, a well-known champion, is nearly as liberal in rough epithets as Mr. Southey himself. Mr. Butler is more gentle and urbane. He uses, indeed, such a superabundance of civilities towards a man who thinks that abuse makes up for the want of argument and fact, that he probably had the scripture maxim in his eye—"Answer not a fool according to his folly, lest thou also be like unto him."\*

The other part of Mr. Southey's undertaking, namely, to traduce the cause of Dissent; to fix an odious character upon Non-conformity, in order to recommend the Established Church, has not yet been met as it deserves. Our object in the remainder of this article is, to show to the friends of religious liberty, that they have here a very zealous, at least, if not a very formidable adversary.

In Southey's mode of dealing with any party obnoxious to him, the first thing which presents itself for notice always is abusive language. The whole of the non-conformists, into whatever classes divided, and by whatever diversities distinguished, are clubbed by him under the appellation of Puritans, the cant name by which they were, in mockery, designated by their enemies at the time. Of this we do not complain. This has long ceased to be a term of reproach. The following are appellatives in Southey's own style:

"The coarse and brutal spirit of triumphant puritanism"—(vol. ii. p. 403). "Their" [the Puritans] "own bloody intolerance"—(p.401). "The apostles of rebellion"—(p.398). "Another *belwether* of rebellion"—(p. 399). "The faction pursued their designs against the Church with all the unrelenting malice of inveterate and triumphant hatred"—(p. 396). "The gospel itself was perverted [by the Puritans] to encourage plunder, persecution, and rebellion"—(p. 397). "Root and branch men," they are denominated *passim*. The petitions against Episcopacy are "Effusions of Sectarian rancour and vulgar ignorance"—(p. 391). "Immediately, the London pulpits,

and those in the larger provincial towns, where the Puritans had obtained a footing, were *manned with preachers*" [a neat phrase], "ministers, not of peace and Christian morality, but of hatred, violence, and rebellion"—(p. 388). "Whereever a few zealots led the way, a rabble was easily collected to hear them, part, for the love of mischief or the hope of plunder, the Sectarians suffering and encouraging these outrages, for the pleasure of insulting the loyal clergy, and showing their contempt and hatred of the church"—(p. 389). "They brought in a bill for the suppression of deans and chapters. The arguments for this spoliation were such as base and malicious minds address to the ignorant and the vulgar, when they seek to carry into effect, by means of popular clamour, a purpose of foul injustice"—(p. 382). We are amused with the epithet "foul." We wonder what sort of injustice Mr. Southey would distinguish by the epithet clean. We should like to know wherein the two sorts, foul injustice, and clean injustice, in Mr. Southey's idea, differ from one another. Probably it is all clean which is perpetrated in favour of the Church; all foul that is against it. But go on. "The aim of the ruling faction was destruction, not reformation"—(p. 381). "Sir Henry Vane and Hambden had the wisdom of the serpent in perfection"—(p. 378). "Laud had long seen the cloud gathering over the Church of England" [he was blind as a mole to the last]. "He knew also his own danger, from those who were possessed with the spirit of Sectarian rancour, and from an ignorant populace rendered ferocious by all the arts of faction"—(p. 367). "These factious people"—(*passim*). "The malignity of faction"—(*passim*). "The zealots of faction are neither capable of shame nor of remorse"—(p. 358). Southey is not a zealot of faction; he is only a zealot of the stronger party, which is never called a faction, so long as it is the stronger. "The rancorous and deadly hatred" [towards Laud] "of the factions who were now leagued against the state"—(p. 359). A capital passage is here quoted from a sermon of Laud, preached at the opening of Charles' first parliament. "They, whoever they be, that would overturn *Sedes Ecclesiæ*, the seats of Ecclesiastical judgment, will not spare, if ever they get power, to have a pluck at the throne of David; and there is not a man that is for purity, all fellows in this church, but he is against monarchy in the state. And, certainly, either he is but half-headed to his own principles, or he can be but half-hearted to the House of David"—(*ibid.*) The churchman who could so preach, and the historian who can so quote, are certainly fit for one another.

"They, whose determination it was to shake the throne and to subvert the altar" [the Puritans], practised, without scruple, any means whereby their danger might be promoted"—(p. 357). As a specimen of the Scottish clergy, he says, "A rabid preacher had even from the pulpit denounced against the king himself the curse which fell on Jeroboam"—(p. 315). "The turbulent nobles shared

among themselves the spoils of the Church; and the fierce, uncompromising, high-minded, hardhearted zealots, by whom the storm was raised, encouraged the populace to demolish the abbeys and cathedrals"—(p. 372). "The Puritans, like all factious minorities" [the proper name for minorities], "endeavoured, by activity, to make amends for their want of numbers"—(p. 315); a conduct peculiarly factious.

Milner accuses Southey of writing, to pay his court to the Ecclesiastical powers. "He raves, through the history of many centuries, in abusing and calumniating the common source of Christianity, in order to court the heads of the present establishment, under pretence of vindicating it," (p. 4.)—"It is worth while inquiring, whether the dignitaries, whose favour the poet courts, will echo back his applause of this forerunner [Lord Cobham] of the Anabaptists and Regicides," (p. 26.) "If the writer might advise the Poetical Historian, for the purpose of effectually vindicating and securing the Church, he courts," &c. (p. 85.)

The champion of the Church of Rome is as fond of imputing motives as the champion of the Church of England. It is our opinion, that we have little to do with motives. Actions and their tendencies, with the situations and dispositions which give them birth, are the objects of importance to the public; and what is not of importance to the public, is immaterial to us. One reflection, however, is unavoidably suggested, by the language just quoted of Mr. Southey; that such is not the style which flows naturally from the pure love of truth. If it is not assumed to answer a purpose, it follows, that the author is most unfortunate in his taste, or his disposition. If he assumes it in order thereby to pay court to the Church of England, he imputes to it a strange character. The dignitaries of "Our most excellent Church" (such is its cant name) are as wise as Mr. Southey; if they show the world that they are to be courted, by the use of abusive terms against those whom they dislike.

It is well known, that Maimbourg wrote, in addition to many other things (he, as well as Mr. Southey, was a voluminous author) a history of the Calvinists, the Non-conformists, or Puritans, as Mr. Southey would call them, of France. The celebrated Bayle, who was one of these non-conformists, and driven from his country by the atrocious persecution which they underwent, wrote a *Critique* upon this History, which is published in the general collection of his works. The terms which he employs, to sketch the character of Maimbourg's History of the Puritans in France, so exactly describe the character of the History of the Puritans, presented by Dr. Southey, in his Church of England Book, that we were exceedingly struck with the resemblance; and think it will be interesting, as well as instructive to the public, to have its attention directed to it.

“Je me figure, (says Bayle, his *Critique* is in the form of letters addressed to a friend) que vous vous mettez en colère tout-de-bon, en lisant cette histoire du Calvinisme; car j’ ai vû quantité de bons Huguenots, qui voyant l’ inhumanité avec laquelle M. Maimbourg nous mal-traite, battoient des pieds, et s’emportoient à des exclamations tragiques à tout moment. Pour moi, qui suis difficile à émouvoir, je n’ai point senti la moindre tentation de colère en lisant ce livre. Je l’ai lû d’un bout à l’autre avec un sang froid qui a peu d’exemples, et si je sortois quelquefois de ce sang froid, c’étoit seulement ou pour avoir pitié, ou pour rire des emportemens de M. Maimbourg, que je me représentois si acharné sur le Calvinisme dans cette chambre à cheminée, qui avec une pension considerable a été, ou la recompense, ou l’acquisition de ses services, qu’il me sembloit que pour se mettre plus en colère, il s’étoit imaginé que sa plume étoit devenue l’épée de l’Ange Exterminateur.”

Mark the similarity of the accusations.

“Ils nous accusent en France d’avoir le cœur republicain. . . . . Ils nous dépeignoient comme des rebelles, qui fouloient aux pieds les ordres de Sa Majesté, qui elevoient des Synagogues de Satan sur le Patrimoine du Fils de Dieu, desquels par conséquent il falloit châtier les entreprises seditieuses. Vous ne verrez point de page dans l’Histoire du Calvinisme, où cet esprit ne soit répandu: si on en croit l’auteur, c’est être ennemi de l’état et de son roi, que de souffrir les hérétiques, et un roi qui les souffre, se rend coupable d’une negligence qui le perdra lui et son royaume.—Cette sorte d’ecrits sont fort goûtés à la Cour de France présentement; c’est pourquoï le Père Maimbourg, dont la plume ést hypothéquée au roi par une grosse pension, n’avait garde de nous épargner. Il savoit, avant que de commencer son histoire, qu’il nous falloit trouver coupables de mille séditions horribles. Plein de cet esprit il a feuilleté plusieurs volumes; il y a choisi certains faits qui lui ont paru favorables à ses fins; et sans se soucier beaucoup de l’ordre et de la véritable cause de ces faits, il leur a donné le commencement, le progrès, et le motif qui lui ont plu, de sorte qu’ il nous a rendus tout aussi criminels qu’il l’ a jugé à propos; et pour faire plus d’impression sur ses lecteurs, il s’est chargé d’un grand nombre d’épithètes diffamatoires, et de descriptions violentes qu’il a répétées mille, et mille fois.”

The following reflections of Bayle on the mode of composing a history for a particular purpose, are highly instructive. “Il n’est rien de plus aisé, quand on a beaucoup d’esprit, et beaucoup d’expérience dans la profession d’Auteur, que de faire une Histoire Satyrique, composée des mêmes faits qui ont servi à faire un Eloge. Deux lignes supprimées, ou *pour*, ou *contre*, dans l’exposition d’un fait, sont capables de faire paroître un homme, ou fort innocent, ou

fort coupable; et comme par la seule transposition de quelques mots, on peut faire d'un discours fort saint, un discours impie; de même par la seule transposition de quelques circonstances, l'on peut faire de l'action du monde la plus criminelle, l'action la plus vertueuse. L'omission d'une circonstance, la supposition d'une autre, que l'on coule adroitement en cinq ou six mots, un je ne sai quel tour que l'on donne aux choses, changent entièrement la qualité des actions.—Si cela est vrai à l'égard des historiens primitifs et contemporains, il n'est pas moins vrai que ceux qui longtemps après compilent une Histoire de plusieurs Recueils, la font plus ou moins avantageuse, selon qu'il leur plaît de confondre adroitement l'ordre des actions, de passer sous silence certaines choses, d'en relever d'autres. En un mot il n'y a point de *filouterie* plus grande, que celle qui se peut exercer sur les monumens historiques, quand on a autant d'esprit et de routine que Monsieur Maimbourg, si bien qu' ayant entrepris l'Histoire du Calvinisme uniquement afin de nous charger de la haine et de l'exécration publique, et de justifier, et fomenter le dessein qu'on a inspiré au roi de nous perdre, il ne faut pas s'étonner qu'il nous ait accommodé comme il a fait."

Bayle quotes the following poignant expressions of the writers of Port-Royal, relative to the attack of Maimbourg on the *Mons* translation of the New Testament. "Quelqu' extraordinaires que soient les emportemens du Père Maimbourg, contre la Nouvelle Version du Nouveau Testament, on peut dire qu'ils n'ont rien de surprenant si l'on considère la personne dont ils partent. Que ce Père a ce malheureux avantage, qu'il est maintenant incapable d'étonner le monde par ses excès. Qu'il n'y a rien qu'on n'ait sujet d'attendre de lui, et qu'il a tant pris de soin de se faire connoître depuis plus de 20 ans par ses déclamations scandaleuses, que tout ce qu'il fait de nouveau, ajoûte peu à l'idée que l'on a déjà de son génie et de son esprit."

The following passage relative to ceremonies, and the difference between two religions, the one abounding in ceremonies, the other void of them, affords an idea, both of Mr. Southey's complaints against the Puritans, and of the reply that is due to them. "La seconde chose que je remarque dans le narré de M. Maimbourg concernant Calvin, c'est qu'il dit que le Calvinisme n'est qu'un squelette de religion, n'ayant ni suc, ni onction, ni ornement, rien qui sente et qui inspire la dévotion, et qui entrant par les sens dans le fond de l'âme, l'attire et l'élève par les choses visibles au Dieu invisible, ainsi que lui-même l'ordonne: et que Calvin, qui a fabriqué une Religion toute seche, et toute conforme à son tempérament, n'est avec tout son bel esprit que le disciple de Pierre Valdo, le plus idiot, et ignorant de tous les Hérésiarques qui ont jamais été, et lequel il a pris grand soin de copier, en formant

sa nouvelle secte sur une si pauvre idée, et ne voulant aucune de ces sacrées cérémonies dont l'ancienne Eglise s'est toujours servie, pour faire l'Office divin avec bienséance, et avec cette sainte Majesté qui imprime dans l'âme de ceux qui les regardent avec un œil un peu spirituel, les sentimens d'une dévotion tendre et respectueuse, pour honorer Dieu dans ses redoutables mystères.—Voilà, ce me semble, ce que Messieurs de Port-Royal appellent une certaine éloquence pompeuse et magnifique, *abundantem sonantibus verbis, uberibusque sententiis*, qui nous engage dans l'erreur par un faux éclat. Ce qui se peut dire de plus raisonnable sur ce Chapitre, se réduit à ces deux choses, du moins selon mon petit avis, 1. Qu'il n'y a rien de plus propre à séduire l'esprit des peuples, que la majesté des cérémonies, et à leur inspirer beaucoup de zèle pour la profession extérieure de la religion: mais qu'il n'y a rien qui inspire moins de ce zèle spirituel, et véritable, que Dieu demande de ses vrais adorateurs. 2. Que puis que Calvin, qui ne pouvoit pas ignorer cela, n' a point établi l'usage de plusieurs cérémonies pompeuses, c'est une marque qu'il agissoit de bonne foi, et qu'il ne cherchoit pas les expédiens d'attirer et d'attacher les peuples à sa secte, par quelque chose qui frappât leurs sens. S'il eût cherché sa gloire; s'il se fût fait une idée de religion par des vues de politique; en un mot, s'il eût consulté la chair et le sang, il n'y a point de doute qu'il se fût bien éloigné de cette pauvre idée, que l'auteur appelle un *squelette*. Ce n'est pas sous cette forme dégoûtante que l'on produit l'erreur et le vice; on les farde, et on les embellit de tous les ornemens dont on se peut aviser: mais la Vertu et la Vérité ne demandent point d'autre parure qu'elles-mêmes: leur simplicité, leur nudité, et si je l'ose ainsi dire, leur brute leur tient lieu de tout. De sorte que si on veut faire justice à Calvin, on avouera pour le moins, qu'il étoit très-persuadé qu'il enseignoit le pur Evangile, et que la beauté naturelle de cette divine Vérité se soustiendrait par sa seule force, sans avoir besoin des artifices, que les fausses religions n'ont jamais manqué de mettre en usage."

When two parties in a state proceed to such extremities, that they take arms against one another; and each looks for the accomplishment of its object, only by shedding the blood of its opponents, they usually employ their utmost endeavours to blacken the character of one another. Every mischievous purpose, every odious quality, to which they can attach any degree of probability, either by truth or falsehood, either by stating facts, or by stating falsehoods, they impute to one another; and by holding up these causes of hatred to the public in the most persuasive light they are able, by incessantly repeating them, in every shape and attitude, they do what they can to fix an odious character upon those by whom they are, or have been opposed, and to derive to themselves the grand advantage which arises from making those who are

competitors with them for the favour of mankind the object of their detestation. When one of two such contending parties is put down, and the other becomes not only triumphant, but master of all the powers of government; the vanquished party is treated with a fine set of names, and a set of actions and qualities is provided for it, finely corresponding with the names. It lies under this among other cruel disadvantages, that what is affirmed against it by the party possessing power, finds a ready belief with all the vulgar part of mankind, and the ready, and loud profession of belief from all the interested part. A thousand tongues and a thousand pens, incited either by ancient hatreds, or present hopes and desires, practise every art of defamation against it. The press teems with stories to its disadvantage, generally possessing little, often possessing no connection with the truth. That this was the case with the Puritans in a very extraordinary degree, is known to all the world. The Restoration placed all power in the hands of Charles 2nd, and the profligate portion of the aristocracy who engrossed his favours; men who held every species of principle in derision; and who, as they had long dreaded the Puritans, now hated them with corresponding intensity, as well as the principles of political liberty which the Puritans advocated, and which the loyal aristocracy had been and now were trampling under their feet, together with the rules of Christian morality, which the Puritans observed with a peculiar strictness, and which never were treated with a more open and contemptuous disregard, than by the same loyalists, who found that kings ruled by a divine right, and that subjects were bound, by their duty to God, to suffer pillage and every sort of oppression at the hands of great and loyal men, because they were appointed to this purpose, by the king, and he was appointed by God. With the powers of government in the hands of such persons, after what they had suffered and feared through the ascendancy of the Puritans, it is not to be wondered, that the arts of blackening a character were exhausted, as in truth they were, against the vanquished and prostrate Puritans.

What Mr. Southey has done, has been, to rake into the filth, heaped in that and the preceding age upon the character of the Puritans, and to throw as much of it as he thought would now stick upon their memory. For the notion which he has been pleased to present of the Puritans, he appears to have looked only into the writings of their bitter enemies, whose stories he has given without examination or criticism; indeed we should suspect, that the faculty of historical criticism—of comparing and weighing evidence—does very little belong to him: he seems hardly to be aware, that it is of any use; and we offer this as an apology for much of the misrepresentation which he has here dealt out at second hand; though it will not apologize for the additions and embellishments which he has made purely from his own invention. His second

volume now lies open before us, at a passage which so exactly exemplifies the spirit in which the book is written, and in particular the feature which we have now touched upon, that it cannot come in more opportunely. It forms part of the pathetic story he labours to make up, of the situation of Laud during his confinement in the Tower. "After a severe illness, during which he lost the use of his limbs, when, for the first time, he was able, between the help of his man and his staff, to go to the Tower Church, the Puritan who preached introduced so much personal abuse of him in the sermon, in such foul terms, and with such palpable virulence, that women and boys stood up in the church to see how he could bear it. But he thanked God for his patience, and prayed forgiveness for his deluded persecutors." [*Book of the Church*, vol. ii. p. 420.] The expression, "a severe illness, during which he lost the use of his limbs," implies a fit of sickness of the most serious kind, which happening in a state of imprisonment, and being followed by losing the use of the limbs, a natural accompaniment of severe restraint, and the want of exercise, suggests the idea of cruel treatment by his oppressors, and intense suffering on the part of the prisoner. This is the impression which the Book-of-the-Church-maker leaves to be produced by his account of this incident; the knowledge of which he derived from Laud himself, by whom alone it is mentioned. Hear now the words of Laud; and, observing the changes Southey makes in the story, mark the purposes to which those changes are subservient.

"March 6. Sunday, after sermon, as I was walking up and down my chamber before dinner, without any slip or treading awry, the sinew of my right leg gave a great crack, and brake asunder in the same place where I had broken it before. Feb. 5. 1627<sup>8</sup>.

It was two months before I could go out of my chamber. On Sunday (*Maii* 15) I made shift, between my man and my staff, to go to church. There one Mr. Joslin preached, with vehemency becoming Bedlam, with treason sufficient to hang him in any other state, and with such particular abuse to me, that women and boys stood up in the church to see how I could bear it. I humbly thank God for my patience."—*Troubles and Trial of Laud*, p. 63.

Here there was no illness; no loss of limbs during a severe illness. The whole of this is pure invention, on the part of the story-teller, with the real facts staring him in the face, since he copies the very words of Laud. The expression, "with such particular abuse to me," Southey enlarges into the phrases, "with such personal abuse of him, in such foul" [a favourite epithet of Southey's] "terms, and with such palpable virulence." Quære, does Southey understand the meaning of the word *palpable*? Palpable virulence! he might as well have called it olfactable virulence. Virulence can be as easily



smelt as touched. This “abuse,” imputed to the preacher, we know of, only from the words of Laud himself. Laud was sensitive upon these points, and not easily pleased even with praise. There may, after all, have been very little in what he might call and think particular abuse. The circumstance he adduces to prove the particularity, by which we are willing to understand intensity, of the abuse, is somewhat ludicrous. It called the attention of nobody but the women and the boys. Some of them, of the women and boys, perhaps two or three, had a curiosity to see how Laud would look when he heard a censure. But what that curiosity proceeded from, whether from an idea of the grossness of the censure, or the well-known waspishness of the person censured (though Laud interprets the circumstance all in his own favour) does not appear.

The warmth of the preacher appears to have been the thing which chiefly annoyed the prelate. He preached with a “vehemency becoming Bedlam.” We should like to know, if it approached to the vehemency of Mr. Irving, which our greatest orators and statesmen have gone to admire. The meekness which Laud had attained under his sufferings is manifested, by his declaring, that the sentiments of liberty, mixed, no doubt, with censure of the king, which the preacher expressed, deserved no less a punishment than death; which, if he had possessed the power, he would no doubt have inflicted upon the *Puritan*. This is the man whose own death is bewailed.

“I humbly thank God for my patience;” Shakspeare puts into the mouth of the canting Richard—

I do not know that Englishman alive  
With whom my soul is any jot at odds,  
More than the infant that is born to-night:  
I thank my God for my humility.

Not content with his thanking God for his patience, our author makes him pray forgiveness for his enemies; which last circumstance is purely of his own invention. And this is the way in which Maimbourg Southey *makes* history.

*A propos* of making history, John Merlin has the following passage:—

‘Mr. Southey, it has been stated, is a poet; that is, as the original Greek word signifies, a *maker* or *inventor*. Hence we are not to be surprised if he makes use of his poetical licence or faculty in writing history, rather than weary himself in hunting out, and bringing forward, dusty records for the many extraordinary things he records and tells. It is true, he says, he “*can refer to authorities*

*for them among his collections, but that he does not give those, because the scale of his work is not one which would require or justify a display of research.* But it may be truly said of the case in question: *De non apparentibus et de non existentibus eadem est ratio.*—" *Strictures on the Poet Laureate's Book of the Church.*" By John Merlin, p. 4.

The total want of reference to authorities in Southey's book is a damnatory circumstance. No history not resting on the testimony of its own author to facts of his own witnessing, is worth any thing without such reference. Facts without authentication are not to be regarded as historical facts. A portion of them, formed into a story, should be called a romance, not a history. The excuse made by Southey for not referring to his authorities, is a specimen of the man. He insinuates that he had no room for them; as if the name of an author at the bottom of a page required much room; or as if the most important of all things was that which could best be spared. But the most curious point for observation is, the idea which Southey entertains of the end for which reference to authorities is made, "a display of research." This is the only use which he knows of it; at least, which he chuses to recognize. The story-teller for the Church has correct ideas of the business of an historian.

It is well known, that an execution is a great thing for vulgar minds. A man's life and conduct may have been base and mischievous in the highest degree; he may have been constantly engaged in schemes of the worst description; he may have habitually disregarded the ties of truth, humanity, and justice, in the means he employed for the accomplishment of them; yet, if he is brought to punishment at last; above all, if the forfeit of his life is exacted, and he behaves with tolerable decency and propriety at his exit, the sympathies of the common herd are so much excited, that the merit of dying well throws a veil over the whole demerit of living ill, a character is attached to the man which he by no means deserves, and a morality of the most pernicious tendency is propagated. Maimbourg Southey has exerted himself to the utmost to derive advantage from this source. The dying scenes of Cranmer, and Charles, and Wentworth, and Laud, have been mines to him. Writing, as he was, for old women and children, he had reason to think they would be worth, to him, all the pains he has bestowed on them.

We might have thought we had lived to an era, in the progress of the human mind, when the life and deeds of Laud would no longer be held up for admiration; and when we should not witness a revival of his memory for purposes of mischief. But the Church of England is an intellectual curiosity. She swears that she will stand still; and has, therefore, a cause of enmity with all those who

advance. But she has not sworn to retrograde. It does, however, appear impossible in the intellectual world to stand still. There may be effectual reasons which prevent such or such a party from going forward. But then it seems almost necessary for it to go back. The time certainly was, when the leading men of the Church of England gave up Laud; and not only thought that he was the grand cause of the ruin of the Church when he lived, but that his memory did no credit to it when he was dead. Bishop Warburton, for example, in his spiteful notes upon Neal's History of the Puritans, has not one word of eulogy for Laud, but some of the severest condemnation. Thus, on the passage of Laud's Diary, where he says, on the occasion of making bishop Juxon lord high treasurer of England, "Now, if the church will not hold up themselves, under God, I can do no more;" Warburton contemptuously remarks, "Had he been content to do nothing, the Church had stood. Suppose him to have been an honest man, and sincere, which, I think, must be granted, it will follow, that he knew nothing of the constitution, either of civil or religious society; and was as poor a churchman as he was a politician." This is giving up his *head* with a vengeance: now for his heart. Mr. Neal, after recording the atrocious proceedings against Prynne, Burton, and Bastwick, and using the language of just indignation, on which Warburton makes no remark, comes to the prosecution of Dr. Williams, bishop of Lincoln, and of Mr. Osbaldeston, chief master of Westminster-school; whereon bishop Warburton makes the following reflection. "This prosecution must needs give every one a very bad idea of Laud's *heart* and temper. You might resolve his high acts of power, in the state, into reverence and gratitude to his master; his tyranny in the church, to his zeal for, and love of, what he called religion; but the outrageous prosecution of these two men can be resolved into nothing but envy and revenge; and actions like these they were, which occasioned all that bitter, but indeed just, exclamation against the bishops, in the speeches of lord Falkland, and lord Digby." These strokes, though few, are decisive; and depict a very poor, but very mischievous creature; the real character of the man whom Southey, and the Church at his heels, are for holding up as the grand ornament of the Church of England; whose character, and the character of the Church, they would have us believe, bear a perfect resemblance to one another. Whether the resemblance be real, or only imaginary, to assume it, and boast of it, is, at any rate, a curiosity, as a matter of taste, and of prudence.

Of all the crimes which it is possible for a human being to commit against his fellow creatures, that of corrupting the springs of government is beyond all comparison the worst. Other crimes strike at the well-being of one, or at most, of a few individuals. This strikes at the well-being of all the myriads, of whom the great body of the community is composed, from generation to generation. As

no human being ever exerted himself more strenuously, or with more persevering purpose to corrupt the principles of government in any country, than did Laud to corrupt to the heart the principles of government in England, to strip the people of every security for the righteous administration of their affairs, by consequence to establish a perfectly infallible security for the mischievous administration of them, to place his countrymen in the condition of slaves, living only for the benefit of a master, a master, who both would desire to cultivate in them only the qualities which fit them the best for being slaves, the qualities of the spaniel, on the one hand, and the serpent on the other, and would have the power of preventing them from cultivating in themselves any other, of placing them, accordingly, in a condition resembling that of the worst of brutes—on the other hand, as of all the acts of virtue of which a human being is capable, that of ameliorating the institutions of government, of providing the community with more perfect securities for the right administration of their affairs, when all the facilities and all the motives for acquiring the highest intellectual and moral endowments and elevating their condition as men and as citizens to the highest possible degree, are enjoyed in the greatest perfection, is undeniably the highest, and every exertion and every sacrifice which is made by an individual for this noblest of all earthly purposes, acquires incomparable value, and entitles the maker to a correspondent share of moral and intellectual approbation, love, and esteem—as it is, moreover, an undoubted fact, that of all the men who, during his time, showed any portion of this virtue, Laud was the bitter and remorseless enemy, and with intensity proportional to the degree in which the virtue was displayed, as there was no punishment which he was not eager to inflict upon it, as he uniformly branded it with the names of the greatest vices, and endeavoured by all the arts by which characters are blackened to make the men who distinguished themselves by acts of this virtue be regarded as the greatest criminals and the most hateful of mankind; as there was no suffering and no ignominy to which he was not eager to expose them, acting uniformly as if he wished to extinguish in their blood every spark of the virtue by which they were distinguished—if all this, and more than this, be true, to the letter, then, of all the criminals on record, in the annals of the human species, Laud is one of the greatest. Add to this, that he was not less remarkable for all the low and base qualities of the mind. He began by being a spy and informer at Oxford; he acted as pandar to the adulterous lewdness of his first patron, Devonshire; he afterwards became the abject creature, in every respect, of the worthless and infamous Buckingham; he was indefatigable in the vile arts of undermining all who stood in the way of his advancement; of which, the downfall of the archbishops Williams and Abbot, the former of whom had been his friend and patron, are memorable examples.\* “Placed”

(says Mr. Brodie, Hist. of Brit. Emp. v. ii. p. 247) “at the head of the ecclesiastical and civil government, Laud betrayed all the presumptuous insolence of a little mind intoxicated with undeserved prosperity. He assumed the state of a prince, and by the ridiculous haughtiness of his manners, disgusted men of high rank and influence in society, who were attached to his measures. See a curious instance of this in Clarendon’s Life, by himself, vol. i. p. 32.” As a specimen of the low arts which he practised for the destruction of his victims, we shall quote another passage from Brodie, relative to the prosecution of Prynne, for his celebrated book against Stage-players.

“The work, entitled *Histrio-mastix*, was the labour of many years, and swelled out into a thousand quarto pages: It consisted chiefly of the opinions of the fathers, a species of authority, one would suppose, not calculated to allure the generality of readers, but particularly offensive to Laud, who affected veneration for them, and to make them the rule of his conduct. The style and bulk of the work were calculated to deter people from the perusal; but the name of the author at once roused Laud and his abettors, and Heylin was employed to hunt out objectionable passages. The manner in which he performed his duty is best explained in his own words. He makes ‘*notes, and deducts out of them such logical inferences and conclusions as might and did naturally arise in those dangerous premises*: One copy of the same to be left for the lords of the council, and another with Noy the attorney-general, and the rest of his majesty’s council learned in the laws of this realm, which paper gave such satisfaction to the one, and help to the other, that when the cause was brought to a hearing in the Star-Chamber, *they repeated his instructions only*, as Prynne himself informed against him to the House of Commons.’\* By such a course, charges of the following tenor were brought against the author: that players were rogues by statute (which, by the way, was correct); that none were gainers, or honoured by stage-plays, but the devil and hell; and that when players and their abettors have taken their wills of lust here, their souls go to eternal torment hereafter; that so many as are in stage-plays, are unclean spirits, and play-hunters incarnate devils; and that the chief cause of Nero’s destruction was his frequenting them: Of dancing, he was alleged to have said, that it is the devil’s profession, and so many steps in a dance so many paces to hell. Such were the articles charged. But the offensive part was an exposure of certain innovations in the church, which, though the attorney-general dwelt upon Prynne’s alleged language, as he acted without a mission, &c. it was not thought convenient to bring into question. Had such been Prynne’s own language and ideas, people of different minds might have properly repaid his abuse of their amusements with contempt and scorn; but there was neither a

principle of law, justice, nor common sense, on which he should have been condemned as a criminal. He affirmed afterwards, however, when he had no cause to resort to subterfuges, that the charges were not at all warranted by the text of his book; indeed false charges were the natural consequence of the course pursued: and any one may satisfy himself, that the offensive expressions are not his own, but borrowed from the fathers, to whose works he invariably refers.

Lest the humanity of Charles should interpose to save this victim of ecclesiastical vengeance, an artifice was adopted to inflame both him and his consort. Six weeks after the publication, her majesty acted a part in a pastoral at Somerset-House, and Laud and his friends shewed her and the king a passage—women actors, notorious whores (few women appeared on the stage in those times, the characters of females being generally personated by men in women's clothes), and assured them that it was a libel upon her, though, as has just been said, the work had been published six weeks prior to her exhibition."\* —*Brodie*, vol. ii. p. 324.

The following instance will convey an idea of Laud's disposition to flattery. For the christening of the young prince, Charles (2nd), Laud composed a prayer, which was recommended to all the parish churches. In this prayer was the following clause, "Double his father's graces, O Lord, upon him, *if it be possible.*" Archbishop Williams calls this "three-piled flattery, and loathsome divinity," and says he would not have joined in this prayer.† —*Brodie*, *ib.* p. 358.

Premising these short notices, to enable our readers to form some notion of the real character and actions of Laud, we recommend it to them to read the singular mixture of canting and foul language which our historian pours forth upon occasion of the execution of this worthless man. Of this remarkable specimen of the literature of the age, we can afford to present only the concluding passage:

'Great multitudes attended this victim of sectarian persecution to the grave; the greater part attracted by curiosity, but many by love and veneration; and not a few, it is believed, by remorse of conscience, for having joined in the wicked and brutish clamour with which he had been hunted down. A baser triumph never was obtained by faction, nor was any triumph ever more basely celebrated. Even after this murder had been committed with all the mockery of law, his memory was assailed in libels of blacker virulence (if that be possible), than those by which the deluded populace had been instigated to cry out for his blood; and to this day, those who have inherited the opinions of the Puritans, repeat with unabashed effrontery the imputations against him, as if they had succeeded to their implacable temper,‡ and their hardihood of

slander also. More grateful is it to observe how little is in the power of malice, even when in the dispensations of Providence it is permitted to do its worst. The enemies of Laud cut off from him, at the utmost, a few short years of infirmity and pain; and this was all they could do! They removed him from the sight of calamities, which would have been to him tenfold more grievous than death; and they afforded him an opportunity of displaying at his trial and on the scaffold, as in a public theatre, a presence of mind, a strength of intellect, a calm and composed temper, an heroic and saintly magnanimity, which he never could have been known to possess, if he had not thus been put to the proof. Had they contented themselves with stripping him of his rank and fortune, and letting him go to the grave a poor and broken-hearted old man, their calumnies might then have proved so effectual, that he would have been more noted now for his infirmities, than for his great and eminent virtues. But they tried him in the burning fiery furnace of affliction, and then his sterling worth was assayed and proved. And the martyrdom of Cranmer is not more inexpiable disgraceful to the Roman Catholic, than that of Laud to the Puritan persecutors.

He was buried according to the rites and ceremonies of the Church of England; a circumstance which afforded a deep, but mournful, consolation to those who revered and loved him. It seemed to them as if the venerable establishment itself over which he had presided, and for defending which he had died a martyr, were buried with him: for on the same day that six infamous peers past the ordinance of attainder against him, they passed an act also, by which the Liturgy was suppressed, and a Directory for public worship set forth in its stead.'

To form a just estimate of this lachrymation, it is useful to remember the pitiful and unmanly vengeance which was exercised at the time of the Restoration, when Southey's Venerable Establishment came again into power, and into play; and, to think who they are who have an ever-ready approbation to bestow upon the actors in those noble and elevating scenes, when the bodies of Cromwell, Bradshaw, and Ireton, were taken out of their graves, and drawn upon hurdles to Tyburn, where they were hung up from ten in the morning till sun-set of the next day, after which their heads were cut off that they might be stuck up in public places, and their trunks buried all together in one hole under the gallows; when an act was passed for the "attainder of several persons guilty of the horrid murder of his late sacred majesty king Charles 1st., and for the perpetual observation of the 30th of January;" when ten persons were executed after trials which would disgrace the administration of justice in Turkey; "and when," says Burnett, "the firmness and shew of piety of the sufferers, who went out of the world with a sort of triumph in the cause for which they suffered,

turned the minds of the populace, *insomuch that the king was advised to proceed no further.*" How far he and his advisers would have proceeded had they continued to think it safe, we leave their characters to speak for them.

We recommend it earnestly to our readers, to peruse, as one of the most important of all the documents of English history, the Trials of these men, in the late collection of "State Trials," by Mr. Howell. We cannot forbear quoting, after Mr. Brodie, the following short passage from the trial of Colonel Harrison:—

***HARRISON.***

Notwithstanding the judgment of so many learned ones, that the kings of England are no ways accountable to the Parliament, the Lords, and Commons, in the beginning of this war, having declared the king's beginning war upon them, the God of gods—

***COURT.***

Do you render yourself so desperate, that you care not what language you let fall? It must not be suffered.

***HARRISON.***

I would not willingly speak to offend any man; but I know God is no respecter of persons. His setting up his standard against the people———

***COURT.***

Truly, Mr. Harrison, this must not be suffered: this doth not belong to you.

***HARRISON.***

Under favour, this doth belong to me. I would have abhorred to have brought him to account, had not the blood of Englishmen that had been shed———

***COUNSEL.***

Methinks he should be sent to Bedlam, till he comes to the gallows, to render an account of this. This must not be suffered. It is, in a manner, a new impeachment of *this* king, to justify their treasons against his late majesty.



**SOLICITOR-GENERAL.**

My Lords, I pray that the jury may go together on the evidence.

**SIR EDWARD TURNER.**

My Lords, that man hath the plague all over him; it is a pity any should stand near him, for he will infect them. Let us say to him, as they used to write over an house infected, 'the Lord have mercy upon him;' and so let the officers take him away.

**LORD CHIEF BARON.**

Mr. Harrison, we are ready to hear you again; but to hear such stuff it cannot be suffered. You have spoken that which is as high a degree of blasphemy, next to that against God, as I have heard!

The plea of Harrison was, that he acted by the supreme authority, the parliament; and that no inferior jurisdiction could take cognizance of the act. He in vain asked for liberty to have counsel to urge that plea. The hangman, in an ugly dress, with a halter in his hand, was purposely placed before him during what they were pleased to denominate a trial.—*Howell's State Trials*, p. 1024-31. *Ludlow*, vol. iii. p. 62.

Besides this, he was, after three months close confinement, every friend denied access to him, and the indictment never shown, apprized at nine o'clock in the evening of the 9th of October, that he was to be put to the bar next morning, and he was finally disposed of by the court on the 11th.—*Ib.*

As Love, the sheriff of London, at the Restoration, would not pack the juries, the trials were delayed till new sheriffs were appointed.—*Ludlow*, vol. iii. p. 59.

The four names in English history, which the Church, as a corporation of priests, have been most assiduous in their endeavours to hold up to admiration, are Charles 1st, Wentworth, Laud, and Clarendon. Those who have read the article on the History by Mr. Brodie, in our preceding number, will not require any assistance from us, on the present occasion, towards forming a proper estimate of Charles and Wentworth. We trust, that what we have now adduced in correction of the misrepresentations attempted in favour of Laud, by the maker of the Church Book, will prevent all danger of mistake in regard to him. We must, in order not to neglect any of these worthies, add a few particulars in regard to Clarendon, whom Mr. Southey declares to be "the wisest, because the most upright, of all statesmen"—[ii. 484]. The

invaluable detections of this man, as an historian, and exposures of him, as a man, for which we are indebted to Mr. Brodie, render this part of our task an easy one.

We shall not accuse Clarendon of a strong leaning to one party, and against another. This, especially when a man has been deeply and personally engaged, it requires a high character indeed to avoid; and we blame no man for not rising above, we only blame him for falling below, the ordinary standard of men.

Few crimes can come up to those of the man, who, pretending to write history, sets himself studiously and of purpose, to pervert the materials of history, to suppress and mis-interpret evidence, to assert facts without any evidence at all, nay, in the very teeth of evidence. All these crimes, in numerous instances of the greatest importance, Brodie proves upon Clarendon. Thus, in order to apologize for the atrocious usage of Prynne on the occasion of his prosecution for the book entitled *Histrio-mastix*, Clarendon asserts that he aggravated his punishment by petulance and obstinacy in court. The fact is, that he did not open his lips in court, but committed his defence entirely to his counsel. On the king's visit to the city, after his abortive attempt to seize the five members, "Clarendon," says Brodie, "has the effrontery to say, that one Walker cried with a very loud voice, *To your tents O Israel!*" though there is a state paper drawn by Clarendon himself, which shows that the man only threw into the coach a paper which had these words written upon it.

The following are the words of Brodie, on the occasion of the petitions to parliament against Episcopacy:

"The Journals of the Commons show, that petitions were presented from most of the principal counties and towns in England; and Mr. Hume's account of the petitions is unworthy of him. The petition from the apprentices had been presented before the impeachment of the members, and one to the same purpose was presented to the throne, as well as another to the lords. The apprentices were, as we have formerly remarked, a powerful body. The one from the porters, whose number is said to amount to 15,000, and who are made to add, that "if such remedies" (as they had named) "were any longer suspended, they should be forced to extremities not fit to be named, and make good the saying, 'that necessity has no law,' is no where to be found or alluded to, so far as I recollect, except in Clarendon's History; and I have no hesitation in pronouncing it a forgery by that author, to disgrace the petitions which so galled him and his party. The Journals of the Commons give an account of every petition; and I have gone over them with the utmost care, in order to ascertain whether such a petition ever was presented, and

yet cannot discover a trace of it. The dexterity of Clarendon, as a forger of such things, is triumphantly told us by himself. Told *us*—nay, the work in which he discloses this important fact was intended for his children; yet he gives a long character of himself, wherein he takes great credit for his candour.”

Brodie points out instances in which that which Clarendon records in his *Life* is at direct variance with what is related in his *History*; and in which the wilful mendacity of Clarendon is beyond dispute. That he was in the habit of committing forgery for purposes of deception is proved by incontestable evidence, indeed by his own testimony. And Mr. Brodie remarks with truth, that “the principle on which Clarendon wrote was inconsistent with a regard to truth. *I first undertook,*” says he, *“this difficult work with his majesty’s approbation, and by his encouragement, and for his vindication.”*

Clarendon was not honest even in the drawing of characters, for which he has been so much bepraised. Brodie, having mentioned the account propagated by the royalists, that Pym died being on account of his iniquities eaten up of lice (by-the-by Jortin says, either simply or sarcastically, that it is wonderful how many of the persecutors of the early Christians perished in this dreadful way, eaten up either of lice or of worms, and produces a long list of whom that story was propagated),—says,

“The malice of Clarendon makes him repeat the silly tale (which he probably assisted to invent) regarding the cause of Pym’s death, and endeavour to destroy his character for integrity by a story which, like the other, only reflects against himself; that one of the witnesses against Strafford, ‘an Irishman of very mean and low condition, afterwards acknowledged, that being brought to him as an evidence of one part of the charge against the lord-lieutenant, in a particular of which a person of so vile quality would not be reasonably thought a competent informer, Mr. Pym gave him money to buy a satin suit and cloak, in which equipage he appeared at the trial, and gave his evidence.’ Now surely, if this person of vile quality was not worthy of credit, upon his oath against Strafforde, he should not, on his bare word, have been believed against Pym, when the Restoration (for that undoubtedly was the ‘afterwards’) had put all power in the hands of Clarendon’s own party. But who was this witness? What did he swear to? To whom did he make this important disclosure? Clarendon is prudently silent as to all this. The same writer denies the great natural talents of Pym, and alleges that they were not much adorned with art; but he admits his capacity for business, and allows that ‘he had a very comely and grave way of expressing himself, with great volubility of words, natural and proper.’ But see what Baillie says of his powerful

eloquence, in his *Journal of Strafforde's Trial.*"—*Brodie*, vol. iii. p. 461.

One of the most disgusting scenes of cant and hypocrisy ever acted, and that not of the religious but moral kind, we have recorded of Clarendon by his own pen. Speaking as if the knowledge of the secret intercourse between his daughter and the duke of York (James 2nd) had come upon him by surprise, when she was pregnant, he says, that he "broke out into a very immoderate passion against her wickedness; and said, with all imaginable earnestness, that as soon as he came home he would turn her out of his house as a strumpet, to shift for herself, and would never see her again." When he heard that she was married, the case was ten times worse. "He fell" (as he himself expresses it,) "into new commotions, and said, if that were true, he was well prepared to advise what was to be done; that he had much rather his daughter should be the duke's whore than his wife; in the former case nobody could blame him for the resolution he had taken, for he was not obliged to keep a whore for the greatest prince alive. But if there were any reason to suspect the other, he was ready to give a positive judgment, that the king should immediately cause the woman to be sent to the Tower, and to be cast into a dungeon, under so strict a guard, that no person living should be permitted to come to her; and then, that an act of parliament should be immediately passed for the cutting off her head, to which he would not only give his consent, but would very willingly be the first man that should propose it." Something of this sort was strongly enough suggested by the situation in which Clarendon was placed: but who, besides a practised hypocrite, would have acted the part in such perfection? Or who could have acted the abject creature, so pleasing to kings, in a purer style than he did, a short time after, when the king was prepared to sacrifice him to the public indignation, which he had richly deserved? "I am so broken under the daily insupportable instances of your majesty's terrible displeasure, that I know not what to do, hardly what to wish . . . . . God knows I am innocent as I ought to be. But alas! your majesty's declared anger and indignation deprives me of the comfort and support even of my own innocence, and exposes me to the rage and fury of those who have some excuse for being my enemies; whom I have sometimes displeased, when (and only then), your majesty believed them not to be your friends. I should die in peace (and truly I do heartily wish that God Almighty would free you from further trouble by taking me to himself) if I could know or guess at the ground of your displeasure . . . . . As I have hope in heaven, I have never willingly offended your majesty in my life, and do, upon my knees, beg your pardon for any over bold or saucy expression I have ever used to you; which, being a natural disease in old servants who have received too much countenance . . . . . I

hope your majesty believes that the sharp chastisement I have received from the best natured and most bountiful master in the world, and whose kindness alone made my condition these many years supportable, has both enough mortified me as to this world, and that I have not the presumption, or the madness to imagine, or desire, ever to be admitted to any employment or trust again." The conclusion is worthy of the rest. He prays the king that he may be allowed "to spend the small remainder of his life in some parts beyond the seas, never to return, where he may pray for the king, and never suffer the least diminution in his duty or obedience."

Habitual want of veracity is not the worst of the charges which Mr. Brodie establishes against Clarendon; he proves him to have been an approver, and not an approver only, but a suborner, of assassination.

"Colonel Rainsborough, whose father had been an eminent naval commander, and who was himself bred to that line, having been appointed vice-admiral of the fleet, was set on shore by the mutinous sailors; and many of the ships revolted from the parliament, but several of them were afterwards brought back by the earl of Warwick; and the vigorous measures of the parliament soon made up the deficiency of those which were not recovered. It is strange, that no sooner had the cavaliers obtained these ships, which the Prince of Wales and Rupert entered, than they broke out into the most ruinous contentions for superiority.\* The known principles of Rainsborough excited such a rancorous spirit of revenge in the cavaliers, that though defeated in one dastardly attempt at his assassination, they soon afterwards succeeded in another, no less cowardly and unprincipled. Mrs. Macauley remarks, that Clarendon, to his eternal infamy, applauds every circumstance of the foul unmanly deed."—*Brodie*, vol. iv, p. 137.

On the abolition of the republican government, and the establishment of the protectorship, Mr. Brodie says,

"The royalists exulted on the change; but when they perceived that the protector established his government, and that the people still adhered to their principles, of either not restoring monarchy at all, or of doing it under conditions which excluded the malignants, they, conceiving now that Cromwell, at the head of his army, was the grand obstacle to their recovering power, devised plots against his life, while the exiled king, under the direction of Hyde and Nicholas, published a declaration inviting the people to assassinate him, and offering a reward for the atrocious deed.† Let us, however, hear the language of a prelate on this subject: 'But wherefore do we quarrel with the remissness of princes abroad, since there is not among ourselves that hath the courage of a gallant man to meet

with Cromwell, who jets up and down, and strike him to the heart? But it is our shame that every one wisheth that done by another's hand which he dare not, for fear, do himself.' "‡ —*Brodie*, vol. iv. p. 372.

It is a fact, that the *Edinburgh Review*, after displaying at great length the merits of Brodie's history, which exhibits irresistible evidence of Clarendon's being one of the most dishonest and unprincipled of mankind, has, in its last Number, only a few months having intervened, expressed itself in the following terms:—"Lest it should be thought that such persons as M. de Chateaubriand and his fellows, are not of sufficient account, either for talents or respectability, to evince the debasing influence of the tenets in question, we shall add an example from our own country, and in the person of a very celebrated man—no less able, learned, and honest a one, than Lord Clarendon. His talents and accomplishments were undoubtedly of a high order; his integrity is allowed now to have been incorruptible." As to his honesty, we have had the evidence before us. Learning we do not remember before to have ever heard ascribed to him. His reputation for ability rests, and rests solely, upon his writing a tolerable English style, in which however Mrs. Hutchinson far excels him. The grand purposes of his life were those of a besotted, or intentional, enemy of mankind; to fix a despotical government upon the necks of his countrymen; and to give vast wealth and power to a corporation of dependent priests, to enable them to act the janisaries of that government. To accomplish this laudable object, too, he was not very scrupulous about means. For he gave Charles 1st advice, the following of which he saw would lead to his ruin, partly for a purely selfish purpose, partly in order that Charles 2nd, upon the fall of his father might hold the powers of government without limit, and be a simple despot. The fact is related by Brodie, in the following terms:—

"During his (the king's) stay at Newcastle, all the entreaties of the queen and his lay advisers, to yield to the Presbyterian establishment, had utterly failed, and nothing could move him to accede to the less rigorous propositions of the army; but he had now become surrounded with advisers who approved of his resolution. These were ecclesiastics (Sheldon, Hammond, and others), who, having lost their livings, were hostile to any arrangement that should for ever exclude them from power. Lord Clarendon, too, encouraged him by letters, to the same course. Exempted himself from pardon by all the propositions, he founded all his hopes of being restored to his country, and rewarded by the crown, on a steady refusal of accommodation—which, however fatal it might prove to his present master, would, he flattered himself, ultimately be triumphant in the person of the prince. It therefore appears, by his private correspondence, that he deemed

it better that the king should fall a victim to his principles than yield to his enemies. In the clash of parties he expected that the successor would be recalled unshackled; but thought that if what he supposed the best jewels of the crown were once renounced, they might never be recovered.”\*

Charles’s violation of the treaty of Breda was as gross an instance of the want of faith, as the annals of human villany record. It is no slight matter, that a professed and accredited champion of the Church of England obtrudes at this day a vindication of that foul deed. “Permit me,” says Mr. Butler to Dr. Southey, “to mention, that I have read with surprise this defence.” Clarendon, the Churchman’s Clarendon, was the principal adviser of that precious act. Mr. Laing, the historian of Scotland, says, “In the settlement of an ecclesiastical government (for Scotland), Charles was peculiarly embarrassed by the treaty of Breda. When invited to Scotland, on his father’s death, he had sworn and subscribed the covenant, and confirmed the Presbyterian church, as the conditions of his accession: And, although the nation was unable to preserve him on the throne, the oaths, which were renewed at his coronation, remained unrepealed. If it was difficult to observe, it was dishonourable to violate, the conditions, formerly accepted, when there was no choice unless to relinquish the crown. But, if the word of a prince is to be reputed sacred, no violence nor state necessity could afford a pretext to dispense with his oaths. However disgusted with the presbyterians during his residence in Scotland, the king himself was indifferent to religion. But Clarendon, whose mind was contracted and soured by religious bigotry, was irreconcilable to the very existence of their church. That upright and able, but not enlightened statesman, had already prepared the most intolerant measures for the revival of the hierarchy, which he urged the king to restore in Scotland, by a violation of those solemn engagements which his own conscience would never have infringed.”

“Upright and able!” these are two epithets borrowed, as Mr. Brodie shows to have been the habit of poor Laing, with servile credulity from Hume, and are not only worth nothing, but actually form part of a sentence ascribing to Clarendon an act, combining to such a degree the essence of knavery and folly, that no man who had either understanding or honesty, could have done any thing but spurn it.

“Contracted and soured by religious bigotry.” Mark what it is which is here by the historian pointed out as malignant religious bigotry. Church-of-Englandism! and that, if we are to believe Church-of-Englandists, in its most perfect form! This is the spirit which lives and breathes, nay, which sometimes speaks and roars, in our

Southeys, our Quarterly Reviews, our Oxfords and Cambridges, and in Reverends, and Right Reverends, without number!

The atrocities with which this “religious bigotry” followed up its primary act—atrocities with which, above all men, Clarendon is chargeable—were at least never exceeded. In commencing and carrying them on, during all the early part of Charles’s reign, the principal instrument was Middleton, the creature of Clarendon. “The intolerant bigotry of Clarendon,” says Laing, “the corrupt ambition of some statesmen, and the servile pliancy and adulation of others, betrayed the king into the most pernicious measures of the two preceding reigns.”—Laing goes still farther, for he says that the act of Uniformity in England, and the ejection of the clergy, in Scotland, “fix on the memory of Clarendon an indelible stain of duplicity and persecution.” In summing up the account of Charles, these atrocities are thus characterized by Laing:—“Neither in the social, though licentious pleasures of his court, nor in the government of England, disquieted, and therefore controlled by the most opposite factions, did Charles resemble the solitary and suspicious tyrant of Capreæ; but the various and enormous oppressions of his reign in Scotland, may be compared with the tyranny of the worst Cæsars. The only difference is, that instead of cruelties inflicted chiefly on the first ranks of the nobility, whom Tiberius extinguished, a more diffusive, and to the people a more insupportable tyranny, extended over the community at large.”

On this subject our doctor has to sustain the cruel, but well-merited taunts of Mr. Butler.

‘Why were you silent on the cruelties exercised by the protestant episcopalians on the Scottish presbyterians, throughout the reign of Charles 2nd, notwithstanding his solemn promise of toleration at Breda? Can you read without horror Mr. Laing’s account of them? Or can you read without compunction the sufferings of the English Protestant non-conformists in the same reign? In the preface to Delaune’s “Plea for Non-conformists,” it is said that 8,000 of them perished in this persecution. Perhaps, when you read Mr. Laing’s account\* of “the treachery, and almost unexampled perjuries of the first ministers of the church and state of Scotland”—and of “the absolute and undistinguished massacre *voted* by the privy-council,” and of the warrant for it signed by the king,” and of “the execution of it—not inferior to the spirit by which it was dictated,”—you may think that the Catholic massacre on St. Bartholomew’s day has been equalled by more than one Protestant enormity.

I beg leave to ask you, whether you think it consistent with historic impartiality, to keep out of sight, the outrages committed by Protestants, while you bring forward, in the most glowing



language, those committed by the Roman-catholics? Read Dr. Milner's "fourth letter to Dr. Sturges," his forty-ninth letter in his "End of Controversy," his "twenty-second letter to Mr. Grier," and the excellent letter in the "Edinburgh Review" on the toleration of the first reformers; then let me adjure you, as a christian and a gentleman, to say on which side the balance of religious persecution lies—the Catholic or the Protestant?'

Not only is the Church of England essentially intolerant and persecuting, but she has always acted up to that character; and whatever instrument of mischief the spirit of the age permitted her at any time to use against those who dissented from her, she has always eagerly employed. Is not this very book of Dr. Southey an instance? Is not the Bridge-street Association another? Can any stronger proof be afforded than the hymn of praise (*Te Deum, Clarendone, laudamus*) so solemnly from day to day, and from generation to generation, chaunted to this performer of persecution for the Church, who, that he might get at his victims, was willing to break the most sacred ties by which human society is held together. Of the existing disposition to make this low character an idol of the Church, Southey is pregnant proof. A pair of prelates testify to the disposition of the former age. Hurd, in his *Life of Warburton*, says, "Lord Clarendon was one of his favourite characters, as well as writers; he honoured the man, and admired his *History of the Grand Rebellion* in the highest degree." Warburton himself, in his dedication of the *Divine Legation*, says, "In the dissolute times of Charles 2nd, this weapon [ridicule] with the same ease, and indeed in the same hands, completed the ruin of the best minister of that age. The historians tell us, that chancellor Hyde was brought into his master's contempt by this weak argument." Of the *faith* of the Church of England, we shall speak on a future occasion; its worship of this man is a specimen of its *morality*.

We have now pretty fully described the larger features of Mr. Southey's work. Writing upon the plan which he pursues, the points in detail in which he needs correction, are, of course, endless; having collected a large stock of materials for that purpose, we now find it impossible to use them.\* To do the thing adequately, some one ought (as Mr. Southey has written a book of the English Church, in abuse of the Catholics and Dissenters, and Mr. Butler has written a book of the Catholic Church, for the purpose of repelling from his own church the abuse of Mr. Southey) to write a book of Non-conformity. Mr. Neal's *History of the Puritans* is, to a great degree, such a book; but with all its merits, it has some defects.

By-the-by, what Southey says of that work is one of the most impudent things which he has ventured to utter. The Court of High Commission were empowered to inquire into all misdemeanors “not only by the oaths of twelve men and witnesses,” says Neal, “*but by all other means and ways they could devise*: that is,” he adds, “by inquisition, by the rack, by torture, &c.,” and the fact is, that such were among the means to which these precious inquirers had recourse. Neal subjoins to the expression, “by all other means they could devise,” this obvious reflection, “Surely this should have been limited to ways and means warranted by the laws and customs of the realm.” Now for Maimbourg Southey: “Surely,” says he, “this most prejudiced and dishonest of all historians ought to have observed, that it was so limited twice in the commission itself.” To this we reply, and shall have no occasion to ask the reader to make the proper inference—It is not limited in the commission—It is totally and perfectly unlimited. Moreover, if Mr. Neal had been in a mistake, he would not have been *in mala fide*, for he gives the commission verbatim at the bottom of the page, where every reader has under his eye the means, directly furnished by Neal, of verifying or refuting his assertion.

It is true, however, that Neal writes with an air of favour towards the Puritans, and of prejudice against the church. There is a tone of apology for the one, and censure of the other. But these leanings do never affect the honesty of the historian. There is no suppression of evidence; there is no perversion of facts. After undergoing the severest scrutiny (the number of the clergy has not been small, nor their desire to pick holes in such a performance weak), it is quite wonderful how insignificant are the mistakes in the History of the Puritans, which its censurers have been able to point out. And Mr. Neal’s work stands incontestibly an authentic document of perhaps the most important of all the portions of English history. Nevertheless it is a portion of history so important, that it ought to be better written. The highest talent could not be more usefully employed. Innumerable are the lessons which it involves; invaluable are the illustrations of human nature, and of all that men have to aim at, and to shun, in their social transactions, which it affords. Many are the prejudices still strongly fixed by the roots which it would present the opportunity of eradicating; and many and important are the principles which would be illustrated and enforced by a just and enlightened exposition of the events. A history of the Puritans, that should be at once philosophical and popular, would be one of the most valuable presents which a man equal to the task could, at the present period, bestow upon his country; and we trust that we shall not long be without it. In the mean time, the Maimbourgs may write Books of the Church; and the Church may reward them by purchasing and puffing their works.

It is amusing to observe, how precisely similar is the manner in which the champion of the Catholic Church (Merlin or Milner) treats John Fox, and the champion of the English Church treats Mr. Neal. The abusive epithets applied by Southey to Neal we have just quoted. The following is the style which the Catholic uses in regard to poor Fox: "The peculiar style, and lying memorials of the schismatic, John Fox"—"The poet's authority for the whole of his martyrology is that of the lying Puritan, John Fox, whom he repeatedly calls *good Fox*, but whose notorious falsehoods have been repeatedly exposed, and sometimes even in courts of justice, and who himself was the advocate of the most perfidious murder committed in hatred of the Catholic religion, upon record."

This "Book of the Church" is so poor a performance, in all senses of the word, that the effects which it can produce, either good or evil, cannot be great. Whatever tendency it has, however, is all mischievous to the Church; and had its members been wiser men, they would have been among the first to cry it down.

In the first place, it cannot be favourable to the character of any institution, to have a suspicion excited by the mode in which a favourite advocate pleads its cause, that a case cannot be made for it, otherwise than by propagating a false character of its competitors; a suspicion that if the comparison is made between it as it really is, and them as they really are, no very high opinion can be entertained of it; in fact, a suspicion, that men will no longer continue to esteem it, than just so long as they are duped, and taken in, by its panegyrists. This is what a cause naturally and righteously obtains, by enlisting misrepresentation among its troops.

In the next place, this book of Mr. Southey is an exposure of the nakedness of the Church, of its singular poverty, in respect to great men, of every description. It is perfectly wonderful, so wonderful that before experience it would hardly be credible, that so great a number of men as the clergy of the Church of England, receiving what they call the best education, and possessing leisure beyond any other class of lettered men, should, throughout so many generations, have produced hardly one man eminent for any thing; not one man that ranks in the first class of any branch of literature; but few that rank even in the second; and a number disgracefully small that are known to the world of letters at all; that they should have contributed hardly any thing to the promotion of knowledge in any of its departments; that their contributions even to their own theology should, when duly considered, appear to be of trifling account; that they have even maimed the argument for the truth of Christianity, which, as it has been incautiously put by the most admired of their defenders of the faith, is really untenable; and that

among them all, not a single philosopher can be named; for Berkeley, who alone can be thought of as an exception, rather showed a capacity for philosophy than made in it any considerable achievement.

But the most deadly blow which this unfortunate Book inflicts upon the Church is, the full evidence which it exhibits of the hostility which the Church has displayed, so constantly as to show that it is one of the elements of its nature, to the great interests of mankind, to all those securities which are necessary to save the Many from becoming the victims of the Few, to those principles of government, which alone can secure to the great body of mankind the benefits of the social union, and constitute the only foundation upon which the structure of human intelligence, morality, and happiness, can be reared to its natural elevation.

This shows that there must be something deplorable in the composition of this Church; for the men who compose it are taken from the mass of the community; and not a less proportion of them, than of the rest of their countrymen, are estimable in all the narrower relations of life. A corporation of priests is indeed unfortunately situated with regard to all the higher moralities. They have an interest in degrading the human mind; and of any considerable number of men the majority are always governed by their interest. The proof that they have such an interest is irresistible. Every man has an interest in acquiring a command over the minds of other men. That command, to any great extent, constitutes the strongest of all human interests. A corporation of clergy, having the powers of government in league with them, have the prospect of an extensive command over the minds of their countrymen; and thence a motive of great intensity to strive to make that command as irresistible and complete as possible. They have first of all an interest in persuading the powers of government to exclude all competitors with them, to forbid the existence of any other priests than themselves; that thus they may have the minds of the community wholly to themselves, or, if this cannot be done completely, to come as near to it as possible. To get the powers of government to aid them in this, they must be zealous to serve the powers of government in their turn, that is, to employ all the influence which they can obtain over the minds of the people, in helping those who hold the reins of government, to render themselves secure in making any use of it which they conceive for their advantage, that is, to render them despots. This is the interest which a corporation of clergy have in corrupting the springs of government, and in labouring to sink, or to keep, their country in the mire of despotism. When men are free as citizens, they will also assert the freedom of choice in matters of religion, and the monopoly of the Clerical Company is at an end. But this is not all. It

is not enough that the government ensure to them freedom from competition. It is desirable, that their dominion should not only extend to every mind, but be as complete and perfect over every mind as possible. How is this to be accomplished? Through the medium of fear. No other weapon of command is sufficiently powerful. The fears which the priest has to act with, are the fears of invisible powers. But these fears are always the most intense, when the human mind is the most degraded. When illuminated and strong, it completely excludes those fears; it ascends to just conceptions of the laws of the universe, and admits no idea of a God, but that of a perfect intelligence, the object not of fear, but of love. In this state of the human mind, the power of the priest is at an end. He is powerful, only when he is supposed of immense importance for averting the wrath of the angry God, and for teaching the trembling and ignorant votary what the terrible Being wills. When every man is sufficiently instructed to know, what is perfectly simple, the will of a perfectly good Being, to understand that between such a Being and his creature, a Being "who knows his coming-in, and his going-out; his down-sitting, and his up-rising," and at all times wills for him what is most for his good; the idea of a priest as a teacher of this will, still more as a mediator for the averting of wrath, is merely ridiculous. The priest has therefore the strongest conceivable interest in preventing the human mind from acquiring this clearness and strength; in keeping it as far distant from it as possible. It is his interest to perpetuate the reign of ignorance and darkness; to prevent the diffusion of education among the people, and if that cannot be done, to get the management of it into his own hands, and to fix it as completely as possible upon frivolous objects; above all things, to prevent the diffusion of good books, especially every book that criticises him and his system; to prevent the freedom of the press, if possible, altogether; but if that is impossible, perpetually to decry it, and reduce the liberty allowed to it, within the narrowest possible limits.

It appears to us, for these, and for many other reasons, which we shall develop at length on a future occasion, that a corporation of priests, dependent upon the government, is entirely Antichristian; that it leads, by necessity, to the perversion of religion, and is one of the strongest engines of misgovernment, and of the degradation of the people. At present, we have considered only what has been forced upon us by Maimbourg Southey, and his History of the Church, and have seen what lessons it affords. We shall hereafter examine the question of an Establishment in general, and the merits in particular of the English Establishment, both in doctrine and constitution.

[\[Back to Table of Contents\]](#)

## Art. VIII.—

1. *Vindication of "The Book of the Roman Catholic Church," against the Reverend George Townsend's "Accusations of History against the Church of Rome."* By Charles Butler, Esq. 8vo. Murray. 1826.
2. *Vindiciæ Ecclesiæ Anglicanæ. Letters to C. Butler, Esq. comprising Essays on the Romish Religion, and Vindicating the Book of the Church.* By R. Southey, Esq. LL. D. 18mo. Murray. 1826.

WE intend, on the present occasion, as far as our limits will permit, to examine to the bottom the question of an Ecclesiastical Establishment, and more especially of the Church of England, in its effect on religion, on morality, on the character and actions of the clergy, on learning, on education, and on government.

We think it proper to begin by distinctly stating our opinion, that an ecclesiastical establishment is essentially antichristian; that religion can never be safe or sound, unless where it is left free to every man's choice, wholly uninfluenced by the operation either of punishment or reward on the part of the magistrate. We think it proper to go even further, and declare, that it is not religion only to which an ecclesiastical establishment is hostile: in our opinion, there is not one of the great interests of humanity, on which it does not exercise a baneful influence.

We know well to what we expose ourselves, by the promulgation of these great truths, for such they appear to us, and such we trust we shall establish them to be, by evidence which cannot be resisted. The clergy have, by a long course of usurpation, established a sort of right to call themselves and their interests, by the most sacred names. In ecclesiastical language, the wealth and power of the clergy are religion. Be as treacherous, be as dishonest, be as unfeeling and cruel, be as profligate, as you please, you may still be religious. But breathe on the interests of the clergy, make them surmise discredit at your hands, and you are the enemy of religion directly; nay, the enemy of your God; and all the mischief which religious prejudice and antipathy, the poisoned, deadly weapon of the clergy, can bring down upon its victims, is the sure and necessary consequence of your sacrilegious audacity.

For protection against this spirit of persecution, strong and formidable to the present hour, we look to public opinion, daily approaching to the condition of a match for this once gigantic foe; and the strong line which we trust we shall be able to draw

between the interests of a corporation of priests, and those interests of religion about which alone good men can feel any concern.

We desire also to be understood as disapproving an injustice of which clergymen have often great reason to complain, that of confounding the character of individuals with the corporation to which they belong. We have very many bad corporations, in which excellent men are included, and such is the case of the priestly corporation. But the question is not how many clergymen, from the influence of education, and the spirit of the community to which they belong, are, in their private relation, and taken individually, estimable men. You may take a number of men, one by one, all virtuous and honourable, who yet, if you club them together, and enable them to act in a body, will appear to have renounced every principle of virtue, and in pursuit of their own objects will trample, without shame or remorse, upon every thing valuable to their fellow men.

We proceed upon the principle that men desire power, that they desire it in as great quantity as possible, and that they do not desire it for nothing. Men do not strive for power, that it may lie in their hands without using. And what is the use of it? The answer is plain. It is to make other men do what we please: to place their persons, their actions, and properties, to as great an extent as possible, at our disposal. This is known to be one of the strongest propensities in human nature, and altogether insatiable.

The ministers of religion are not less subject to this passion than other men. They are cited, proverbially, as an example of it in excess.

When acting singly, each confined to his own congregation, to the small circle of individuals to whom personally his ministry can extend, the quantity of power a minister of religion can derive from his influence over the minds which he directs, is too small to prompt him to hazard much for its acquisition. No inordinate thirst for power is excited, and any perversity either of doctrine or of conduct, attempted for that end, is observed too closely to escape detection. It is only on the large scale that success can attend those mischievous machinations. Whatever motives can operate upon a minister of religion, to be of use to his flock, as an example and monitor of good conduct, retain in the natural sphere their natural force, unchecked by the appetites which the prospect of acquiring an extensive command over other men regularly engenders.

When the whole, or the largest class of the ministers of religion, are aided by the magistrate in forming themselves into a body, so

constituted as to act with united power, they become animated by the spirit which predominates in the leading men. This is a fact too certain to be disputed, and of which the causes are too obvious to require illustration. The spirit which predominates in the leading men is generated by the circumstances in which they are placed, the power immediately conferred upon them, and the prospect of increasing it without limits, by the means which they have at their disposal. That they will be actuated by the desire to make use of those means to the utmost, is a proposition which the history of human nature enables us to assume as undeniable. The man who would question it, is unworthy of an answer.

The great results, which spring from the combination of motives and powers, thus generated, is the subject to which the present article will be devoted; and it is of an importance to justify a call for the best attention of our readers, and for a calm and unprejudiced consideration of the evidence which we have to adduce.

The peculiarity of the case of an incorporated clergy arises from the peculiarity of the means they have to employ. In the ordinary case of power, the influence over men's minds is the effect of the power. The power exists first, and the influence follows. In the case of clerical power, this order is inverted; the influence comes first, and the power afterwards. The power is the result of the influence. The influence, therefore, is to be acquired in the first instance, and the greater the degree in which it is acquired, the greater the power which is the darling object of pursuit.

The first result which we shall mention, of this pursuit by the clergy, of influence over the minds of their countrymen, is the desire of the monopoly of that influence. They are naturally actuated by their thirst for influence to prevent all competition with themselves in obtaining it. Just in so far as they expect great consequences from possessing it perfect and undivided, so great must be their fears of having it shared, or lost, by the success of rivals. Rivals not only threaten them with the partial, or total deprivation of that which they desire to occupy entire; but they bring the immediate not the problematical evil, of a great disturbance of ease. Without rivals a clergy can with little trouble possess themselves of the minds of their countrymen. They can riot in power and ease at the same time. To maintain their influence in competition with others, trouble must be taken at any rate. Diligence must be used, and that incessant. Vigilance must never go to sleep. Industry must never relax. But a life of labour and care is a very different thing from a life of security, indolence, and repose.



Nor is this all: sacrifices of another sort are required, by the competition with rivals. Abstinence, self-denial, and mortification are found to be powerful means of establishing a spiritual influence on the minds of men. Rivals, in order to be successful, have recourse to those means; and the corporate clergy, in order not to be supplanted, are obliged to maintain themselves by the same painful expedients. Instead of pleasure enjoyed in all its shapes, and credit derived from the display of it, they must practise all the appearances, and, for the sake of the appearance, much of the reality, of its renunciation.

It thus appears, that almost every thing which is alluring to the mind of man, in actual power and pleasure, every thing which is dreadful to it in weakness, privation, and pain, urge and impel a corporate clergy to labour for the extinction of rivals.

How steadily they have obeyed this impulse, their history declares. Of their expedients for the accomplishment of their object, the first and most conspicuous is, their application to the magistrate for the powers of persecution.

It is not required for the present purpose that we should exhibit the persuasions they applied to the magistrate,\* to bring him to believe that it was for his interest to lend to them his power for the extermination of their rivals. That would be an instructive, but a voluminous exposure. What we can here attempt is, only to exhibit evidence, first, of their eager endeavours for this unrighteous end, and secondly, of the consequences which flowed from them.

It is not probable that we shall be very importunately called upon for evidence of the persecuting endeavours of the Catholic church, through its various ages, from the time when the first Christian emperor declared himself in favour of a particular class of priests, down to the consummation of their power, first, in the extirpation of all competitors for the spiritual dominion in Christendom, and secondly, in the hold which, through that spiritual dominion, they obtained over every other power, wielding at pleasure the arms and the wealth of almost every Christian community. What we shall adduce will be such hints merely as are calculated to awaken the recollection of our readers.

No time was lost. The first sovereign who protected the Christians was scarcely seated on his throne, when a fiery contest arose between the clergy of the Arian and the Athanasian creeds, for the possession of his ear. The Council of Nice, a memorable event, was summoned to determine the point, in other words, to satisfy the sovereign fully, which party, by its numbers and powers, it was most for his interest to join. The question was doubtful, and the

balance for some time wavered. When the decision at last was made, and the Athanasian clergy became a distinguished body, with the power of government engaged for their support, what were the consequences? Even the cold narrative of Mosheim conveys a pungent sense of the zeal with which they proceeded to deliver themselves from all competition, in obtaining influence over the human mind; their rage to establish a monopoly of spiritual dominion; to accomplish the extermination of rivals. Persecution flamed; blood was spilt; the non-conforming clergy, that is, non-conforming to the will of the leading divines, who now shared in the powers of government, were forbidden to teach: as often as they hazarded disobedience, they were thrown into prison, and subjected to other cruelties, not stopping short even of death.

And above all things, great pains were taken to destroy their books.

This was a capital point. Books were the most dangerous, and of course the most hated enemies, of a monopolizing clergy. No truths, not for their advantage; no exposure of lies which were; therefore no books but their own.

Their strong and persevering purpose proved fatally effectual to its end. Of all the sects of Christians which appeared in the early centuries, the books, which are known to have been exceedingly numerous, were so completely extirpated, that a vestige of them scarcely remains; and it is with difficulty that a few scattered evidences can be collected of what those early and persecuted sects of Christians either believed or practised.

Not only was all evidence of what they really were almost wholly obliterated, but their memory has been handed down to execration, by general accusations of the most disgusting vices, and the most atrocious crimes. Nor was it till the era of the Reformation, that some enlightened Protestants, beginning to ask what evidence was afforded of these imputed atrocities, disgraceful not only to professing Christians, but to human nature itself, discovered, to their infinite surprise, that there was no such thing: that of the little we really know of the ancient heretics, almost every thing goes to the disproof of the horrid accusations transmitted by the orthodox clergy, and tends to show, that both morality and learning were at a higher pitch among the heretics than among their exterminating enemies.

Of the tendency, of the frame and bent, of the clerical mind, the word heretic involves evidence which reaches not the head only, but the heart. The early church used the Grecian language, and the word heresy is Greek. Exactly, correctly, literally, it signifies choice. The crime of heresy, was the crime of making a choice!

There was the consummation of the clerical dominion! When it became execrable to make, and he became execrated who did make, a choice, that is, when the clergy might choose whatever other people were to choose, their power was thenceforward limited only by their will.

How their will operated, those of our readers who are the least acquainted with history, cannot stand in need of our information.

Not only did they give and take away crowns; they boldly assumed that no crown could be righteously held, except at their discretion.

They subjected all Christendom to an enormous and destructive taxation for their own benefit; having succeeded in the audacious attempt to persuade the magistrate, that because the Jewish tribe of Levi, which had no share in the holy land, had a tenth of its produce, the Christian clergy should have a tenth of the produce of the land of Christendom; that is, as every man must eat his corn a tenth dearer, one tenth part, for their use, of every man's labour in Christendom.

Nor was this extravagant exaction the only source to them of inordinate wealth. They levied taxes to a great amount in other forms, and persuaded magistrates and others to bestow upon them gifts, till a great proportion of the land in every country in Christendom, in some a half, in few less than a third, was in ecclesiastical hands.

The most profound and successful of all the advocates of Christianity against the modern objectors, the venerable and virtuous Campbell, introducing his account of what he calls "the third grand expedient of the church, for securing the implicit obedience of her votaries, persecution," dates its commencement from the day and hour when "Constantine embraced the faith, and gave the Church a sort of political establishment in the empire;" and he adds the following important reflections:—

"From the apologies of the fathers before that period, (so the defences of our religion written by them are named) it is evident, that they universally considered persecution for any opinions, whether true or false, as the height of injustice and oppression. Nothing can be juster than the sentiment of Tertullian, which was, indeed, as far as appears, the sentiment of all the fathers of the first three centuries. 'Non religionis est cogere religionem, quæ sponte suscipi debeat, non vi.' And to the same purpose Lactantius, 'Quis impotat mihi necessitatem vel colendi quod nolim, vel quod velim non colendi? Quid jam nobis ulterius relinquatur, si etiam hoc, quod voluntate fieri oportet, libido extorqueat aliena?' Again, 'Non

est opus vi et injuria; quia religio cogi non potest, verbis potius quam verberibus res agenda est, ut sit voluntas.' Once more, 'Longe diversa sunt carnificina et pietas, nec potest aut veritas cum vi, aut justitia cum crudelitate, conjungi.' Their notions in those days, in regard to civil government, seem also to have been much more correct than they became soon after. For all Christians, in the ages of the martyrs, appear to have agreed in this, that the magistrate's only object ought to be the peace and temporal prosperity of the commonwealth.

But (such alas! is the depravity of human nature) when the church was put on a different footing, men began, not all at once, but gradually, to change their system in regard to those articles, and seemed strongly inclined to think, that there was no injustice in retaliating upon their enemies, by employing those unhallowed weapons in defence of the true religion, which had been so cruelly employed in support of a false: not considering, that by this dangerous position, that one may justly persecute in support of the truth, the right of persecuting for any opinions will be effectually secured to him who holds them, provided he have the power. For what is every man's immediate standard of orthodoxy but his own opinions? And if he have a right to persecute in support of them, because of the ineffable importance of sound opinions to our eternal happiness, it must be even his duty to do it when he can. For if that interest, the interest of the soul and eternity, come at all within the magistrate's province, it is unquestionably the most important part of it. Now, as it is impossible he can have any other immediate directory, in regard to what is orthodox, but his own opinions, and as the opinions of different men are totally different, it will be incumbent, by the strongest of all obligations, on one magistrate to persecute in support of a faith, which it is equally incumbent on another by persecution to destroy. Should ye object, that the standard is not any thing so fleeting as opinion: it is the word of God, and right reason. This, if ye attend to it, will bring you back to the very same point which ye seek to avoid. The dictates both of scripture and of reason, we see but too plainly, are differently interpreted by different persons, of whose sincerity we have no ground to doubt. Now to every individual, that only amongst all the varieties of sentiments can be his rule, which to the best of his judgment, that is, in his opinion, is the import of either. Nor is there a possibility of avoiding this recurrence at last. But such is the intoxication of power, that men, blinded by it, will not allow themselves to look forward to those dreadful consequences. And such is the presumption of vain man (of which bad quality the weakest judgments have commonly the greatest share) that it is with difficulty any one person can be brought to think, that any other person has, or can have, as strong conviction of a different set of opinions, as he has of his."\* —Vol. ii. pp. 287-289.

This excellent writer then goes on to trace the progress of the evil.

“I proceed to show the advances which, from time to time, were made, till that system of persecution which, in a great part of the world, still obtains, was brought to maturity and established. For ages after the opinion first took place among Christians, that it was the magistrate’s duty to restrain heretics by the infliction of civil penalties, they retained so much moderation, as not to think that the punishment could justly extend to death, or mutilation, or even to the effusion of blood. But now that the empire was become Christian, there gradually arose in it diverse laws against this new crime *heresy*, which are still extant in the codes of Theodosian and Justinian, imposing on the delinquents fines, banishments, or confiscations, according to the circumstances, and supposed degree, of the delinquency. All that regarded the execution of those laws, the trial as well as the sentence, devolved on the magistrate. Only the nature of the crime, what was heresy or schism, was determined by the ecclesiastical judge. One step in an evil course naturally leads to another. The first step was made when civil penalties were denounced against particular opinions and modes of thinking. This may be considered as the first stage of the doctrine and practice of intolerance in the Christian church. Nor could anything be more explicitly, or more universally, condemned than this has been, by the fathers of the first three centuries, and several of the fourth. *Humani juris et naturalis potestatis est*, said Tertullian, in the beginning of the third century, *unicuique quod putaverit colere*; and Hilary of Poitiers, in the fourth, in opposition to those who favoured the interposition of the magistrate, *Deus cognitionem sui docuit, potius quam exegit, et operationum cælestium admiratione, præceptis suis concilians auctoritatem, coactam confitendi se aspernatus est voluntatem*. Again, *Deus universalis est, obsequio non eget necessario, non requirit coactam confessionem: non fallendus est sed promerendus, simplicitate quærendus est, confessione descendus est, charitate amandus est, timore venerandus est, voluntatis probitate retinendus est. At vero quid istud, quod sacerdotes timere Deum vinculis coguntur, pœnis jubentur? Sacerdotes carceribus continentur?* Men’s system of conduct may come, we see, to be totally reversed. But this is always the work of time. Every advance has its difficulty, and is made with hesitation. But one difficulty surmounted emboldens a man, and renders it easier for him to surmount another. That again makes way for the next, and so on till the change be total.”—Vol. ii. pp. 293-295.

While the stupidity of the middle ages was still in its perfection, the fetters of the clergy upon the human mind were easily preserved from relaxation.

“For some centuries,” says Dr. Campbell, “particularly the eighth, ninth, and tenth, remarkable for nothing so much, as the vilest superstition and grossest ignorance, and for insurrections, revolutions, and confusion, heretics and sectaries made but little noise, and were as little minded. With the revival of knowledge, even in its dawn, these also revived.”—p. 299.

“All attacks upon received doctrines must ultimately affect the power by which they are established. But when the assault is made directly on that power, the fabric of church authority is in the most imminent danger. The aim of the former is only to make a breach in the wall of the edifice, but that of the latter is an attempt to sap the foundation. As we have seen all along that the darling object of Rome is power, to which every other consideration is made to yield, we may believe that attempts of this kind would excite a more than ordinary resentment. This, in fact, was the consequence: an unusual degree of rancour in the ecclesiastics, more especially in the pontiff and his minions, mingled itself with their bigotry or mistaken zeal (for it would be unjust to impute the effect to either cause separately), and produced the many bloody, and, till then, unexampled scenes of cruelty, which ensued. The popes, by letter, frequently excited the bishops as well as princes, the bishops instigated the magistrates, by all possible means, to subdue or exterminate the enemies of the church. When the number of these enemies was so great, that it was impossible to attain this end by means of judicatories, civil or ecclesiastical, princes were enjoined, on pain of excommunication, interdict, deprivation, &c., to make war upon them, and extirpate them by fire and sword. And in order to allure, by rewards, as well as terrify by punishments, the same indulgences and privileges were bestowed on them who engaged in those holy battles, and with equal reason, as had been bestowed on the crusaders, who fought for the recovery of the holy sepulchre against the Saracens in the east.”—Vol. ii. pp. 301, 302.

As the improvement of mind advanced, the need of efforts more and more strong, to crush the freedom of thought, produced at last the greatest monster which the world ever beheld; Holy Inquisition; the natural progeny, the legitimate offspring, reared to maturity, of priestly power engendering with magisterial ignorance; a conjugal connection, usually denominated the alliance of church and state, which always produces children with a true family likeness, but has never produced another of such gigantic powers as the Holy Tribunal, of which Dr. Campbell says,

“It may not be improper to conclude our account of the origin of the Inquisition, with a few things in illustration of the spirit in which it proceeds, that every one may have it in his power to judge, whether the relation it bears to the spirit of Christ be denominated

more properly resemblance, or contrariety. It is so far from following the rules of almost all other tribunals, where any regard is shown to equity, or the rights of human nature, that, in every respect, where the ecclesiastic power has not been checked by the secular, those rules have been reversed. The account is intirely just, as far as it goes, which is given by Voltaire of the Spanish Inquisition, and he might have added, of the Portuguese, for both are on the same model. 'Their form of proceeding is an infallible way to destroy whomsoever the inquisitors please.' And let it be observed, that they have strong motives for destroying a rich culprit, as their sentence of condemnation is followed by the confiscation of all his estate, real and personal, of which two-thirds go to the church, and one-third to the state; so that it may be said, with the strictest propriety, that the judges themselves are parties, having a personal interest in the issue against the prisoner. 'The prisoners are not confronted with the accuser or informer.' Nay, they are not so much as told who it is that informs. His name is kept secret to encourage the trade of informing. And, surely, a better expedient could not have been devised for promoting this dark business, than by thus securing at once concealment and gratification, with impunity, to private malice, envy, and revenge. Further, 'there is no informer, or witness, who is not listened to. A public convict, a notorious malefactor, an infamous person, a common prostitute, a child, are, in the holy office, though no where else, creditable accusers and witnesses. Even the son may depose against his father, the wife against her husband.' The detection of the grossest prevarication in the delator and witnesses is hardly ever punished, unless with a very gentle rebuke: let it be observed, by the way, that to the profligate and abandoned they can be very gentle, for they dread above all things, to do aught that might discourage informers, spies, and witnesses. And that there may be no risk of a want of information, they have, in all parts of the kingdom, spies of all different qualities, who are denominated the familiars of the holy office, a place of which even men of high rank are sometimes ambitious, from different motives, some for the greater personal security, others because it empowers them to take a severe revenge on their enemies, and others, no doubt, because they think they do God good service. The wretched prisoner is no more made acquainted with his crime than with his accuser. His being told the one might possibly lead him to guess the other. To avoid this, he is compelled, by tedious confinement, in a noisome dungeon, where he never sees a face but the jailor's, and is not permitted the use either of books, or of pen and ink, or, when confinement does not succeed, he is compelled, by a train of the most excruciating tortures, 'to inform against himself; to divine and to confess the crime laid to his charge, of which often he is ignorant.' An effectual method to bring nine-tenths of mankind to confess any thing, true or false, which may gratify their tormentors,

and put an end to their misery. 'This procedure,' adds our historian, 'unheard of till the institution of this court, makes the whole kingdom tremble. Suspicion reigns in every breast. Friendship and openness are at an end. The brother dreads his brother, the father his son. Hence taciturnity is become the characteristic of a nation endued with all the vivacity natural to the inhabitants of a warm and fruitful climate. To this tribunal we must likewise impute that profound ignorance of sound philosophy, in which Spain lies buried, whilst Germany, England, France, and even Italy, have discovered so many truths, and enlarged the sphere of our knowledge. Never is human nature so debased, as where ignorance is armed with power.'

In regard to the extent of power given to inquisitors by papal bulls, and generally admitted by the secular authority in those countries where the inquisition is established, I shall give the few following instances out of many that might be produced. First, it is ordered, that the convicts be burnt alive, and in public; and that all they have be confiscated: all princes and rulers who refuse their concurrence in executing these and the other sentences authorized by the church, shall be brought under censure, that is, anathematized and excommunicated, their states or kingdoms laid under an interdict, &c. The house, also, in which the heretic is apprehended, must be razed to the ground, even though it be not his, but the property of a person totally unsuspected. This ferocious kind of barbarity, so utterly irreconcilable to all the principles of equity, is, nevertheless, extremely politic, as it is a powerful means of raising horror in the ignorant populace, and of increasing the awe of this tribunal, in men of all denominations, who must consider it as extremely dangerous to have the smallest connection with any person suspected of heresy, or so much as to admit him into their houses. The Inquisitors are also empowered to demand of any person whom they suspect (and, for their suspicions, they are not obliged to give a reason), that he solemnly adjure heretical opinions, and even give pecuniary security that he shall continue a good Catholic. The court of Inquisition are also privileged to have their own guards, and are authorized to give licences to others to carry arms, and to enlist crusaders. One of Paul the 4th's bulls does not allow a reprieve from the sentence to one who, on the first conviction, recants his opinion, if the heresy be in any of the five articles mentioned in that bull. But what is, if possible, still more intolerable, is, that, by a bull of Pius the 5th, no sentence in favour of the accused shall be held a final acquittal, though pronounced after canonical purgation; but the holy office shall have it in their power, though no new evidence or presumption has appeared, to re-commence the trial, on the very same grounds they had examined formerly. This ordinance ensures to the wretch, who has been once accused, a course of terror and torment for life, from



which no discovery of innocence, though clear as day, no judgment of the court can release him. Another bull of the same pontiff ordains, that whoever shall behave injuriously, or so much as threaten a notary, or other servant of the Inquisition, or a witness examined in the court, shall beside excommunication, be held guilty of high treason, be punished capitally, his goods confiscated, his children rendered infamous, and incapable of succeeding to any body by testament. Every one is subjected to the same punishment, who makes an escape out of the prison of the office, or who attempts, though unsuccessfully, to make it; and whoever favours or intercedes for any such. In these classes, persons of the highest rank, even princes, are comprehended.

Every one must be sensible, that there is something in the constitution of this tribunal so monstrously unjust, so exorbitantly cruel, that it is matter of astonishment, that in any country the people, as well as the secular powers, would not rather have encountered any danger, than have submitted to receive it. Nor can there be a stronger evidence of the brutish ignorance, as well as gross depravity of any nation, than that such a judicatory has an establishment among them.”—Vol. ii. pp. 312-318.

These are specimens (for specimens are all which we can afford to present) of the evidence with which history teems, of the persecuting spirit of the first great incorporation of priests. The priestly incorporation called the Church of England stands next in power; and, as a natural consequence, next, also, in the ranks of persecution.

It is highly instructive to observe the circumstances, in which the English corporation of priests made their efforts to secure to themselves the monopoly of priestly influence on the minds of their countrymen, by their grand instrument, persecution.

They had just executed a successful revolt against the monopoly of their predecessors, and to effect this object had been obliged to destroy the foundation on which it principally rested, the claim of infallibility. The strong arguments by which the Catholics supported this claim, affirming that the credibility of revelation itself rested upon it, they had set at nought, denying that it was ever promised to his church by the Author of our religion, or that any man or set of men had ever given, or could give, satisfactory evidence of possessing it. They inferred, accordingly, that they had a right to impute error to the Catholic church, when they saw reason to do so, and to separate from her communion, when they deemed it unsafe to abide in it.

It is astonishing how completely, and immediately, they lost sight, or lost regard, of the inevitable conclusion, that, if they had a right, on the inference of error, to separate from the Church of Rome, others had as good a right, on the same inference, to separate from them.

The formula of words, made use of by the two parties, to give colour to their proceedings, was different, the proceedings themselves were essentially the same. We persecute, said the Church of Rome, because we are infallible, and know it is damnable to dissent from us.

We, said the Church of England, persecute, because that excellent order, which is called Uniformity, will be violated by dissenting from us.

The Catholics were infinitely more generous and consistent in their proceedings and arguments. We, said they, addressing themselves to the objects of their penal benevolence, know for certain that you will plunge yourself and others in eternal and inconceivable torments, unless we interpose.

What was the corresponding address of the English? We know not, they were obliged to say, we know not, at least not for certain, but you may be in the right, and we may be in the wrong: nevertheless, we think it good to bring you over to our opinion, by acting on your body, when we cannot succeed with your mind.

Allow the premises of the Catholic priest, his conclusion was indubitable, and persecution, on his part, the highest of all conceivable duties. Adhere to the premises of the English priest, and there is nothing in human conduct more atrocious than his proceedings.

What man is there, who owns human feelings, who, if he knew for certain that he could save a single fellow creature from everlasting torments, would not do so, by extinguishing the mere sublunary life, an instant, not of one man only, or a few, but of millions, nay of the whole human race? And how cheap would be the purchase!

From the doctrine on the other hand of the English priests; that no man is infallible, and hence that when two men equally sincere in their intentions, and perfect in their understandings, come to opposite conclusions, it is just as likely that one is right as the other, and certain that if one of them comes over to the opinion of the other, wrought upon by hopes and fears, pains and pleasures, or by any thing but the clear perception of evidence, he acts dishonestly and wickedly; it follows, that the English priests, in

applying their pains and pleasures, hopes and fears, incur a double condemnation; first, in suborning this dishonesty; secondly, in risking the salvation of a fellow creature, who may himself have the saving belief, when they seduce him into damning error.

As the inconsistency and atrocity are glaring of persecuting any man for opinions without the gift of infallibility, the church of England has virtually assumed that she is infallible; disclaiming the assumption, as far as mere words go, but in ideas really and effectually maintaining it.

This was wittily expressed by a certain author, sir Richard Steele, if we mistake not, who said that the difference between the church of England and the church of Rome was this: The church of Rome *could* not be in the wrong; the church of England never *was*. The church of England is like the man of whom Erasmus jocosely said, that though not the pope, he had a pope in his belly.

It would require many more than our number of pages, to give the history, even in abridgment, of the persecutions done by the priestly incorporation in England. The whole of the five volumes of Neal is but an imperfect record of them. We must content ourselves with selecting a few things as specimens.

Hardly was the authority of the church of Rome renounced, and a new order of things recognised in England, when diversity of opinion began to be felt, and consequent uneasiness manifested itself among the leaders of the clergy. The growth of opinions odious to those leaders was accelerated by the return of the sufferers, who driven into exile by the persecutions of Mary, had resorted to Geneva and the Protestant parts of France, and drunk in the doctrines of a Presbyterian or Republican form of church government among the zealous and comparatively learned and accomplished Reformists of those parts of the continent.

It was not long before the desultory efforts of the clergy for crushing this spirit were embodied in a grand organ, of which we are happy that it is not necessary for us to give the description in our own words. But we entreat our readers to bestow upon it a sufficient portion of their attention; and to estimate coolly the weight of evidence which it involves.

Upon the death of Grindal, in 1583, the queen named to the primacy, Whitgift, a "zealous churchman," says Hume, "who had already signalized his pen in controversy, and who, having in vain attempted to convince the puritans by argument, was now resolved to open their eyes by power, and by the execution of penal statutes. He informed the queen that all the spiritual authority lodged in the

prelates was insignificant without the sanction of the crown; and as there was no ecclesiastical commission at that time in force, he engaged her to issue a new one, more arbitrary than any of the former, and conveying more unlimited authority. The jurisdiction of the court extended over the whole kingdom, and over all orders of men; and every circumstance of its authority, and all its methods of proceeding, were contrary to the clearest principles of law and natural equity. The commissioners were empowered to visit and reform all errors, heresies, schisms, in a word, to regulate all opinions, as well as to punish all breach of uniformity in the exercise of public worship. They were directed to make inquiry, not only by the legal methods of juries and witnesses, but by all other means and ways which they could devise; that is, by the rack, by torture, by inquisition, by imprisonment. Where they found reason to suspect any person, they might administer to him an oath, called *ex-officio*, by which he was bound to answer all questions, and might thereby be obliged to accuse himself or his most intimate friend. The fines which they levied were discretionary, and often occasioned the total ruin of the offender, contrary to the established laws of the kingdom. The imprisonment to which they condemned any delinquent was limited by no rule but their own pleasure. They assumed a power of imposing on the clergy what new articles of subscription, and consequently of faith, they thought proper. Though all other spiritual courts were subject, since the Reformation, to exhibitions from the supreme courts of law, the ecclesiastical commissioners were exempted from that legal jurisdiction, and were liable to no control. And the more to enlarge their authority, they were empowered to punish all incests, adulteries, fornications; all outrages, misbehaviours, and disorders in marriage. And the punishments which they might inflict, were according to their wisdom, conscience, and discretion. In a word, this court was a real *inquisition*; attended with all the iniquities, as well as cruelties, inseparable from that tribunal.\* ”

This must suffice, and well it may, as evidence of the passion for persecution which at that time distinguished the clergy. For their proceedings in detail we must refer to the proper authorities: to Neal, and the historians of the several sects; for in the general histories of England a most imperfect view of this interesting part of our story is to be obtained. It is well known that, in spite of all the persecution which could be applied, the spirit of the nation continued to rise, and rise the faster in consequence of that persecution, till the appearance of Laud. Of that man we have recently had occasion to speak. He is a prolific source of evidence, not only of the spirit of the clergy in his own age; but, selected as he has been, for the standard of a churchman to the present hour, of the spirit of the clergy in every succeeding age.

That he was a relentless persecutor, is saying little. With such an impetuous rage of persecution was he driven, that, undeterred by all that opposition which public opinion now obviously presented to him, he went on, recklessly, to raise the storm, in which the church and the monarchy were both levelled with the ground.

At the restoration of the monarchy (of the intermediate period it is not necessary for us to speak), the church was also restored; and with it, the spirit of persecution in its pristine vigour. To ensure the extinction of rivals the Act of Uniformity, that is, an act for the persecution of all dissenters from the established church, was passed in 1662.

“This act,” says Hume, “reinstated the church in the same condition in which it stood at the commencement of the civil wars.”\* What that condition was, in regard to powers and desires of persecution, the account just recited, of the Commission court, sufficiently testifies. “And,” continues Hume, “as the old persecuting laws of Elizabeth still subsisted in their full rigour, and new clauses of a like nature were now enacted, all the king’s promises of toleration, and of indulgence to tender consciences were thereby eluded and broken.” The following great historical fact is remarkable. “However,” adds the historian, “it is agreed that the king did not voluntarily concur with this violent measure, and that the zeal of Clarendon and of the church party among the commons, seconded by the intrigues of the Catholics, was the chief cause which extorted his consent.” Hume says, that the Catholics seconded the persecuting views of the church, because their hopes rested upon the wideness of the breach between the contending parties.

Even the Act of Uniformity did not satisfy the avidity of the clergy for means of extinguishing rivals. Two years afterwards, “it was enacted, that wherever five persons above those of the same household should assemble in a religious congregation, every one of them was liable, for the first offence, to be imprisoned three months, or pay five pounds; for the second, to be imprisoned six months, or pay ten pounds; and for the third, to be transported seven years, or pay a hundred pounds.”†

The most remarkable transactions of the reigns of the last two of the Stuarts were the persecutions, hardly surpassed for savage barbarity by any with which the page of history is stained, carried on for the establishment of episcopacy in Scotland. We have so recently had occasion to dwell upon these transactions, in our review both of Brodie’s History, and of Southey’s Book of the Church, that the evidence thence afforded of the persecuting spirit

of the church of England, must be fresh in the recollection of our readers.

It is only further necessary, therefore, that we should shew by sufficient samples the spirit manifested by the priestly corporation in England since the epoch of the Revolution.

At the time of the Revolution a new order of things commenced. Not only was the government placed on a new foundation, but the sentiments of the nation assumed a new character. From that day the people regarded themselves as the arbiters of their own destiny. From that day they considered the institutions of the country, civil and ecclesiastical, as made for them, and not them for the institutions. From that day the right of thinking, and of delivering their thoughts, both respecting government, and respecting religion, they assumed as their own; and spurned the advocates of slavery, who would rob them of that invaluable possession.

This spirit was nourished by the new government; which, being assailed, by the adherents of the old, with all the arguments which the obligation of being obedient to established power, solely because established, could by zeal and ingenuity be worked into, was under the necessity of defending itself by arguments drawn from the propriety of revolting against established power, whensoever an evil or the producer of evil, and from the concomitant and inseparable propriety of the people's deciding for themselves on the goodness or badness of every institution. This was the only solid ground on which the new government could be defended against the advocates of the old. And fortunate was the necessity which put such doctrines in circulation with all the influence of government to secure their diffusion and acceptance. Hence the sober and manly writings of Locke on the subject of government, laying the will and approbation of the people as its only legitimate foundation. And with the writings of Locke, those of many other eminent authors in a similar strain.

In such a state of the public mind, and such a state of the government, the disposition of the clergy to strive for the monopoly of the religious influence was obliged to manifest itself with great caution. In such circumstances the faintest indications are as valid proofs of the disposition, as the strongest displays when the power was all in their hands.

Our time will not admit of our ransacking the subsequent history to select the best illustrations. We must set down such particulars as a general recollection can supply.

The first great incident, as respects this subject, is the Act of Toleration. It is well known how imperfect, as an instrument for securing religious liberty, the Act of Toleration was; and how much it was necessary to pare the bill down for the purpose of gaining so many of the more moderate churchmen as to afford it a chance of passing. Yet Burnett informs us that on account of the share he had in forwarding this mutilated, this imperfect, this cramped, and mis-named liberty of conscience, he lost the confidence, and incurred the hatred of the church.

The last volumes of Burnett's history, from the accession of William and Mary downwards, afford most remarkable evidence of the persecuting propensities of the English church. We recommend these volumes to the attentive perusal of our readers, as abounding with the most important information which is to be found in any part of our history. The different fortunes of the histories of their own times by Clarendon and Burnett, are a curious proof of the power which the clergy have hitherto possessed of misleading the public mind, and spreading false opinions favourable to themselves. The narrative of Burnett lets out many facts which tell against the clergy. That of Clarendon discloses none which it can conceal, and none without as thick a varnish, to hide their real complexion, as it is in his power to lay on. Burnett's is the superior production in every respect; in fidelity, in knowledge, in judgment, nay even in style. Yet admiration of Clarendon, with contempt of Burnett, was a fashion which the clergy contrived to set, and which up to this hour they have successfully maintained.

There are few men to whom this country is more indebted than to bishop Burnett. To him, perhaps, more than to any other man, it is owing, that the church party did not overwhelm the government of William and Mary (they were very near accomplishing it); when either a return to the preceding slavery of the nation, or a civil war, would have been the inevitable consequence. Fortunately the crown had the nomination of bishops; fortunately a sufficient number of vacancies took place, to give the crown a majority in the upper house of Convocation; and fortunately bishop Burnett was the most active, the most able, and the most eloquent man both in that house, and in the house of Peers; where, greatly by his means, the influence of the court still maintained an ascendancy, while that of the clergy carried every thing before it, in the lower house both of Convocation and Parliament.

We shall now exhibit some specimens of the evidence which the volumes of Burnett afford.

So early as the year 1689, the very year in which the Act of Toleration passed, he says, "The clergy began now to shew an

implacable hatred to the nonconformists, and seemed to wish for an occasion to renew old severities against them. But wise and good men did very much applaud the quieting the nation by the toleration. It seemed to be suitable, both to the spirit of the Christian religion, and to the interest of the nation. It was thought very unreasonable, that, while we were complaining of the cruelty of the church of Rome, we should fall into such practices among ourselves; chiefly, while we were engaging in a war, in the progress of which we would need the united strength of the whole nation.

“This bill gave the king great content. He in his own opinion always thought, that conscience was God’s province, and that it ought not to be imposed upon: and his experience in Holland made him look on toleration as one of the wisest measures of government. He was much troubled to see so much ill humour spreading among the clergy, and by their means over a great part of the nation. He was so true to his principle herein, that he restrained the heat of some, who were proposing severe acts against papists.”—Vol. iv. p. 21.

Take another, a similar specimen in 1698:—“All this while it was manifest, that there were two different parties among the clergy; one was firm and faithful to the present government, and served it with zeal; these did not envy the dissenters the ease that the toleration gave them; they wished for a favourable opportunity of making such alterations, in some few rites and ceremonies, as might bring into the church those who were not at too great a distance from it; and I do freely own that I was of this number. Others took the oaths, indeed, and concurred in every act of compliance with the government, but they were not only cold in serving it, but were always blaming the administration, and aggravating misfortunes; they expressed a great esteem for Jacobites, and in all elections gave their votes to those who leaned that way; at the same time, they shewed great resentments against the dissenters, and were enemies to the toleration, and seemed resolved never to consent to any alteration in their favour. *The bulk of the clergy ran this way, so that the moderate party was far out numbered.* Profane minds had too great advantages from this, in reflecting severely on a body of men, that took oaths, and performed public devotions, when the rest of their lives was too public and too visible a contradiction to such oaths and prayers.”—Vol. iv. p. 411.

Also in 1700:—“The toleration of all the sects among us, had made us live more quietly together of late, than could be expected, when severe laws were rigorously executed against Dissenters. No tumults or disorders had been heard of in any part of the kingdom these eleven years, since that act passed; and yet *the much greater*



*part of the clergy* studied to blow up this fire again, which seemed to be now, as it were, covered over with ashes.”—Vol. iv. p. 474.

“The clergy continued to be much divided: all moderate divines were looked upon by some hot men with an ill eye, as persons who were cold and indifferent in the matters of the church: that which flowed from a gentleness, both of temper and principle, was represented as an inclination to favour dissenters, which passed among many, for a more heinous thing than leaning to popery itself. Those men, who began now to be called the high-church party, had all along expressed a coldness, if not an opposition to the present settlement. Soon after the Revolution, some great preferments had been given among them, to try if it was possible to bring them to be hearty for the government; but it appearing, that they were soured with a leaven, that had gone too deep to be wrought out, a stop was put to the courting them any more. When they saw preferments went in another channel, they set up a complaint over England of the want of convocations, that they were not allowed to sit nor act with a free liberty, to consider of the grievances of the clergy, and of the danger the church was in. This was a new pretension, never thought of since the Reformation: some books were writ to justify it, with great acrimony of style, and a strain of insolence, that was peculiar to one Atterbury, who had indeed very good parts, great learning, and was an excellent preacher, and had many extraordinary things in him; but was both ambitious and virulent out of measure; and had a singular talent in asserting paradoxes with a great air of assurance, shewing no shame when he was detected in them, though this was done in many instances; but he let all these pass, without either confessing his errors, or pretending to justify himself: he went on still venting new falsehoods in so barefaced a manner, that he seemed to have outdone the Jesuits themselves. He thought the government had so little strength or credit, that any claim against it would be well received. He attacked the supremacy of the Crown, with relation to ecclesiastical matters, which had been hitherto maintained by all our divines with great zeal. But now the hot men of the clergy did so readily entertain his notions, that in them it appeared, that those who are the most earnest in the defence of certain points, when these seem to be for them, can very nimbly change their minds upon a change of circumstances.”—Vol. iv. p. 478.

In 1701, he says,—“The *greater part of the clergy* were in no good temper; they hated the toleration, and were heavily charged with the taxes, which made them very uneasy; and this disposed them to be soon inflamed by those, who were seeking out all possible methods to disorder our affairs. They hoped to have engaged them against the supremacy, and reckoned, that in the feeble state to which the government was now brought, they might hope either to

wrest it quite from the Crown, and then it would fall into the management of the House of Commons; or if the king should proceed against them according to the statute, and sue them in a premunire, this might unite the clergy into such an opposition to the government, as would probably throw us into great convulsions. But many aspiring men among them, had no other design but to force themselves into preferment, by the opposition they made.”—Vol. v. p. 545.

In this year began the memorable contests about the bill against occasional conformity. Accordingly in this bill, which was brought into parliament by the church party, and in favour of which the clergy exerted themselves to raise the greatest ferment in the nation, it was to be enacted that, “all those who took the sacrament and test (which by the Act passed in the year 1673, was made necessary to those who held offices of trust, or were magistrates in corporations, but was only to be taken once by them) and did, after that, go to the meetings of dissenters, or any meeting for religious worship, that was not according to the Liturgy or practice of the Church of England, where five persons were present, more than the family, were disabled from holding their employments, and were to be fined in an hundred pounds, and in five pounds a day for every day, in which they continued to act in their employments, after their having been at any such meeting. They were also made incapable to hold any other employment, till after one whole year’s conformity to the church, which was to be proved at the Quarter session. Upon a relapse, the penalty and the time of incapacity were doubled; no limitation of time was put in the bill, nor of the way in which the offence was to be proved. But whereas, the Act of the Test only included the magistrates in corporations, all the inferior officers or freemen in corporations, who were found to have some interest in the elections, were now comprehended within this bill.”—Vol. v. p. 652.

The question was re-agitated in 1703. Bishop Burnett says, “I was desired to print what I said upon that occasion, which drew many virulent pamphlets upon me, but I answered none of them. I saw the Jacobites designed to raise such a flame among us, as might make it scarcely possible to carry on the war; those who went not so deep, yet designed to make a breach on the toleration by gaining this point: and I was resolved never to be silent, when that should be brought into debate: for I have long looked on liberty of conscience as one of the rights of human nature, antecedent to society, which no man could give up, because it was not in his own power; and our Saviour’s rule, of doing as we would be done by, seemed to be a very express decision to all men, who would lay the matter home to their own conscience, and judge as they would willingly be judged by others.

“The clergy over England, who were generally inflamed with this matter, could hardly forgive the queen and the prince the coldness that they expressed on this occasion: the lord Godolphin did so positively declare, that he thought the bill unseasonable, and that he had done all he could to hinder its being brought in, that though he voted to give the bill a second reading, that did not reconcile the party to him. They set up the earl of Rochester as the only man to be depended on, who deserved to be the chief minister.”—Vol. v. p. 719.

The following is a remarkable passage:—“With this the session of parliament was brought to a quiet conclusion, after much heat and a great deal of contention between the two Houses. The queen, as she thanked them for the supplies, so she again recommended union and moderation to them. These words, which had hitherto carried so good a sound, that all sides pretended to them, were now become so odious to violent men, that even in sermons, chiefly at Oxford, they were arraigned as importing somewhat that was unkind to the church, and that favoured the dissenters. The House of Commons had, during this session, lost much of their reputation, not only with fair and impartial judges, but even with those who were most inclined to favour them. It is true, the body of the freeholders began to be uneasy under the taxes, and to cry out for a peace: and most of the capital gentry of England, who had the most to lose, seemed to be ill turned, and not to apprehend the dangers we were in, if we should fall under the power of France, and into the hands of the pretended prince of Wales; or else they were so fatally blinded, as not to see that these must be the consequences of those measures, into which they were engaged.

“The universities, Oxford especially, have been very unhappily successful in corrupting the principles of those who were sent to be bred among them; so that few of them escaped the taint of it, and the generality of the clergy were not only ill-principled but ill-tempered. They exclaimed against all moderation as endangering the church, though it is visible that the church is in no sort of danger, from either the numbers or the interest that the dissenters have among us, who by reason of the toleration are now so quieted, that nothing can keep up any heat in those matters, but the folly and bad humour that the clergy are possessed with, and which they infuse into all those with whom they have credit. But at the same time, though the great and visible danger that hangs over us is from popery, which a miscarriage in the present war must let in upon us, with an inundation not to be either resisted or recovered, they seem to be blind on that side, and to apprehend and fear nothing from that quarter.”—Vol. v. p. 752-54.

The following is a slight instance, but yielding evidence which is not so.

In 1709 an act passed, "which" says the bishop "was much desired, and had been often attempted, but had been laid aside in so many former parliaments, that there was scarce any hopes left to encourage a new attempt. It was for naturalizing all foreign Protestants, upon their taking the oaths to the government, and their receiving the sacrament in any Protestant church. Those who were against the act, soon perceived that they could have no strength, if they should set themselves directly to oppose it; so they studied to limit strangers in the receiving the sacrament to the way of the church of England. . . . . It was thought best to cast the door as wide open as possible for encouraging of strangers. . . . . But all those who appeared for this large and comprehensive way, were reproached for their coldness and indifference in the concerns of the church; and in that I had a large share; as I spoke copiously for it when it was brought up to the Lords."

Something not less instructive than this passage is the comment of Swift upon the last sentence. It consists of the word "Dog." We shall add the words which immediately follow in the same paragraph. "The bishop of Chester spoke as zealously against it, for he seemed resolved to distinguish himself as a zealot for that which was called high church."

Burnett speaking of the clerical proceedings in the same year, (1709), and the hopes begun to be founded upon the sentiments of the queen, says, "Indeed it was but too visible, that the much greater part of the clergy were in a very ill temper, and under very bad influences; enemies to the toleration, and soured against the dissenters."

It is well known in what manner the feeble and disjointed ministry, maintained by queen Anne at the close of her reign, were dependent upon the church, and tools in its hands. It is also well known what measures were in progress, and would have been successful, but for the premature death of the queen and the insane squabbles among her ministers, for the restoration of the Pretender, and the barter of the liberties of England, for privileges, *alias* persecuting powers, to the church.

One of the last acts of her reign was passing the bill to prevent the growth of schism, *i. e.* to persecute infringers of the monopoly. And the very day of her death was the day on which the act was to come into operation. In consequence of her death, it never came into operation, and for this and for many other reasons, the death of that weak, misguided woman, whom the duchess of Marlborough

characterized as “a praying, godly idiot,” was one of the events at which Englishmen have the greatest reason to rejoice.

If the progress of the public mind towards that strength, which was necessary to enable it successfully to assert for itself the right of thinking freely and freely uttering its thoughts on matters of religion, was promoted by the revolutionary government of William and Mary, it was still further advanced by the accession of the House of Hanover, whose stability on the throne of England could solely rest on the prevalence of those opinions by which the pretensions of the Stuarts and of the church were exploded.

Sir Robert Walpole, who had been defamed and persecuted by the church party, wielded the powers of government so long, and so long repressed the efforts of the church, that a mode of thinking utterly inconsistent with the claims of a monopoly of the religious influence, became habitual in the nation; and churchmen themselves could perceive that they had more to lose than to gain by contending against it. The same spirit has been constantly, of late rapidly, gaining strength; and the disposition of the church has been obliged to manifest itself chiefly in one way; in grasping vehemently the portion of monopolizing, or persecuting power which she had left, and resisting with the most vehement outcries, with scratching and kicking, every attempt to wrest an atom of it out of her hands. It is, however, not worth while to illustrate at much length proceedings, of little importance, except as evidence of the spirit from which they proceed; and it is the less needful as a few instances will revive the recollection of others in the minds of all who are but moderately acquainted with our recent history.

One case, which includes the most of what we think it necessary to allude to, is the case of the Test and Corporation acts. The history of these laws is pregnant with evidence. It proves the fact not only of an eager retention of monopolizing, in this case, persecuting power, but of the lowness and meanness of the spirit, with which it is clung to, and held with a convulsive grasp, by the church of England.

The object of the Test and Corporation acts, speaking generally, is to prevent every body, except a member of the church of England, from holding office in the government or any corporation, by rendering communion with the church of England a necessary qualification. That is to say; when it became impossible, from the improving spirit of the age, to preserve in being the law which went to drive out of their country all persons not of the church, those laws were eagerly retained which go to exclude them from all places of influence, and to secure, by the allurements of power, all they can secure of a monopoly to the church. Against even these

laws the spirit of the age has risen so triumphant, that the government neither dares nor wills to put them in execution; and an annual act of indemnity passes, as a matter of course, to exempt all men from the effects of breaking them. They exist, therefore, to no purpose, but that of making an odious and mischievous distinction, and affording the means of many petty vexations, which gratify the spirit of persecution, though it attains none of its objects. Yet, and the fact is unspeakably instructive, no attempt has ever been made, and it has often and perseveringly been made, to purge our legislation of this feculent matter, but it has been met on the part of the church with all the opposition which their remaining influence on the minds of the community, exerted in every possible way, and in shapes the most odious, enabled them to raise.

We need not dwell on the evidence afforded by the no-popery cry, and the majorities in parliament, especially the upper House, against Catholic Emancipation. We need not quote the sermons, and more especially the charges, from the pens of the highest dignitaries in the church, enforcing the sinfulness of schism, that is, the sinfulness of following one's own convictions in matters of religion whenever they are not accordant with those which churchmen profess.

But the mention of the word schism brings to our recollection a passage of the celebrated work of Blackstone, which deserves attention. The evidence of the disposition of the church of England afforded by Blackstone, is of the greatest importance. Blackstone's Commentaries on the Laws of England, were originally delivered as a course of lectures at the head quarters of church orthodoxy, the University of Oxford. Blackstone looked to his popularity in the university, and his interest with the church, for the promotion which was the grand object of his life. The sentiments of the clergy were therefore carefully transplanted into his pages.

The reader will take notice, that in the following passages we quote from the first edition of Blackstone. Finding that the spirit of the age would not bear what the spirit of the clergy had suggested, Blackstone materially altered his phraseology in the succeeding impressions of his work.

Speaking of the statute, 1st Elizabeth, c. 1, he says [vol. iv. 49], "Thus was heresy reduced to a greater certainty than before; though it might not have been the worse to have defined it in terms still more precise and particular." *Might not have been the worse*, is the phrase by which, when a choice is given between two things, we denote that the one, if better at all, is but little better than the other. "It might not have been the worse," says Blackstone, "to have defined heresy in terms still more precise and particular, as a

man still continued liable to be burnt, for what, perhaps, he did not understand to be heresy, till the ecclesiastical judge so interpreted the words of the canonical scripture." *It might not have been the worse*, to have prevented men from being so burned. This was cool, in the year 1769. *Quære*: How far would those, who would just stop short of burning men for what they could not know to be heresy, go, for the punishment of those who should incur heresy, after being fully instructed what it was?

The writ *de heretico comburendo* was abolished by the statute 29, Car. ii. c. 9. Upon this the Oxford commentator takes occasion to make a memorable declaration. "In this reign, our minds were delivered from the tyranny of superstitious bigotry, by demolishing this last badge of persecution in the English law." [ib.] All the powers which remained, and not only remained, but were often inhumanly exercised, of tormenting those who did not worship and profess to believe after the model of the church of England, are, in the opinion of this mouth-piece of the clergy, not to be called persecution. We see therefore what he means. Any powers of tormenting which the church of England possesses not, or despairs of getting, may be called persecuting powers. Whatever powers she possesses, and whatever use she makes of them, are always to be spoken of as good. He goes on;

"Every thing is now as it should be, unless"—what?—"unless, *perhaps*, that heresy ought to be more strictly defined, and no prosecution permitted, till the tenets in question are by proper authority previously declared to be heretical. Under these restrictions" (viz. of defining the offence), "it seems necessary for the support of the national religion, that the officers of the church should have power to censure heretics, but not to exterminate or destroy them." Observe, that the word *censure* here is fraudulent. It means, punishment through that *prosecution* spoken of in the preceding clause; *punishment* confined and limited only by the words which follow, *not to exterminate or destroy*. What is here claimed, therefore, as *necessary for the support of the national religion* is, the power of punishing for diversity of opinion or worship, to any extent short of extermination and destruction. That this is insinuated, not plainly declared, does not diminish the weight of the evidence. The art of the rhetorician mainly consists in doing that by insinuation, which cannot be done so well by direct speaking.

"Another species of offences against religion, are those which affect the established church; and these are either positive or negative. Positive, as by reviling its ordinances; or negative, by non-conformity to its worship."—Ib.

Observe, that non-conformity, bare non-conformity to the church of England's modes of worship, is treated of under the style and character of an *offence*, an act penally culpable. This is enough, admit this, and every thing follows.

Next, observe, that the word *revile* is here deceptive and fraudulent. It is a word which insinuates, what the author wished to be believed, but thought there might be inconvenience in affirming it. *Reviling* is a thing to be condemned; it is a word which means not merely censure, but bad, wicked censure. It is censure either wholly undeserved, or far beyond the demerits, and for an improper purpose. But is it only censure thus undeserved, and with this ill intention, which the author means here to denote? Quite the contrary. It is the endeavour in any mode to show that the creed, the forms, the powers of the church of England are either wrong in point of reason, or mischievous in point of practice. All this he knavishly denominates reviling; and thus prepares for punishment by putting on it the livery of crime!

He goes on as follows:—

“And, first, of the offence of reviling the ordinances of the church. This is a crime” (mark the word, ‘a crime’), “of a much grosser nature than the other of mere non-conformity, since it carries with it the utmost indecency, arrogance, and ingratitude. Indecency, by setting up private judgment in opposition to public; arrogance, by treating with contempt and rudeness, what has at least a better chance to be right than the singular notions of any particular man; and ingratitude, by denying that indulgence and liberty of conscience to the members of the national church, which the retainers to every petty conventicle enjoy.”—Ib. 50.

Here is reviling in abundance, and of the genuine kind, not one of its abominable ingredients omitted, and all in the highest state of concentration. This is one of the most shameful passages in any book of authority in the English language, and speaks a severe condemnation of the people by whom it could be endured.

What is it, what is the malignant thing, upon which all this abuse is lavished; which is a crime, a crime of peculiar grossness, which *carries with it* (an affected phrase, meaning that it includes) the utmost indecency, arrogance, and ingratitude? The sacred right of private judgment! This it is, which is thus to be blackened, in order that it may be punished, as often as its exercise, at least in freedom of speech, *carries with it* diversity from the church of England, diversity, at any rate, upon all the points which said church is pleased to call important.



The exercise of private judgment is a crime of peculiar grossness; first, because it is "indecent." And it is indecent, because "it sets up private judgment in opposition to public." Why, this is simply to have private judgment. The very existence of private judgment is thus to be a crime. For a man to exercise private judgment for no purpose but to agree, right or wrong, with some other party, is to exercise no judgment at all. The total want of judgment not only suffices, but answers best for that end. Is not this a pretension, on the part of a priestly corporation, of some extent? Is any thing needed, in addition to this, to render their dominion absolute over the minds and bodies of men?

Observe that the phrase, here too made use of, is deceptive and fraudulent. To set any thing up against the public, means, commonly, the act of endeavouring the subversion of some public institution by criminal force. The simple and peaceable declaration of a mere diversity of opinion from the church of England on certain points, is here declared, by foul insinuation, to be a crime of this description.

The next part of the abuse heaped on the exercise of private judgment is, that it is arrogant. To make out the arrogance, a curious process is instituted. First, expressing the result of one's own acts of judgment, this, and this simply, is called contempt and rudeness. But we deny the contempt and rudeness; and next we affirm, that contempt and rudeness, even when committed, are offences against good manners, to be punished by manners, not by the penalties of law. The second part of the process, to fasten the charge of arrogance upon the right of private judgment is, that the contempt and rudeness are exercised upon "what has at least a better chance to be right, than the singular notions of any particular man." What? has it really been found that men could assert such a proposition as this, and dare to look society in the face? The singular (meaning individual, for here again we have a term which is deceptive and fraudulent) notions of *some* particular men, wherever men are allowed the free exercise of their understandings, are sure to be right, as far as the limits of the human faculties permit. But the tenets put forth by a corporation of priests, if not subject to opposition, are sure to be wrong, and wrong to the highest pitch of mischief, as being wholly directed to their own ends against the interests of mankind.

We now pass to the last portion of this attack on the right of private judgment. To exercise this right is to incur the crime of ingratitude. To make out this charge, a memorable assertion is hazarded. The act of uttering opinions opposed by the church of England, or endeavouring to show the error of opinions which she maintains, is, with the height of impudence, declared to be "denying that

indulgence and liberty of conscience, to the members of the national church, which the retainers to every petty conventicle enjoy." What? do the retainers to every petty conventicle enjoy the privilege of having their opinions and practices not spoken against? Do not "the members of the national church" exercise the privilege of speaking against "the retainers to conventicles," both "petty" and large, in pretty considerable latitude? Again, who denies "that indulgence and liberty of conscience to the members of the national church, which the retainers to every petty conventicle enjoy?" This author begins with mendacious insinuation, and, gaining courage as he proceeds, ends with direct and glaring falsehood.

We thought it of importance to exhibit a specimen of the exposure of this law scribe of the church in one passage: there are many others of like import, to which the reader may easily apply the same mode of examination for himself.

The next subject, in respect to which we are solicitous to present a correct estimate of the purposes of a corporate clergy, is the Liberty of the Press.

The aversion of the Romish church to the progress of mind needs no illustration. By every Protestant the hostility of that corporation to the liberty of the press, will be allowed to be constant and natural. We shall therefore confine ourselves to the evidence of the disposition manifested by the church of England.

Before proceeding to the items of this account, it may be well for the reader to call briefly to his recollection, what we mean, when we use the term liberty of the press. Minor points being left out of consideration, it is evident that liberty of the press is a vain sound, unless, in respect to the two subjects of primary importance, to wit, government and religion, every man has the power of publishing and maintaining any opinions which he pleases, and of making any remarks which he pleases on the opinions published by others, either as unsound in point of reason, or leading to mischievous consequences in practice.

If the law is not thus equal, but one set of men are distinguished by the privilege of publishing what they please, while other men are not allowed to publish any thing but what the men of privilege may approve, it is evident what opinions will be allowed to be heard by the people, and will always be uttered in their hearing with praise; of course opinions calculated to lodge power in the hands of those who thus possess the monopoly of opinions, and to lay the rest of the community, bound in mental chains, the most cruel and destructive of all chains, at the feet of unlimited, unchallenged,

insatiable, masters and tyrants. Such are the interests involved in the liberty of the press, and such is the instrument of human weal, against which it is the nature of a corporate priesthood to wage interminable war!

We shall not dwell upon the atrocities of the Convocation and the Star-chamber, when Laud placed in so dazzling a light the conviction of himself and brethren, that the extinction of a free press, even in the blood of its employers, was absolutely necessary for the accomplishment of their designs. This man is the idol of the church of England; has been the boasted pattern of a churchman from his own to the present day. Better evidence of the early and continued disposition of that church towards the liberty of the press can hardly be required, and the extreme importance of the subject is the only reason which could induce us to employ another word in its illustration.

When the enemies of any great instrument of human good are unable wholly to prevent its existence, they may show an equal degree of bitter enmity, and show it no less decisively, by a constant endeavour to damage the instrument, and cramp its operation, than in other circumstances by endeavouring and accomplishing its ruin.

In regard to the press, the church of England are chargeable with both enormities. As long as their utmost endeavours could accomplish the horrid purpose of preventing entirely the liberty of printing, they did prevent it; they kept the instrument in their own hands, and allowed it to be employed for none but their own purposes, or purposes allied to their own. They had influence to retain it under licence, and the licence in their own custody, till four years after the Revolution.

The spirit of free inquiry, aided by the use which was made of the licensed press, became too strong at last to submit to this restraint. But when the licence was taken off, the press was left in a condition far indeed from free. It was interdicted from all those exertions by which the extraordinary benefits it is calculated to yield are most certainly realized. Severe punishment was provided against free discussion in matters of religion and government—the two sources of the greatest evil to mankind, when allowed to be made subservient to the purposes of the few against the many, and impossible not to be so made, whensoever the press is not active and free.

We now state broadly, that all the hurtful and hateful powers, which were thus preserved, of restraining the freedom of the press, and depriving mankind of the greatest of its benefits, the clergy have, until the present hour, shown the greatest disposition to employ;

that they have employed them, as far as the spirit of the age would permit their being employed; and that every attempt to diminish them, and to give to the press any additional portion of its beneficial freedom, has found in the clergy its most strenuous and furious opponents.

We know not that on this subject we have occasion to do any thing more than refer our readers to what each of them may recollect of the prosecutions, and punishments, for libel, since the censorship was abolished, and the proceedings in parliament and out of it, on the occasion of every motion, from that to the present time, which has had the press for its object.

If any of them cast about for evidence of the disposition of the clergy towards freedom of discussion during the period in question, he cannot light on any thing more pregnant, than that memorable passage of Blackstone, on which we have already commented, respecting what he calls *reviling of the church*. Though words spoken are there also included, words printed are of course the object chiefly aimed at, because the printed words have the greatest diffusion and the greatest power. The effort, there made, to second the purposes of the church, is an effort to limit, or rather to destroy the freedom of the press, as regards religion. And the remarkable circumstances of that effort we need not again present to the minds of our readers, on which we trust they have made as deep an impression as they have on ours. To employ the press with freedom on matters of religion, is there stamped “a crime”—a “gross crime”—a crime, “which carries with it the utmost indecency, arrogance, and ingratitude;” and which should be open to any punishment, by the officers of the church, not extending to extirpation and destruction.

Having this evidence, need we be very solicitous about adding to it, by multiplying instances in detail?

William Whiston was one of the most learned men whom this country has ever produced, and a man the excellence of whose life and character will bear an advantageous comparison with that of any man of any country or of any age. The friend of the great Newton, and his successor in the mathematical chair at Cambridge, a sincere and zealous Christian, an indefatigable promoter of learning and knowledge, he contracted, unhappily for himself, a strong opinion of the unchristian spirit and tendency of the Athanasian creed; and being a man in whose mind the interests of truth far predominated over all personal considerations, he fearlessly promulgated and maintained his heresy. We cannot enter into the particulars of the persevering and merciless persecution which he underwent. Suffice it to say, that he was ruined, and

compelled for the remainder of his days to subsist mainly upon charity. Nor was high church satisfied with striking him down, till it had the pleasure of also trampling upon him when down. The scurrility of the rev. Dr. Swift, upon such a man, in such circumstances ("Wicked Will Whiston," &c.) relished, as the monuments of the times inform us it was, is an indication of a spirit which we leave to our readers to characterize.

Another remarkable case is that of Mr. Woolston, of whom the following is the account given by Whiston. "He was a fellow of Sidney College, in Cambridge. He was in his younger days a clergyman of very good reputation, a scholar, and well esteemed as a preacher, charitable to the poor, and beloved by all good men that knew him. Now it happened that after some time he most unfortunately fell into Origen's allegorical works, and poring hard upon them without communicating his studies to any body, he became so fanciful in that matter, that he thought the allegorical way of interpretation of the scriptures of the Old Testament had been unjustly neglected by the moderns, and that it might be useful for an additional proof of Christianity. Insomuch that he preached this doctrine first in the college chapel, to the great surprise of his audience, though (his intentions being known to be good, and his person beloved) no discouragement was shewed him there. \* \* \* \* His notions appeared to be so wild, that a report went about that he was under a disorder of mind; which when he heard instead of that applause he thought he had deserved by retrieving a long-forgotten argument for the truth of Christianity, he grew really disordered, and, as I have been informed, he was accordingly confined for about a quarter of a year, after which, though his notions were esteemed in part the effect of some such disorder, yet did he regain his liberty. When he found himself pretty well, as he thought, he fell a writing to great men, and to his old friends, and insisted on the truth of his notions, and pretended that the reports of his disorders arose only from the inability the learned were under to confute them. Nay, at length he wrote several pamphlets to prove that following the literal sense of the Old Testament was no better than antichristianism, though, in the mean time, he sometimes insinuated that Jesus Christ's own miracles were no other than allegorical miracles, and not real facts; and exposed those miracles, taken in the literal sense, after such a manner, and with such a mixture of wit and scoffing, as if he in earnest intended to abuse and oppose the Christian religion, which design, however, he utterly denied, and seemed to wonder that any should impute such a thing to him: and about the same time he wrote a pamphlet against some of the unbelievers which was by no means a contemptible one."

He was first deprived of his fellowship, though it seems to have been all he had for his support; “and though,” says Whiston, “I did all I could to save it for him, by writing to the college on his behalf; but the clamour ran so high against him there that no intercession could prevail for him.” See what the high running of said clamour produced next—no doubt, its legitimate consummation! “After this,” continues the same honest reporter, “the government fell upon him”—a good expression—“and had him indicted in Westminster-hall for blasphemy and profaneness, at which time I went to sir Philip York, the then attorney-general, but now lord-chancellor, and gave him an account of poor Mr. Woolston, and how he came into his allegorical notions, and told him that their common lawyers would not know what such an allegorical cause could mean, offering to come myself into the court and explain it to them in case they proceeded, but still rather desiring they would not proceed any further against him. He promised he would not proceed, unless the then secretary of state, the lord Townshend, sent him an order so to do.” The following fact lets in the necessary light upon the real movers in the business. Whiston continues, “I then went to Dr. Clarke, to persuade him to go with me to the lord Townshend, but he refused, alleging that the report would then go abroad that the king supported blasphemy.” Who would have sent abroad such a report? The appearance of another pamphlet by Woolston, exaggerating on the necessity of his allegorical view by exhibiting as strongly as in his power the absurdity, as it appeared to him, of regarding the miracles as matters of fact, so inflamed the spirit of persecution, that the proceedings against him could no longer be stayed. And the case of Woolston has formed the leading precedent for punishing, as a crime, freedom of writing on religion, from that to the present time.

We can hardly anticipate that the clergy will seek, on this occasion, to save themselves by the poor pretext, that what was done by the government was not done by them. One of the boasted uses of such a church as ours, “who lifts her mitred front in courts and palaces,” is, that she has power to obtain acts of this kind from the government; acts which she denominates services to religion, and which are services of that kind which was rendered to Jesus by his servant Peter, when he drew his sword, and cut off the ear of the servant of the high priest. If it be good to prosecute, the clergy would be inexcusable if they were not themselves the prime agents of prosecution. If it is bad, why do they not prevent it? Would the government go the length of a single act to stifle the voice of freedom in religion, were it known to be contrary to the inclinations of the church? We shall therefore proceed upon it as an undoubted fact, that all prosecutions on the score of religion are prosecutions by the church, and that the reverend the judges are on such occasions the mere mouth-pieces of the reverend the clergy.

Let us now take a slight cognition of the progeny, which the priest begets upon the judge; that monster, half cant, half grimgrubber, which the man on the bench brings forth, when he lends himself to crush the freedom of writing in matters of religion.

The King *v.* Woolston is treated by the lawyers as a leading case.\* It was moved in arrest of judgment, that the offence was not punishable in the temporal courts. But the judges declared they would not suffer this point to be argued—mark the reason—“for the Christian religion is established in this kingdom; and therefore they would not allow any books to be written which should tend to alter that establishment.” If the worship of Moloch were established, this rule would hold equally good. Truth and utility are tossed out of doors, that good lodging may be preserved for the Church. Establishment, Establishment, is the word. What it is that is established, true or false, good or evil, is wholly out of the question.

The court added, “that Christianity was part of the law; that whatever derided Christianity derided therefore the law, and was an offence against the law.” This reason is just the same as the former; it is merely a fresh form of words to say that Christianity is established, and that the mere fact of establishment is a proper ground for punishing every human being that calls in question the truth or goodness of the established matter.

We have here a case of that fraudulent use of language, of which we detected so many instances in a short passage of Blackstone, and with which the law language of England abounds, beyond all example, and all belief. “The law”, in its large and general acceptation means, the whole body of the securities provided for our persons, our properties, and all that is dear to us. The man that by derision, or any thing else, tries to destroy or weaken the force of these securities, is the greatest of criminals. “The law,” however, has another meaning. It may be any “part or parcel” of the whole body of enactments; and it may be a part and parcel which not only does not aid the general means of security, but tends with all its force to impair them. To seek to cut off this cause of infirmity or hurtfulness in the law, either by argument or ridicule, is so far from an offence against the law, in its more general acceptation, that the whole tendency of it is to strengthen and improve the law. The knavery of the lawyer, acting with its usual tool, a juggling, equivocating term, makes this admirable service, which is an attack upon “the law,” in one sense of the term, namely a peccant part, parcel, or pendicle of the law, be construed and taken for what it is not—an attempt to deprive society of the benefits of law.

Thus fraudulent and worthless is that pretext for punishing freedom of speech, which is wrapt up in the canting jargon, that

Christianity is part and parcel of the law of England. Observe too the sweeping operation of the *dictum*. If nothing which is part and parcel of the law is to be free to the press, nothing is free. In respect to other things, freedom of the press is a word without a meaning; if the press is not free, in respect to government and religion, it is not free at all. Mark well that in the destruction of religious freedom, that of all other freedom is involved.

It was urged in the defence, that the opinion expressed by Woolston neither was, nor was intended to be, an attack upon Christianity. But the court said, that "the attacking of Christianity in the way in which it was attacked in this book, was destroying the very foundation of it; and though there were professions in the book, that the design of it was to establish Christianity upon a true bottom, by considering these narratives in scripture as emblematical and prophetical, these professions were not to be credited, and the rule is, *allegatio contra factum non est admittenda*."

This deserves to be carefully marked. The question was, in which of two senses, the accounts of the miracles in the New Testament were to be received. According to Woolston the ordinary acceptation was wrong and injurious to Christianity. The court affirmed, that his was wrong, and subversive of Christianity. By what title? This was a matter of opinion, which the court took upon itself to decide by the mere word of a despot. Where had the court learned to be infallible in theology? Nor was this all. The court took upon itself to determine and declare, that the author was a liar; his professions not to be believed. Upon what evidence? We intreat you, reader, to mark the evidence. It is a curious specimen of the process by which judges can fix guilt upon any man whom it is their interest to destroy. *Allegatio contra factum non est admittenda*: "Professions are not to be admitted against the fact." What fact? Here was only one fact, namely, that of writing a certain opinion about the miracles. Woolston made no professions against that fact; he fully admitted it. He professed that he did no injury to Christianity. The court affirmed that he did; but this was matter of opinion, not fact. Here, therefore, was no *allegatio contra factum*, and the ground for the affirmation of the falsehood of Woolston being worthless, the affirmation of it by the judges was criminal in the highest degree.

Lord Raymond, Chief Justice, in delivering the opinion of the court said, "I would have it taken notice of, that we do not meddle with any differences in opinion; and that we interfere only where the very root of Christianity is struck at." This is accurate language; is it not? well calculated to let men precisely know, what they are, and are not, to be punished for. "We do not meddle with differences in



opinion." Wholly untrue. In the case of religious libels, they meddle with nothing else. The "root" of Christianity: what part of Christianity is that? And how is a man to know when he is "striking" at the "root," rather than the trunk, or some of the branches?

The proceeding here requires some development. The court, after laying down, and acting upon narrow maxims, which not merely restrict liberty but destroy it, comes out with a declaration, vague, indeed, and uncertain in its meaning, but on the face of it importing a large liberty. This, you will say, is contradictory, and highly absurd. That is true; nothing can be more so. Yet it is not here only, but in many other parts of the law, that the judges have provided themselves with maxims similarly contradictory. We have on a former occasion observed, in politics, the great use, to fraudulent purposes, of the see-saw. In judicature, there is still a greater use, for the purposes of judges, in contradictory maxims. In whatever part of the field of law the judges can lay down contradictory maxims, they are despotic, and may do what they please. Let us put a broad case for illustration. Suppose they had two maxims. 1. "It is good to punish a thief." 2. "All men who commit theft, for their own benefit, and not purely for the sake of hurt to their neighbour, may go unpunished." With these maxims, if they had them, it is evident, the judges might in every case punish, or not punish, just as they pleased. So in the case of the liberty of the press; it is good to have a set of maxims by which every thing may be punished, and also a set of maxims by which every thing may be exempted from punishment: because, then, judges may do what they please, or their employers please. Thus, it is exceedingly important to have a maxim, "Let the liberty of the press be sacred." By this every thing may be exempted from punishment. It is equally important to have another maxim, "Let the licentiousness of the press be prevented." By this every thing may be punished. It is important to have one maxim "We meddle not with differences of opinion." By this, every thing may be exempt. It is also important to have another maxim, "Christianity is part and parcel of the law of the land." By this, every atom of difference from the opinion of the church of England may be punished: thus the Athanasian creed is part and parcel of the law of the land; the thirty-nine articles are part and parcel of the law of the land, articles where all the nice and disputable points are carefully collected, and the opinions, which shall be true by ordinance of law, presented for the legal faith and conscience of all the subjects of the realm.

From the time of this prosecution, till the French revolution, which produced a state of mind highly favourable to the bent of the clergy, there was but little scope for employing the powers of law to crush freedom of printing on the subject of religion. The spirit of

the age would not bear prosecution of the dissenters, for such heresies as they indulged in; and with respect to infidelity, or opinions unfavourable to Christianity in general, the situation of the clergy was somewhat perplexing. It was chiefly men of rank, or writers of very high reputation, who questioned in their works the pretensions of Christianity; lord Shaftesbury, for instance, lord Bolingbroke, lord Chesterfield, lord Kaims, Mr. Hume, Mr. Gibbon, Adam Smith; and with a formidable enemy the clergy are commonly well inclined to avoid a dispute. It is also true that, during the fifty years which preceded the French revolution, infidelity in the higher circles was a species of fashion. Among the *beau monde* in France it was universal: and they at that time gave the tone to the leading classes in the rest of Europe. It is not a secret, how Christianity was regarded by the highest men, both in the state and the law, in England, during the time of which we are speaking.\* To excite prosecution for writing freely on the subject of religion, was attended with some hazard in these circumstances. And the fact is observable, that men, feeling themselves pretty much at liberty to declare their thoughts, made very little use of that liberty, the question appearing to be decided in the minds of those for whom almost exclusively at that time books were written; for it is since the French revolution, mostly, that the body of the people have become readers, and that men of talent have thought it an object worthy of their ambition to prepare works for their instruction.

Though the powers of law had thus dropped out of the hands of the clergy, their unabated rancour towards the liberty of the press does not the less certainly appear. Passages without end might be quoted from their sermons and other writings, in which they complain, in the bitterest terms, that such and such writings are permitted to appear, and that the writers of them are not punished; often denouncing the vengeance of God against the nation, for thus permitting his word to be denied. But we shall omit these illustrations, and proceed to what we reckon one of the most atrocious manifestations of the spirit of the clergy; we mean, their disposition to blacken the character of those who hold opinions different from theirs; to defame their morals, to make them be regarded, as first vicious, next unbelievers, and unbelievers solely in consequence of their vices. Such has been the course pursued not merely by the declaimers, those who could calumniate, though they could not reason: it has been adopted, we will say disgracefully adopted, which shews how deeply the roots of the poisonous tree have struck, by the very greatest and best men of whom the church has to boast; men of great powers and of great virtues, Berkeley for instance, Clarke, Tillotson, Barrow, and others.

Berkeley is not ashamed to set up as representative of the class of unbelievers, a minute philosopher, as he nicknames him, who formally and deliberately preaches wickedness, and denies absolutely the obligations of morality. "Lysicles. Men of narrow capacities and short sight, being able to see no further than one link in a chain of consequences, are shocked at small evils which attend upon vice. But those who can enlarge their view, and look through a long series of events, may behold happiness resulting from vice, and good springing out of evil in a thousand instances. To prove my point I shall not trouble you with authorities or far-fetched arguments, but bring you to plain matter of fact. Do but take a view of each particular vice, and trace it over its effects and consequences, and then you will clearly perceive the advantage it brings to the public." He then goes over the several vices of drunkenness, gaming, highway robbery, whoredom; and at last declares to his companion, "Thus, in our dialect, a vicious man is a man of pleasure; a sharper is one that plays the whole game; a lady is said to have an affair, a gentleman to be a gallant, a rogue in business to be one that knows the world. By this means we have no such things as sots, debauchees, whores, rogues, or the like, in the *beau monde*, who may enjoy their vices without incurring disagreeable appellations. Euphranor. Vice then is, it seems, a fine thing with an ugly name. Lysicles. Be assured it is."\*

This is vulgar defamation, mere mendacious calumny. But it is also something infinitely worse. It was well known that there were men with minds prepared to believe the odious tale, men with whom it would stand in the place of all argument; men who would be sure to consider the opinions of wicked persons, as wicked opinions; not requiring to be repelled by the arguments of the divine, but stifled by the hands of the gaoler, or hangman.

The fact is, that many of the writers unfavourable to Christianity have been men of eminent virtue, and distinguished by their ardent endeavours to strengthen the ties of morality among mankind. We mention this as a matter of history merely, without founding upon it any inference with regard to the tendency of the religious opinions, either of them or their opponents. Hobbes in this country and Bayle on the continent, not to speak of others, will stand a comparison with the best and greatest men that have ever lived; and if infidel writers, as a class, be compared with other classes, of what class, not even excepting the clerical, can it be affirmed with truth, that its character for morality stands higher than theirs? Nothing, therefore, can exceed the baseness of the clergy in taking the advantage which the prepossessions of the vulgar afford them, by assuming that it is a vicious life which engenders reasonings and conclusions unfavourable to religion. To bear down an adversary, not by refuting his bad arguments, but defaming his good life, is a

course worthy not of the best, but the worst of causes; and all sincere Christians ought to unite as one man, to clear themselves of so deep a stain.

Berkeley does not stop short till he has told the world that the employment of infidels is, to recommend even the most atrocious crimes. "An unlucky accident now and then befalls an ingenious man. The minute philosopher Magirus, being desirous to benefit the public, by circulating an estate possessed by a near relation who had not the heart to spend it, soon convinced himself upon these principles, that it would be a very worthy action to dispatch out of the way such a useless fellow, to whom he was next heir. But for this laudable attempt, he had the misfortune to be hanged by an under-bred judge and jury."

He would have forgotten a most important weapon against the infidels if he had not imputed to them political as well as moral wickedness. Their representative is thus made to boast: "We have cleared the land of all prejudices towards government or constitution, and made them fly like other phantasms before the light of reason and good sense. Men who think deeply cannot see any reason why power should not change hands as well as property; or why the fashion of a government should not be changed as easy as that of a garment. The perpetual circulating and revolving of wealth and power, no matter through what or whose hands, is that which keeps up life and spirit in a state. Those who are even slightly read in our philosophy, know that of all prejudices, the silliest is an attachment to forms. Crito. To say no more upon so clear a point, the overturning a government may be justified upon the same principles as the burning a town, would produce parallel effects, and equally contribute to the public good." And after a few sentences *Lysicles* affirms, "Laws and regulations relating to right and wrong, crimes and duties, serve to bind weak minds, and keep the vulgar in awe; but no sooner doth a true genius arise, but he breaks his way to greatness through all the trammels of duty, conscience, religion, law; to all which he sheweth himself infinitely superior."

And this is given as a true representation of the speculative opinions, and practical principles, in morals and politics, of all who question the divine origin of Christianity!

We had intended to have exhibited specimens of the same spirit of honest representation and fair dealing, on the part of other divines of the greatest eminence, but Berkeley's passages have tempted us so far, that we must now content ourselves with a reference to what we intended to insert from archbishop Tillotson, and Drs. Barrow and Clarke. In Tillotson the reader may find what will suffice for

evidence in the sermons lxxxviii. and lxxxix., intituled, "Honesty the best Preservative against dangerous Mistakes in Religion;" in sermon ccxlv. intituled, "The Excellency and Universality of the Christian Religion;" and sermon ccxlvii., intituled, "The Ground of Bad Men's Enmity to the Truth." For the same purpose we refer him, in Barrow, to the sermon "On Infidelity," towards the end, and to the second sermon "On Faith." The only specimen which we think it necessary to adduce of the same spirit in the writings of Dr. Clarke, is near the beginning of his work on "The Evidences of Natural and Revealed Religion," where, immediately following the statement of the fifteen propositions, which he undertakes to establish, he gives an account of the several sorts of Deists.

When men, not only of such powers of reasoning, but of so much true virtue and moderation, make assumptions thus groundless and malignant, they afford evidence against the body, by the spirit of which they are carried so directly against the current of their own nature, infinitely stronger than what is furnished by the railings of such a man as Warburton, who proceeds upon it as a legitimate *postulatum*, that if there be any man who holds one opinion different from any opinion of Warburton, such man is a wretch, and has no one good quality, either moral or intellectual, about him.

The following, which is a small touch of his hand, will exemplify his mode of dealing with the infidels. It is Cardan, the mention of whom produces the following decent effusion:—"The charming picture he (Cardan) draws of himself, and which he excuses no otherwise than by laying the fault on his stars, will hardly prejudice any one in favour of his opinions." Warburton, we see, knew the effect produced upon the credit of doctrines by the opinion which might be spread of the character of him who maintained them; and with this knowledge, he gives out the following as the character of the infidel. "How far it (Cardan's picture of himself) resembles any other of the brotherhood, they best know who have examined the genius of modern infidelity. However, thus he speaks of his own amiable turn of mind:—'In diem viventem, nugacem, religionis contemptorem, injuriæ illatæ memorem, invidum, tristem, insidiatorem, proditorem, magum, incantatorem, suorum osorem, turpi libidini deditum, solitarium inamœnum, austerum, sponte etiam divinantem, zelotypum, obscœnum, lascivum, maledicum, varium, ancipitem, impurum, calumniatorem,' &c. We have had many *free-thinkers*, but few such free-speakers. But though these sort of writers are not used to give us so *direct* a picture of themselves, yet it hath been observed, that they have unawares copied from their own tempers, in the ungracious drawings they have made of human nature and religion."\*

Free-thinkers are a “class, who never cultivate a truth, but in order to graft a lie upon it.”†

And this is the style in which Warburton indulges himself, as often as his discourse brings an infidel before him, from the beginning to the end of his very vulgar volumes, vulgar in every thing, vulgar in language, vulgar in tone and temper, vulgar even in learning, for which he has got a most undue reputation, but most of all vulgar in reasoning, of which he understands not even the elements; for we doubt if an aggregate of bad reasonings, a match for his, exists in the writings of any other man, that ever put pen to paper.

We have now exceeded the limits to which an article ought to run, and yet have only reached two of the evils to which the fatal measure of incorporating a body of clergy gives birth; persecution on account of religion, and hostility to the liberty of the press. The development of its further effects in depraving both religion and morality, in corrupting education and government, in retarding the progress of the human mind, and in degrading the character, intellectual and moral, of the clergy, we shall undertake on some future occasion.

end of vol. v.

T. C. Hansard, Pater-noster-row Press.

JULY, 1826.

[\[Back to Table of Contents\]](#)

## **Art. I.—**

### ***Essays On The Formation And Publication Of Opinions, And Other Subjects. The Second Edition, Revised And Enlarged. 8vo. Hunter. London.***

IT gives us no ordinary pleasure to find that a second edition has been called for of this very useful volume. It is one of the signs of the times.

One of the most important of the laws of thought, with some of the momentous practical consequences, to which the state of opinions respecting it has been instrumental in giving birth, is the first and principal topic of the work, of which the design is excellent, and the execution more than creditable. A popular manner has been studied by the writer, and with success. The train of thought is simple, without being superficial, and is followed at once with ease and with interest.

Taking belief to signify the state of mind, in regard to propositions, considered as true; and matters of fact, past, present, or future, considered as real, the author proceeds to inquire, whether the mind, when belief is generated in it, is or is not to be considered voluntary.

Generally speaking, belief is the result of evidence. Where there is no evidence, there is no belief. Where there is evidence, there is belief. Evidence admits of degrees; it may be stronger or weaker. In like manner, belief admits of degrees. Belief may be stronger or weaker; and its strength or weakness corresponds to the strength or weakness of the evidence. It is not meant that the same evidence appears always of equal strength to every man: that is very far from being the case; it is far from appearing always of the same strength to the same man. It is meant, however, that, whatever the strength which evidence at any time appears to a man to bear, such at that time is the degree of his belief. The proof is indisputable, because the view which the mind takes of evidence, and its belief, are only two names for one and the same thing. The feeling of the force of evidence, and belief, are not two mental states; they are one and the same state. A man regards a piece of evidence as convincing: this is but another phrase for saying he is convinced.

In the word evidence, there is an equivocation to which it is necessary to attend, in order to have any chance for clear ideas on the subject.

Sometimes the word evidence means what is calculated to be evidence, whether it is by any mind taken into view as such or not. At other times, we call a thing evidence, only when it is taken into view as such by some particular mind. Many things there are, which would be evidence to your mind, if they were present to it, in a certain way. Not being present to it, they are not evidence to you, how much soever calculated in their own nature to be so, or however strongly they may be evidence to other minds to which they are present in that appropriate mode. Nothing is evidence to any mind till it is taken into view by that mind, along with the point, whatever it is, of which it is evidence. A thing may be calculated to be evidence, without being so, either to you, or to any of your fellow creatures. Nothing is evidence to any man but what is brought home to him. Strictly speaking, therefore, nothing is evidence, but what is regarded and taken into account as such. That which is only calculated to be evidence, is not evidence. It becomes evidence only, when it is surveyed by a mind by which its evidentiary virtue is perceived. That, however, which is only thus calculated to become evidence, is very often called evidence. And, thus, two things, which it is of great importance to distinguish, are confounded under one and the same name; that which is evidence to a man, actually present to his mind, and producing its appropriate effect; and that which is not present to his mind, nor producing any effect. What is evidence to your mind now, because it is present to it, was not evidence to it yesterday, when it had never been present to it. The same thing exists therefore in two states relative to your mind, the state of evidence, and the state not of evidence. It would be very useful to have names to distinguish these two states. In the first it may be called evidence, in the second, it is only matter fit to become evidence. If a short term could be found, to supply the place of this many-worded name, "matter fit to become evidence", it would be very convenient. Our language, which, unhappily, has no future participles, makes it very difficult to frame a good name. Perhaps, as we have made credential from credence, to answer a very good purpose, namely, to express what is calculated to give credence, so we might use the word evidential, to express a thing calculated to become evidence. Thus we should have two convenient words, evidence, and evidentials; the one to express the thing when considered as evidence, the other to express its character when considered as only fit to become evidence.

We also want a term to express an object, which has not yet become an object of either belief, or disbelief; but may become an



object of the one or the other. When believed, it is called an object of belief, when disbelieved an object of disbelief. But what is it to be called, while it is yet an object of neither; and while it is unknown, of which it is fitted to be an object? In that case, it is an object of scepticism—scepticism meaning literally suspense of judgment, till evidence is obtained. And, if scepticism had not a bad meaning attached to it, an object of scepticism would have been a very proper name for the object in question. Let us in this sense suppose an object of scepticism, a mathematical proposition, for instance: by what process does it become an object of belief, or of disbelief? Through the medium of evidentials. Evidentials are not evidence, till they do evidence; that is, effect belief. A demonstration, before it is known, is an evidential; when it becomes known, it is evidence, and the feeling of the evidence is belief.

There is in evidentials, such a thing as a power of becoming evidence; that is of producing belief in the mind that duly appreciates their evidentiary nature.

If there is not this power in evidentials, there is no such thing as truth; for truth is that which there is reason for believing. The reason for believing any thing, is the evidence of it. The reason for calling any thing truth, is because the evidence for believing it is so strong, that it cannot be doubted: that is, the mind cannot forbear believing it, when the evidentials of it are present to the mind.

I believe that the sun exists. That proposition I call a truth. Why? Because when I look at the sun, I have a sensation, which, as an evidential of the sun's existence, renders it impossible for me not to believe his existence.

That the three angles of a rectilinear triangle are equal to two right angles, I call a truth. The reason here also is, that, when I evolve the demonstration, it yields me evidence of the proposition, in other words, produces belief; nor is it possible for me to carry my mind along the demonstration, and resist the belief.

If there is such a thing then, as truth in the world, there is such a thing as irresistible evidence. But where evidence is irresistible, of course the belief is not voluntary, it is not in the power of the mind to receive, or not to receive it.

That there is in the world truth, certain truth, it is a new thing for the advocates of religion to draw into doubt. This was wont to be their accusation against the sceptics. It is the more to be wondered at, that the rev. Dr. Wardlaw, a clergyman of Glasgow, should have thought it necessary to arraign Mr. Brougham, for declaring, in his

“Inaugural Discourse,” that when evidence is present to the human mind, belief is not a voluntary, but a necessary consequence.

The rev. Dr. Wardlaw does, in this case, what is so very apt to be done by a man who does not like a certain proposition, and yet sees danger in disavowing it: he both attacks and maintains the doctrine.

First, let us hear what he says in affirmation of it. “I am far,” such are his words, “from intending to question the soundness of the axiom, that belief must necessarily correspond with the perception of evidence, it being in the nature of the thing impossible, that the mind should believe otherwise than as evidence is, or is not discerned. It is quite entitled to the designation of an axiom, being a self-evident and indisputable truth.” No admission can be more full and unequivocal.

What, then, is the quarrel he has with Mr. Brougham; this, and nothing but this, being the truth which Mr. Brougham has promulgated? “If it be true,” says Dr. Wardlaw, “that for his belief, whatever it may be, a man is no more the subject of praise or blame, than he is for a light or a dark complexion, or for the dimensions of his corporeal frame; then it follows, not merely that man should not account to man for his belief, but also, and with equal certainty, that man has no account to render for his belief to God. . . . We dare not hesitate to say that, between this sentiment and the most explicit statements and uniform assumptions of the Bible, there is a fearful contrariety. Our orator and the inspired penman are quite at issue.”

But to us it appears, that the inspired penmen are not more at issue with the orator, than they are with the divine. The divine says, “It is quite impossible that the mind should believe otherwise than as evidence is, or is not discerned.” Then a man is not responsible for his belief, assuredly; for it does not depend on him, but on the evidence.

What, then, does the divine proceed to prove? That a man is responsible for his belief? No; but for a very different thing; for his mode of dealing with evidence.

It is a very mischievous proceeding, to confound these two things; and attach, as the reverend author does, to the one, the consequences which belong to the other. From this confusion, the spirit of prosecution derives its principal means of accomplishing its nefarious ends.

For what purpose does the reverend doctor, as if in averting some dreadful evil, put forth all his strength to establish a proposition, which no one in the world ever called in question; that a man may deal fairly, or unfairly with evidence, and may, in dealing unfairly with it, contract various degrees of guilt, from the lowest to the highest, perhaps, which can be imputed to a human being. Surely he does not mean to say, that Mr. Brougham disputes that proposition. Does not Mr. Brougham use the word prejudice, like other men? As often as he does so, he evinces his belief, that men deal unfairly as well as fairly with evidence; and thereby contract guilt, as far as the want of regard to truth implies it.

The quality, then, of the line of conduct pursued on this occasion, is as follows. The odium which would be justly due to any attempt to deny or explain away the criminality which may be involved in dealing unequally, negligently, or dishonestly with evidence, the reverend author endeavours to excite in the highest possible degree. Having done his best to excite this odium, he so frames his language, as to attach it to the proposition maintained by Mr. Brougham. The proposition maintained by Mr. Brougham, is a proposition undoubtedly true, as is affirmed by the reverend author himself, and it is a proposition of the highest possible importance, as all the world must allow. Yet the reverend author does his best to attach odium to this great and salutary truth, and to the man who lent the aid of his powerful name to its dissemination.

We are perfectly satisfied that Dr. Wardlaw has thus deeply sinned in ignorance, and if he had not totally mistaken the nature of his act, would have been one of the last of men to have adopted so reprehensible a proceeding. No declaration against persecution can be more clear and comprehensive than his. "It is a truth," he says, and says honourably to himself, and usefully to the world, "that men *ought* no longer to be led, and it would be a joyful truth, if truth it were, that they are *resolved* no longer to be led, blindfold in ignorance. It is a truth, that the principle which leads men to judge and treat each other, not according to the intrinsic merit of their actions, but according to the accidental and involuntary coincidence of their opinions, is a vile principle. It is a truth that man should not render account to man for his belief. And, in as far as this is meant to express the grand principle of universal toleration, there is no length to which I would not cheerfully go along with its eloquent and powerful advocate; the very word, *toleration*, seeing a right to tolerate, supposes the existence of a corresponding right to restrain and coerce, being a term which, in such an application of it, no language ought to retain. Men should be as free to think, as they are free to breathe. I make no exceptions. Let truth defend herself; and defend herself by her own legitimate means. She is well able to do so. Nor does she stand in

need of any auxiliary methods, beyond those of fair argument and rational persuasion. Give her an open field, and the free use of her weapons, and she will stand her ground. Legal restraint and suppression have invariably had the effect of giving tenfold prevalence to the dreaded error. And measures of coercion, whilst they have made hypocrites by thousands, have never made, and never can make, one genuine convert to her cause.”

A man capable of thus nobly expressing himself, respecting freedom of thought, could not have been betrayed into the exceptionable mode of commenting, which he has thought it his duty to employ, on the language of Mr. Brougham, respecting the great law of belief, had he not, under the influence of a bad habit, which a bad education renders most extensively and most unhappily prevalent, overlooked and neglected the distinction between the impression which the mind receives from evidence, such as it is presented, and the mental process which is subservient to the presenting of it.

The importance of the distinction, thus fatally, and thus frequently overlooked, the consequences attached to its observance, and its non-observance, will amply justify some pains bestowed upon the illustration of it.

First of all, we think it necessary to let Dr. Wardlaw see the opinion entertained by other divines, of the greatest eminence, as well as by philosophers, respecting the impression derived from evidence. In other words, the law of the great mental phenomenon, belief.

We cannot adduce a name of greater authority, than that of the celebrated Dr. Clarke, a man, uniting, in his own person, some of the highest attributes, both of a divine, and a philosopher. The following are two out of many passages, which his voluminous writings afford.

‘The eye, when open, sees the object necessarily, because it is passive in so doing. The understanding likewise, when open, perceives the truth of a speculative proposition, necessarily, because the understanding also is passive in so doing. . . . Neither God nor man can avoid seeing that to be true, which they see is true; or judging that to be fit and reasonable, which they see is fit and reasonable.’—Clarke, *Answer to the First Letter from a Gentleman at Cambridge*.

Without all dispute, perception of ideas is no action at all. . . . Seeing a thing to be true or false is not an action, nor has any thing to do with the will. . . . Being unable to refuse our assent to what is evidently true, is not an action, but a perception.’

—Clarke, *Remarks upon a Book, entitled A Philosophical Inquiry concerning Human Liberty*.

In the following passages, we have the sentiments of the great Chillingworth:—

‘Perhaps you mean such points of faith, as the person to whom they are proposed understands sufficiently to be truths revealed by God. But how, then, can he possibly choose but believe them? Or how is it not an apparent contradiction, that a man should disbelieve what himself understands to be a truth; or any Christian what he understands or but believes to be testified by God? This indeed is impossible.’

—Chillingworth, *Religion of Protestants: The Answer to the Preface*.

‘If men do their best endeavour to free themselves from all error, and yet fail of it through human frailty, so well am I persuaded of the goodness of God, that if in me alone should meet a confluence of all such errors of all the Protestants in the world, I should not be so much afraid of them all, as I should be to ask pardon for them.’

—*Id. Ib.*

‘He that would question, whether knowing a thing, and doubting of it; much more, whether knowing it to be true, and believing it to be false, may stand together, deserves, without question, no other answer but laughter. Now, if error and knowledge cannot consist, then error and ignorance must be inseparable. Him that does err, indeed, you can no more conceive without ignorance than long without quantity, virtuous without quality, a man and not a living creature, to have gone ten miles, and not to have gone five, to speak sense and not to speak.

—*Id. Ib.*

The following is from another controversial divine of great eminence, who was not liable to the imputation of yielding any thing willingly to the sceptics:—

‘The fundamental error in Mr. Bayle’s argument seems to be this: He saw the essential differences of things; he found those differences the adequate object of the understanding; and so too hastily concluded them to be the adequate object of the will likewise. In this he was mistaken: they are, indeed, the adequate object of the understanding; because the understanding is passive in its perceptions; and, therefore, under the sole direction of those necessary differences. But the will is not passive in its

determinations; for instance, that three are less than five, the understanding is necessitated to judge, but the will is not necessitated to chuse five before three.'

—*Warburton, Div. Leg. B. I. Sect. 4.*

The proof that belief is not voluntary, is well put by Barrow, in his First Sermon on Faith; but the passage is too long for insertion. Instead of it, take the following from a man of great name, and a tract of great merit:—

'This is the miserable condition of a convict heretic: the punishment which fell on him for expressing thoughts heretical, he must continue to endure for barely thinking; which is a thing not in his own power, but depends on the evidence that appears to him.'

—Bishop Hare, *Difficulties and Discouragements which attend the Study of the Scriptures in the way of private Judgment.*

After these specimens of the mode of thinking on this important subject, among rational theologians, we shall present but a few examples from the writings of philosophers, but those men of the highest name, and of no doubtful character in respect to their faith.

'That a man should afford his assent to that side on which the less probability appears to him, seems to me utterly impracticable, and as impossible as it is to believe the same thing probable and improbable at the same time.'

—Locke, *Hum. Underst. B. IV. Ch. 20. Sect. 15, 16.*

'The mind of man is necessarily passive in two important manners, either as truth, real or apparent, demands its assent; or, as falsehood, real or apparent, demands its dissent. It is in consequence of this passivity of the human mind, which I chuse to call passivity intellectual, that it becomes susceptible of discipline and institution, and thus finds itself adorned (according as it is cultivated) with the various tribes both of arts and sciences.'

—Harris' *Philos. Arrang. Ch. XI.*

This intellectual passivity is completely implied in one of the leading rules of Descartes' Philosophy. "*Credidi me,*" says he, "*pro regula generali sumere posse, omne id quod dilucidé et distincté concipiebam verum esse.*" That conception is independent of the will, nobody has disputed. When any conceivable thing is presented to our conception, we can no more avoid conceiving it, than feeling pain when we are hurt.

There are two propositions, therefore, of the greatest certainty, and the greatest importance.

The first is this, that, as the mind is passive in belief, and the will, to use the words of Dr. Clarke, has nothing at all to do with it, neither merit nor demerit can ever be ascribed to belief, without the utmost confusion of ideas, and the risk of a deplorable train of the most immoral consequences.

The second is, that, as the mind is not passive in what it does relating to evidence, but has all the activity which is implied in its most voluntary exertions, merit or demerit may be justly ascribed to it.

On his mode of dealing with evidence, the good or evil application of the powers of the man, in other words, the greatest possible degree either of virtue or of vice, almost wholly depends.

The evidence of this proposition is short and conclusive. The outward acts of the man follow the inward acts of the will; the acts of the will follow the last determinations of the understanding; the determinations of the understanding follow the evidence present to the mind. The outward acts of the man, therefore, are all precisely such as the evidence which he has in his contemplation determines them to be.

Proper dealing with evidence consists of two things. First, the full collection of it: secondly, the equal reception of it.

With regard to the first, it is knowledge that is concerned. With regard to the second, it is fairness.

*Fulness of Collection.*—1. When a man gives himself no concern about evidence, he remains in voluntary ignorance. The degree of criminality which is involved in this, admits of all degrees, according to the nature of the case. Where it is of little importance, whether a man is or is not ignorant, very little blame can attach to his ignorance; where it would be impossible for him to acquire knowledge, however important, without neglecting it where it is still of greater importance, ignorance may deserve praise rather than blame. There are cases, however, in which voluntary ignorance implies the greatest wickedness; and a habit of voluntary ignorance, a habit, to a certain degree predominant, of indifference to evidence on important points, implies one of the most odious and disgusting states of intellectual and moral depravity.

*Equality of Reception.*—2. The criminality of unfairness, also, of course admits of degrees, according to the less or greater

importance of the occasion on which it is incurred. The nature of the offence, in a general way, is sufficiently suggested by the name. It consists in leaning too much to one side. The opposite virtue consists in having no leaning to either side.

What is included in this? Two things are included. The first is, that we have no affection to the one side more than the other. The second is, that we bestow equal attention upon the evidence on both sides.

1. First, it is required that we have no affection to the one side more than the other. When there is an affection to the one side, a wish that the truth should be found on that side, a wish that it should not be found on the other, the weaker evidence on the favourite side produces more impression, than the stronger evidence on the other. By what delusive process of the mind this unhappy effect is produced, we shall by and by explore. At present we have to do with the certainty of the fact, and the extent of its influence.

A man must have looked abroad upon the world to very little purpose, who has not observed how invariably every class of men have provided themselves with a set of opinions, grounded upon the feelings connected with their own interests, and not upon the evidentials of the case. The aristocratical class have opinions of a superiority inherent in themselves; and inferiority inherent in the other classes. Wherein consists the pride of birth? Whence arises the belief of something noble or ignoble in the blood, with all the practical feelings which result from it, and all the great consequences on life of which such feelings are the proximate cause?

Whence are derived that remarkable class of opinions which are held by the white masters respecting their black slaves, in the West Indies, and in America? The opinion of the utter degradation of the sable race; the opinion of such a superiority in the fair race, that any the smallest tinge in the blood of an individual, whatever his worth, whatever even his riches, makes him unfit to associate with one whose veins contain the European liquid in elevating, ennobling purity?

How difficult is it to find a man who does not over estimate the importance of the particular faculty in which he excels? Look at the tribe of lawyers, the class who hire their tongues as readily to promote what is iniquitous and cruel, as what is just and humane. Their self-importance rises to the ridiculous: were it not for them, the race of men, they tell us, could hardly exist.



What need to speak of the exaggerations of the clergy, in magnifying their own importance, and that of the services which they render to the rest of men?

How excessive the over-estimate which a fond mother commonly makes of the perfections of her child! How blind to its defects; how possessed with every point of its excellence!

Every body can adduce sufficient cases to show what sport the affections make with the understanding, and has observed how small the number of human creatures whose decisions can be depended upon whenever the affections interfere with the judgment.

Practically speaking, therefore, it is never safe to come to the examination of any question, without a strict examination of the affections. When we proceed to the investigation of any question, the first thing required is, a process of self-examination. Have I any affection on either side? If not, I may safely proceed to ascertain and weigh the evidentials on both sides. If, however, the result of the self-examination is, that I have an affection on the one side, and none on the other, what must I do? The proper plan would be, if it could be done, to abolish the affection on that side; and so come to the study of the question free from affection on either side; or, if this could not be done, to raise, if it were possible, an equal affection on the other side. If it were the question for a fond mother to decide, whether her own or another child were the most amiable, it would be necessary, for a fair decision, either that she should divest herself, for the time, of her peculiar affection to the one side, or put on an equal affection for the other. This generally is impossible; and then, there is only one other resource, that of making an allowance for the efficacy of the affection. As evidence which favours an affection, of equal force with evidence which makes against it, appears of greater force to the mind which is under the influence of the affection, it is necessary to such a mind, if it would be fair, to allow greater weight to the evidence opposite to the affection than it seems to have, and less to that which favours it. Thus, if it appears that the evidence which makes against the affection, and that which makes in its favour, are of equal force, we ought to conclude that the evidence which makes against it is the stronger. If a fond mother sees another child which she thinks equally admirable with her own, she may be very sure that it is better.

This virtue, of coming to the examination of all questions with an equality of affection, is what Mr. Locke recommends so strongly, under the name of Indifferency. "We should keep," he says, "a perfect indifferency for all opinions, nor wish any of them true, or

try to make them appear so; but, being indifferent, receive and embrace them, according as evidence, and that alone, gives the attestation of truth.”

“He that, by an indifferency for all but truth, suffers not his assent to go faster than his evidence, nor beyond it, will learn to examine, and examine fairly, instead of presuming.”

“In any other way but this, all the world are born to orthodoxy. They imbibe at first the allowed opinions of their country and party, and so, never questioning their truth, not one of an hundred ever examines.”\*

2. In fair dealing with evidence, the next thing implied is, that equal evidence, on the different sides, should be treated as equal, that is, have equal effects. This second condition of fair dealing is substantially included in the first; though for facilitating conception, we have thought it expedient to treat of them as two separate things.

It is only necessary to remind the reader of the share which attention has in the effect which is produced by evidence. If evidence is not attended to, it is the same thing as if it did not exist. If a very slight degree of attention, a degree just bordering upon no attention at all, is bestowed upon an article of evidence, the impression produced must be nearly the same as none at all. And if we reflect upon each degree of attention from the weakest to the strongest, we shall be easily convinced that the effect of the evidence must follow the degree of attention.

The point which we desire to illustrate becomes, therefore, exceedingly distinct. Suppose that there is a certain quantity of evidence on each of the two sides of a certain question; but that strong attention is bestowed upon the evidence on the one side, the slightest attention only allowed to that on the other, every body knows the consequence. Let the evidence which is slighted be to almost any degree the strongest in its own nature, that is, calculated, if equal attention were bestowed upon it, to produce the strongest effect, it will nevertheless produce the weakest; and the balance of proof will, contrary to all just appreciation, appear to be on the other side.

What that process of mind is, which is here denominated attention, and with which the effect to be produced by evidence has so great a concern, though familiar to every body, it is not easy to explain philosophically, without a greater degree of subtlety, than suits the cursory reading generally bestowed on a Review.

Every body is aware that the affections have a great share in it; and this it is which made us say, in commencing the elucidation of this second part of the fair dealing with evidence, that it was, to a great degree, involved in the first.

It is a common expression, that the affections rivet the attention. It is well known that an object greatly beloved cannot be excluded from the mind. It is said to engross the mind, to haunt the mind. Every thing serves to recall it. The mind loves to revolve it; takes it to pieces; looks at every part of it separately, and combines them anew.

To say that interest has a great share in fixing the attention upon the evidence on one side, rather than the other, is, in fact, but saying that the affections do so; since what are the affections, if not the feeling of a particular interest? yet it is necessary to mention interest separately, as in the sense in which it is here used, it is a very remarkable modification of affection. We are said to feel an interest in a thing, when it is a remote cause of our pains or pleasures. We say we have an affection for what is a proximate cause.

Now, then, what is the process, not difficult to conceive, however rarely practised, which takes place, when the mind makes an exertion, as we phrase it, to counteract those misguiding influences; and, in spite of them, bestows an equal attention on the evidence on both sides? Of course it does so, because it has a motive. It loves truth, it loves fairness, and it makes to itself a greater interest in the pursuit of truth, and practice of fairness, than in any thing which it would gain by the violation of them. As a motive is nothing but another name for an interest, a name for an interest, connoting the view which at the instant is taken of it by the mind, it is easy to see what happens. When the mind bestows an equal attention upon the evidence on both sides of a question, by that victory over affection and interest, which is one of the noblest exertions of virtue, because it is the source from which almost every laudable action proceeds, it does so by creating to itself a counteracting interest; the interest of truth and fairness. This is the tutelary principle. This is the safeguard of virtue. If a man loves truth and fairness more than he loves either side, he will inquire and judge virtuously. If he loves either side better than he loves truth and fairness, he is ready to decide dishonestly, whether he himself is aware of it, or not.

This analysis has, then, led us to something practical, in the most interesting sense of the word.

As virtue consists in the steadiness and constancy of righteous action, and as that facility and proneness on which steadiness and constancy depend, are the result of habit, so faithfulness in regard to evidence, that is, the faithful pursuit of full evidence, with equal affection to both sides of the question, and equal attention to the evidence on both, will only be steady and constant, when the habit is acquired.

Let us bestow a few reflections upon the two opposite habits, the habit of good behaviour towards evidence, and the habit of bad behaviour. Of bad behaviour, the first part is, negligence with regard to evidence; feeling little concern about the grounds of one's opinions; letting belief come into the mind, and establish itself there, more by accident than judgment; taking up the opinions that are current, or fashionable, with hardly any knowledge of their evidence, or much concern whether they are founded on evidence or not.

This habit of forming opinions, and acting upon them without evidence, is one of the most immoral habits of the mind. Only observe what it imports. As our opinions are the fathers of our actions, to be indifferent about the evidence of our opinions is to be indifferent about the consequences of our actions. But the consequences of our actions are the good and evil of our fellow-creatures. The habit of the neglect of evidence, therefore, is the habit of disregarding the good and evil of our fellow-creatures. It is the habit of hard-heartedness, and cruelty, on the largest scale, and rooted in the deepest part of the mind. This habit is the foundation of most of what is vicious and degraded in human character. The habit of disregarding the evidence of our opinions, with the habit necessarily involved, of disregarding the consequences to our fellow-creatures, of the actions founded upon those opinions, are the elements of a character, in which the general temptations to vice operate without any counteracting motive; and as such a man is essentially without virtue, so it must be by a rare concurrence of accidents, if he is not deep in vice.

Seeing the malignant nature of this habit, it is a melancholy reflection, that it is the general habit of mankind, and of none more than of our dear countrymen. How rare is it to meet with a man, who has almost ever concerned himself about evidence; who has not adopted opinions, as he has adopted words, solely because they were used by other people? This is a dreadful vice of education. One of the grand objects of education should be, to generate a constant and anxious concern about evidence; to accustom the mind to run immediately from the idea of the opinion to the idea of its evidence, and to feel dissatisfaction till it is known that the evidence has been all before the mind, and fairly weighed. When

the case is directly the reverse, when the habit is almost universal, of stopping at the opinion, without going on to a thought of the evidence, without an association of any the smallest feeling of dissatisfaction with an opinion the evidence of which has not been explored, we may be perfectly sure that education in that country is in the wrong hands, and that it is nearly in its most deplorable state.

The effects are dreadful. How, but for the habit, almost general, of neglecting and disregarding evidence, could the progress of mankind in improvement be so very slow? How else could errors, of the grossest as well as most pernicious kind, be propagated, and the abominable actions which are grounded upon them, be repeated, from generation to generation? How could institutions, at variance with the interests of the community, which are a mockery of human nature, and act as a pestilential atmosphere upon the race, hold their endless existence, if the human mind was not ruined by the habit of adopting opinions, without evidence?

If such are the deplorable consequences of the vile habit of neglecting evidence, the consequences of the opposite habit, of being on the alert for evidence, of never yielding assent without having it, are of the most salutary kind. Strength and soundness of mind are so essentially connected with it, that they cannot exist without it. How can there be strength or soundness of mind, without the habits on which they depend? Virtue of every kind springs readily from this soil, and can be planted in no other. The regard to evidence, as we have said before, implies regard to the good and evil of mankind. Regard to evidence, and the strength of mind, of which it is the foundation, necessarily lead to the discovery of error, and the discredit of institutions not useful but hurtful to mankind. What a debt of gratitude should we therefore owe to an education which would implant this habit; what detestation do we owe to an education which implants the opposite!

Such are the opposite habits, the habit of virtue, and the habit of vice, in regard to the search and collection of evidence. The habits of equal and partial affection come next for consideration.

On this subject it is not necessary we should bestow many words. All the benefit of having evidence is lost, if it comes into a mind prepared to make a bad use of it. Of course, all the evil consequences which attach to the negligence of evidence, attach to the habit of partial affection, and something more. The habit of attaching one's self to one side of a question, is a habit of misjudgment. This implies mental imbecility. The affection which is felt for one side of a question, is an affection grounded upon those

narrow and personal considerations, which are called selfish, in the immoral and hateful sense of the word; because the interests of truth and fairness include every thing that is large and generous; the habit, therefore, of partial affection to one side of a question, is a habit of confirmed selfishness and immorality. By the habit of believing whatever a man wishes to believe, he becomes, in proportion to the strength of the habit, a bad neighbour, a bad trustee, a bad politician, a bad judge, a shameless advocate. A man whose intellect is always at the command of his sinister interest, is a man whose conscience is at the command of it.

The sphere in which this habit operates the most mischievously is that of the opinions favourable to the interests of the powerful classes of the community, and hostile to those of the community at large. Individuals of the powerful classes, like other individuals, feel attachment to their own side of every question, and when that propensity is not corrected by a good education, but confirmed into a habit, and even erected into a principle, by a bad education, as it is in this country, the consequences are, what we see, an utter incapacity, almost universal, among the individuals of whom the leading classes are composed, of fair reasoning on all the points wherein the interests of the community are concerned. When to this is joined the habit, in the body of the people, of inattention to evidence, of taking opinions upon trust, and taking upon trust the opinions chiefly of those same leading classes, we see how naturally all the mischievous institutions in the world, and all the mischievous opinions which yield them support, derive their hateful durability from habits of misconduct in relation to evidence.

Having now shewn to Dr. Wardlaw, and to persons of his description, somewhat more clearly than they generally understand the matter, wherein consists the grand virtue of proper conduct towards evidence, and the grand vice of improper conduct, the master virtue, and master vice, of human nature, we have now to show, that, of all classes of men, the clergy are those who are the most deeply chargeable with offences against the virtue, most deeply plunged in the atrocities of the vice.

Let us first of all consider the nature of that constant endeavour of theirs, of which we have already taken some notice, to confound the attributes of belief, with those of the behaviour to evidence; to ascribe to mere belief, the praise or blame, which can alone be due to the mode of dealing with evidence.

Is not this to make a virtue of unfairness? To attach the idea of merit or demerit to belief, that is, of merit to believing one way, demerit to believing another, what is this, but to hold out a premium for partiality, for affection all on one side? This is not

merely to offend against the master virtue of right behaviour towards evidence, it is to hire and purchase offences against it.

Why do the clergy follow this course? Why is their praise and blame bestowed upon that which has neither merit nor demerit, belief and disbelief; and withheld from that which may possess the greatest, full and impartial inquiry, or the opposite?

Not only do they attach a merit and demerit to mere belief, they attach consequences of unspeakable importance to the holding or not holding certain opinions; the favour or disfavour of Almighty God, and pains, or pleasures, infinite and eternal. Is it possible, that a mind, with these impressions upon it, can come to the examination of any question, touching those opinions, without affection, so much on one side, that no evidence on the other can have any effect?

Instilling opinions, without the evidence, and at an age when the parties into whom the opinions are instilled, are incapable of understanding the evidence, is a practice which necessarily engenders habits of complicated misconduct towards evidence. It engenders the habit of neglecting evidence, of holding opinions without regard to their evidence: a habit which, as we have said before, is the natural foundation of all intellectual and moral depravity. It also engenders habits of partial affection. Opinions early established in the mind, and connected with its oldest and most confirmed associations, are regarded as parts of one's-self: one's self-esteem, one's pride, one's love of ease, all create a decided partiality in their favour, and few minds are capable of attending to evidence on the opposite side, or of listening to it, without distaste and resentment. This exceedingly mischievous practice, however, is pursued with zeal, and even set up and applauded as a virtue, by the clergy.

The rank misconduct of the clergy in this respect, and its direful consequences, were pretty fully understood by the sincere and honest mind of Locke.

"There is," says he, "I know, a great fault among all sorts of people, of principling their children and scholars; which, at last, when looked into, amounts to no more but making them imbibe their teachers' notions and tenets, by an implicit faith, and firmly to adhere to them, whether true or false."\*

In another passage, he says, "The business of education, in respect of knowledge, is not, as I think, to perfect a learner in all, or any, of the sciences, but to give his mind that freedom, that disposition, and those habits, that may enable him to attain any part of

knowledge he may apply himself to. This, and this only, is well principling, and not the instilling a reverence and veneration for certain dogmas under the specious title of principles, which are often so remote from that truth and evidence which belong to principles, that they ought to be rejected as false and erroneous.”†

The following is a highly important passage:

‘In these two things, viz. an equal indifferency for all truth; I mean the receiving it in the love of it as truth, but not loving it for any other reason before we know it to be true; and in the examination of our principles, and not receiving any for such, nor building on them, until we are fully convinced, as rational creatures, of their solidity, truth, and certainty, consists that freedom of the understanding, which is necessary to a rational creature, and without which it is not truly an understanding. It is conceit, fancy, extravagance, any thing rather than understanding, if it must be under the constraint of receiving and holding opinions, by the authority of any thing but their own, not fancied but perceived, evidence. This is rightly called imposition, and is, of all other, the worst and most dangerous sort of it. For we impose upon ourselves, which is the strongest imposition of all others; and we impose upon ourselves in that part which ought, with the greatest care, to be kept free from all imposition. The world is apt to cast great blame on those who have an indifferency for opinions, especially in religion. I fear this is the foundation of great error, and worse consequences. To be indifferent which of two opinions is true, is the right temper of the mind, that preserves it from being imposed on, and disposes it to examine with that indifferency, until it has done its best to find the truth, and this is the only direct and safe way to it. But to be indifferent whether we embrace falsehood for truth, or no, is the great road to error. Those who are not indifferent which opinion is true, are guilty of this; they suppose, without examining, that what they hold is true, and then think they ought to be zealous for it. Those, it is plain, by their warmth and eagerness, are not indifferent for their own opinions, but, methinks, are very indifferent whether they be true or false, since they cannot endure to have any doubts raised, or objections made against them; and it is visible they never have made any themselves, and so, never having examined them, know not, nor are concerned, as they should be, to know whether they be true or false.

The misconduct of the clergy in relation to evidence, proceeds to a still higher pitch. Not only do they inculcate affection to the one side, and thereby engender habits of unfairness, of that mental imbecility and corruption, which unfit the man for honest inquiry, and leave him without the relish for truth, they do what in them lies to prevent all regard to the evidence on the opposite side, to make



those who are led by them purposely shut their eyes against it. They endeavour to frighten them with it. They represent it as dangerous, if not wicked, to look at it. The young and tender mind is carefully discouraged from inquiry. The opinions of the teacher are either to be taken for granted without evidence, or the evidence which he adduces is to be held conclusive, and the very thought of weighing it, or taking into account the weight of opposite evidence, is treated as morally evil.

This vice of the clergy, pregnant with evils of such enormous magnitude, is well touched on by Locke, in the same finely toned and finely moraled discourse.

'Many men firmly embrace falsehood for truth; not only because they never thought otherwise, but also because thus blinded, as they have been from the beginning, they never could think otherwise; at least, without a vigour of mind able to contest the empire of habit, and look into its own principles; a freedom which few men have the notion of, in themselves, and fewer are allowed the practice of, by others; it being the great art and business of the teachers and guides in most sects to suppress, as much as they can, this fundamental duty which every man owes himself, and is the first steady step towards right and truth in the whole train of his actions and opinions. This would give one reason to suspect, that such teachers are conscious to themselves, of the falsehood or weakness of the tenets they profess, since they will not suffer the grounds whereon they are built, to be examined; when, as those who seek truth only, and desire to own and propagate nothing else, freely expose their principles to the test, are pleased to have them examined, give men leave to reject them if they can; and if there be any thing weak and unsound in them, are willing to have it detected, that they themselves, as well as others, may not lay any stress upon any received proposition, beyond what the evidence of its truth will warrant and allow.'

There is one passage more in Locke, which, though somewhat long, yet winds up the whole of this important subject, of right dealing with evidence, with such useful reflections, that we need not fear the censure of any honest and rational critic for the space which it will occupy.

'It is mismanagement, more than want of abilities, that men have reason to complain of, and which they actually do complain of, in those that differ from them. He that by an indifferency for all but truth, suffers not his assent to go faster than his evidence, nor beyond it, will learn to examine, and examine fairly, instead of presuming; and nobody will be at a loss, or in danger, for want of embracing those truths, which are necessary in his station and

circumstances. In any other way but this, all the world are born to orthodoxy; they imbibe, at first, the allowed opinions of their country and party, and so, never questioning their truth, not one of an hundred ever examines. They are applauded for presuming they are in the right. He that considers, is a foe to orthodoxy, because possibly he may deviate from some of the received doctrines there. And thus men, without any industry, or acquisition, of their own, inherit local truths (for it is not the same every where), and are inured to assent without evidence. This influences farther than is thought; for what one of an hundred, of the zealous bigots in all parties, ever examined the tenets he is so stiff in, or ever thought it his business or duty so to do? It is suspected of luke-warmness, to suppose it necessary, and a tendency to apostacy, to go about it. And if a man can bring his mind once to be positive and fierce for positions, whose evidence he has never once examined, and that in matters of greatest concernment to him, what shall keep him from this short and easy way of being in the right, in cases of less moment? Thus we are thought to cloath our minds as we do our bodies, after the fashion in vogue, and it is accounted phantasticalness, or something worse, not to do so. This custom, which (who dares oppose) makes the short-sighted bigots, and the warier, scepticks, as far as it prevails. And those that break from it are in danger of heresy; for taking the whole world, how much of it doth truth and orthodoxy possess together? Though it is by the last alone (which has the good luck to be every where) that error and heresy are judged of; for argument and evidence signify nothing in the case, and excuse no where, but are sure to be borne down in all societies, by the infallible orthodoxy of the place. Whether this be the way to truth and right assent, let the opinions that take place, and prescribe in the several habitable parts of the earth, declare. I never saw any reason yet why truth might not be trusted to its own evidence; I am sure if that be not able to support it, there is no fence against error, and then truth and falsehood are but names that stand for the same things. Evidence, therefore, is that, by which alone, every man is (and should be) thought to regulate his assent, who is then, and then only, in the right way when he follows it.

Men deficient in knowledge are usually in one of these three states, either wholly ignorant; or, as doubting of some proposition they have either embraced formerly, or at present are inclined to; or, lastly, they do with assurance, hold, and profess, without ever having examined, and being convinced by well-grounded arguments.

The first of these are in the best state of the three, by having their minds yet in their perfect freedom and indifferency, the likelier to

pursue truth the better, having no bias yet clapped on to mislead them.

For ignorance with an indifferency for truth is nearer to it, than opinion, with ungrounded inclination, which is the great source of error; and they are more in danger to go out of the way, who are marching under the conduct of a guide, that it is an hundred to one will mislead them, than he that has not yet taken a step, and is likelier to be prevailed on to enquire after the right way. The last of the three sorts are in the worst condition of all; for if a man can be persuaded, and fully assured of any thing, for a truth, without having examined, what is there, that he may not embrace for truth; and if he has given himself up to believe a lie, what means is there left to recover one who can be assured without examining?’

Dr. Wardlaw is prodigiously in earnest to convince the world, that the scripture attaches the greatest merit to faith, and the greatest demerit to the want of it. We know not that so much effort, on this subject, was necessary; but, be that as it may, this at least is certain, that the scripture can inculcate nothing that is absurd in point of reason, or mischievous in point of morality. We have seen that it would be absurd in point of reason, and mischievous in point of morality, to ascribe merit or demerit to belief. This, therefore, is what the scripture cannot do. We have seen that it is most true, in point of reason, and sound in point of morality, to ascribe merit and demerit, even the highest, to the proper and improper modes of dealing with evidence. The consequence is inevitable. It is not belief which is called, in the scripture, faith, but the proper mode of dealing with evidence. The man who deals properly with evidence, is the man who has faith; the man who deals improperly with it, is the man who is without faith. Now, it is possible, though not very common, for a man to deal faithfully with evidence, doing his utmost to have it fully before him and to guard his mind from bias to either side, and yet to come to the wrong conclusion. It is also very possible, and unhappily very common, that a man who has never given himself any concern about evidence, and who has never been without so determined a partiality to one side, and antipathy to the other, as to exclude even the approach to his mind of any evidence on the side which he dislikes, should hold the right opinion. Notwithstanding this, the former is the man who has the merit of dealing virtuously; the latter is the man who has the demerit of dealing wickedly with evidence. Here the man who has the wrong opinion, is the man who has faith, according to the scripture; the man who has the right opinion, is the man who, be the opinion what it may, is destitute of faith. Faith, in short, has nothing to do with creeds. Of two men, the one even an atheist, the other a sound believer, it may be, that the atheist is the man who has faith, according to the scripture; that the sound believer is the

man who is destitute of faith, according to the scripture; that the atheist is possessed of all the merit, the sound believer of all the demerit, which the scripture ascribes to the possession, or the want, of that saving grace. As we have shown, that, of all classes of men, the clergy, as a class, are the most constant and the deepest offenders against the virtue of dealing rightly with evidence, it follows, that of all classes of men living, the clergy are the most remarkably destitute of faith, in other words, are of all men living, the greatest infidels.

We have dwelt at such length upon this topic, because it is necessary to complete the doctrine which the author of the work before us has so usefully recommended to public notice, and which, as far as he has proceeded, he has illustrated with the greatest skill. In his next edition, which the public, we fondly hope, will soon call for, we would recommend it to him, to add to the proof and illustration of what takes place in mere belief, the proof and illustration of what is implied in the proper mode of dealing with evidence, than which nothing of greater importance, as concerns the progress either of intellect or morality, can be forced upon the public attention. It is indeed true, that he has not entirely overlooked the subject; for in the section in which he treats of "Belief and Opinion as objects of moral approbation and disapprobation," he has adduced several of the more important ideas; but still he has not discussed it in that systematical manner which is calculated to make the deepest impression, and which the importance of the consequences deserves.

The next essay in the work, is the practical improvement of the foregoing, and intended to show that the free publication of opinions is favourable to the interests of truth, and of human happiness; that all restraints upon publication are hostile to those great interests. This subject we have so recently had occasion to discuss, that we have little more to do, on this occasion, than express our concurrence with the opinions of the author, and our approbation of the manner in which he has explained and enforced them. Few things we should more rejoice to hear, than that this little essay were in the hands of every individual in the island, capable of reading it.

The essay "on Facts and Inferences," exposes briefly, but well, the common and highly mischievous propensity to mistake inferences for facts; and marks a very conspicuous and forward class of men, the class who title themselves "matter-of-fact-men," but of whom the proper name would be "bad-inference-men."

"The Influence of Reason on the Feelings" is an essay rather more of a common-place description, showing the extensive and

mischievous sway of irrational associations, created by a bad education, or vices in the social order, and the use of reason in overcoming them.

A case of practical morality is the subject of the next two essays, "On the Dependence of Causes and Effects in Moral Conduct." It is a case to which it is of great importance to draw the attention of mankind, who, though they do not expect effects without their causes in the physical world, are very prone to do so in the moral. How many men expect to become wise without the trouble of acquiring knowledge, rich without frugality or industry, respected without knowledge and virtue, and happy while they are doing what is calculated to destroy their happiness?

The essay "On the Causes and Consequences of Individual Character," has but little of the merit which characterizes the preceding. It is vague, and the author has arrived at some of the conclusions with great facility, because he has leaped over the evidence.

We ascribe little merit to the essay "On the Vicissitudes of Life." Rather, we ascribe to it a good deal of demerit. The tendency of what is adduced, is to show that the difference in point of happiness or misery, consists in the transition from state to state, little or nothing in the states themselves, as if there were little to choose between griping poverty, and wealth, between the dread of want and security of affluence; as if hard labour, daily renewed, were not a pain, and one of the heaviest of pains. As sagely might a man tell us that the agony of a stone in the bladder, because it is habitual, is hardly to be distinguished from the state of pleasure or ease. It is surprising to find an author, who shows so much of the power of comprehensive reflection on some subjects, so inconsiderate as to be even vulgar on others.

We recognise our author again in the essay "On the Variety of Intellectual Pursuits." The reflections are those of an ingenious mind, and have the best possible tendency.

The essay "On Practical and Speculative Ability" is not without merit, though none of the observations is very profound and some of them are not perfectly accurate. Thus, in distinguishing practical from speculative ability, he tells us, that practical "has reference to the application of knowledge," as if speculative ability did not consist in the application of knowledge. This shows that the author had no distinct conception of the difference between the two.

The tendency of the essay, which closes the volume, "On the Mutability of Human Feelings," is good. After an exhibition of the

changes which take place in the likings and dislikings, the desires and hopes, the aversions and fears of every individual, notice is taken of the infirmity of those who have this mutability in excess, and are called fickle; a character hurtful to the possessor, and hurtful to those with whom he has to do.

The additions which are made to this edition of the present work, are placed as notes at the end of the volume; and of these the most important by far is Note E, in which the author controverts a memorable position, maintained by the Edinburgh Reviewers, and which they say they "may assume as established and undeniable, that there is nothing in the nature of truth which makes it necessarily good." The course which the Reviewers pursue, to show that there is nothing in the nature of falsity which makes it necessarily bad, would show that there is nothing in the nature of theft or murder which renders them necessarily bad. We have here a specimen of the vagaries of periodical publications, the main purpose of which is to be largely sold. This same review, which maintains, on occasion, that truth is not necessarily good, and honesty is not necessarily good, because it can fancy cases in which more happiness would be gained than lost by the violation of them, does yet manfully deny, that the principle of utility and the principle of morality are the same.

OCTOBER, 1826.

[\[Back to Table of Contents\]](#)

## Art. 1.—

1. *Corn and Currency, in an Address to the Landlords.* By Sir James Graham, (of Netherby,) Bart. M.P.
2. *Letters on Agricultural Protection, and Currency.* By the Right Hon. Lord Stourton.
3. *Price of Corn, and Wages of Labour; with Observations upon Dr. Smith's, Mr. Ricardo's, and Mr. Malthus's, Doctrines upon these subjects; and an Attempt at an Exposition of the Fluctuation of the Price of Corn, during the last Thirty Years.* By Sir Edward West, late Fellow of University College, and Author of an Essay on the Application of Capital to Land.
4. *The Political Primer; or, Road to Public Honour.*
5. *A Letter to the Earl of Liverpool, on the Cause of the present Embarrassment and Distress, and the Measures necessary for our Effectual Relief.* By C. C. Western, Esq. M.P.
6. *Letters to Lord John Russell, upon the Original Formation of the House of Commons.* By Thomas Creevy, Esq.

THE productions which we have placed at the head of this article bring before us almost every particular in the present state of the nation. It has, therefore, appeared to us, that we shall gain something in condensation, and still more in the order and coherence of our ideas, if we take for our subject the state of the nation as a whole, and advert to the conclusions and arguments of the several pamphlets, as they may be suggested to us in pursuing the train of our own reflections.

*Le present est gros de l'avenir.* This profound remark of a celebrated philosopher, and sage observer of human affairs, we may translate into the corresponding maxim, "that the present is the child of the past."

This nation has enjoyed, if it can be called enjoyment, some years of peace since the termination of one of the most wasteful wars that ever nation waged, since nations existed on the earth: a war not begun in self defence, for where were we attacked? a war not begun for conquest, for we had no desire to add to our territory: a war, then, for what? A war against ideas! Whose ideas? The supposed, the imputed ideas of a part of the population of a neighbouring nation.

A war, the most wasteful and destructive recorded in the annals of time, waged against certain ideas of a certain part of the

population of a neighbouring country, is a parent, the novelty in the nature of which may well account for something curious in the nature of the progeny.

The parent must be a little more minutely described. A neighbouring nation set about the reform of its government, under an opinion, very generally diffused, not only in that nation but throughout Europe, that a reform was very much wanted in it. In the progress of the work of reform, the people of the country were found to differ widely in their ideas of the sort of reform that would answer best. Not to detain ourselves with all the minute differences, which were many, we may say, generally, that the said people were divided into two grand classes; that of those who called for extensive changes; and that of those who wished, at the utmost, for very little change. The two parties gradually became violent, and after a time proceeded to blows; in other words, the country fell into a civil war. This is a state of great calamity. It has seldom happened in a civil war, that the two parties have not become highly inflamed, and ready to inflict atrocities upon one another. This, though certainly not to any unusual degree, was the case with the parties in France.

After the lapse of some time, and it was a considerable time, it became apparent that the party demanding extensive changes, and which had gone on, as commonly happens, demanding changes more and more extensive, as the quarrel proceeded (men's ideas become exaggerated when they are in a heat) would prove the stronger. Then it was, and not till then, that the government of Great Britain struck in, and took part in the civil war of France; struck in to prevent the success of the party demanding extensive changes, and give the victory to the party which (its ideas also becoming exaggerated in the struggle) was at last for resisting every change.

It may be asked, and assuredly it is a natural question, what concern had we in the changes, whether small or great, which a foreign people might introduce into their government; or what business had we to insist that the majority of such a people (the greater strength in such cases naturally implies the greater number) should please us rather than themselves, in the form of their institutions?

The question was not put in those terms to the British people. They were not asked, whether they wished success to the party in France opposed to change; and if so, whether they would go to war to prevent them from being overcome. Much less were they asked, whether they would go to war to compel the people of France to please them with their institutions rather than themselves. They



were told that the party in France which aimed at extensive changes had horrid ideas.

Interesting will be the chapter which the philosophical historian will hereafter write, when he collects together and describes the artifices which were employed to persuade the people of England that they ought to go to war against horrid ideas.

But horrid ideas! What had we to do with the horrid ideas of the people of France? If they were horrid with respect to themselves, that is, calculated to bring horrid consequences on themselves, they soon would have had experience for their instructress, and to her lessons we safely might have left them. Oh, but they were horrid also with respect to us! That is serious. Permit us to ask, in what way? The people of France did not breathe fire and sword against us. It was not in that form that their ideas were horrid with respect to us. They had no ideas of invading England, and exterminating her people.

No, but the people of England would have adopted the horrid ideas of the people of France, and the horrid things which would have resulted from those ideas in France, would have resulted from them here. Ah, that was the case, was it? That being the danger, we must look at it nearer, and examine it a little more minutely.

The party desiring extensive changes in France had ideas calculated to bring horrid consequences upon themselves, calculated also to be adopted by the people of England, and to bring like horrid consequences upon them. This was the theory! And certainly a more remarkable theory was never propounded to the world. The practical consequence, pressed upon the people of England, was, if possible, still more wonderful. They were called upon to go to war against a set of ideas, for fear lest they themselves should adopt them; to go to war against ideas, because they were calculated to bring horrid consequences upon whosoever adopted them; and they, believing this already, as the ground why they should go to war, were also made to believe that it was necessary to go to war to prevent themselves from adopting those ideas; to prevent themselves from adopting ideas, which they were already persuaded, to so intense a degree, were unfit for adoption.

This is a curious item to be found in the state of a nation; and having been an item in the state of this nation at so recent a period, must have an intimate connexion with much of what it is now our purpose to expound.

No such monstrous case of gulling, no such inordinate swallow of delusion, we verily believe, is to be found in the history of civilized man.

Foreigners who visit England are very apt to say of our dear country, *Ma foi, c'est le pays le plus aristocratique de l'Europe*. Here we have a cause which will account satisfactorily for many phenomena.

The party demanding extensive changes in France, demanded, among other things, the extinction of those privileges of the aristocratical class, by which that class were enabled to perpetuate bad government for their own advantage. These ideas were horrid, no doubt, to the aristocratical class in England. What deserves profound consideration is, the degree to which they persuaded the rest of the people that they were horrid to them, and the ways and means by which they brought about that extraordinary persuasion.

It is a signal manifestation of their mighty power. First of all, they possessed the privilege, up to that time but little encroached upon, of setting the opinions of the people. In opinions, as in other things, the ambition of the lower sort has been, to follow the example of the higher. In the next place, they had the instruments of noise to a great degree in their own hands; the means of filling the ears of the nation so constantly with the din of their own opinions, as almost to exclude the hearing of any other. "Give me," says Addison, in one of the Spectators, "the power of stating every day without contradiction, to a man at his breakfast, any opinion for a sufficient length of time, and I shall make sure of having his belief in the long run."

The contagion of the passions is another power of which the aristocracy availed themselves on that occasion to an astonishing degree. How naturally one man becomes inflamed by another, needs no illustration. How much more naturally and strongly we catch the passions of those to whom we look up, than of those upon whom we look down, is also matter of certain experience. The aristocratical class, on that occasion, were agitated with real fears; they used every sort of artifice, many theatrical, many far less justifiable, to act still more tragic fears than they felt. The great players found in the people a sympathetic, far too sympathetic, audience.

Wielding all the powers of government, having all the punishments and all the rewards of the state at command, they were able, after they had gotten the passions of the people a little on their side, to silence all contradiction. Of the men who addressed, or were capable of addressing, the public, by far the greater number were

on their side, part from sympathy, part because they saw it greatly for their interest. Against those who would have opened the eyes of the people, they had the instrument of punishment, in tremendous power. With a law such as ours, prosecution itself, tormenting, harassing, ruinous by the expense whatever the result, and the result itself almost always uncertain whatever the case, is despotism in the hands of the aristocracy, or the ministry, its organ. Every artifice of delusion employed on the one side, the means of exposing the delusion denied on the other, what wonder is it that the people were dragged, if not willing, yet unresisting, victims to the sacrifice, passing through the fire to Moloch, and feeding the fire which burned them with their substance!

A war of such length, of such desperate prodigality, waste, and destruction, waged for the sole purpose of quieting aristocratical fears, and consolidating aristocratical dominion, was the parent of a numerous family.

First of all, it left, as a distinguishing ingredient in the state of the nation, an intense jealousy of popular privileges. Every proposal for giving the people, not power, for that is not the proper name for it, but security against being treated as powerless victims at the mercy of an aristocracy wielding, as they pleased, the powers of government, was treated as a crime; and the man who had the imprudence to make it, was marked out for persecution, the persecution at any rate of scorn, and indignation, and abuse; the persecution of society and opinion. He was a man to be shunned, a man not only to be hindered from rising, but to be thrust down. The countenance of authority was turned against him, and all who courted authority, all who claimed alliance with it, or wished for the reputation of having alliance with it, all who, from blind or base imitation, were incited to follow its example, let loose the tongue of reproach, and shook the hand of enmity in his face. He was not an object for good offices, he was an object for all the ill offices which could render his situation, as an advocate of the people, painful to him and degrading.

Of course the current of our legislation ran in the same direction. Intense was the anxiety to strengthen the bulwarks of aristocratical power, and to exclude the people, as effectually as they had always been excluded, from any share in the management of their own affairs, from any the smallest power of hindering the aristocracy from managing the affairs of the community as they pleased, in other words, from doing as much for themselves at the expense of others as the nature of the case would permit.

As far as regarded the direct powers of legislation, there was not the smallest difficulty. The people had never had a share more than

nominal in them. And a motion for such a reform of the legislature as would give them any thing more, was only an occasion for heaping contumely upon the people, and the man who spoke for them. On this subject, of course, there was no anxiety. But a new power had risen, that of public opinion. The legislating class did not well understand it; but they guessed that it boded them no good. The strength of their endeavours therefore was directed against it. Every thing was done to crush public opinion. Law after law was enacted to punish assemblies of the people, and to prevent the expression of their opinions in large bodies. Law after law was passed to restrict the liberty of the press, to render the dissemination of opinions in general difficult and costly, the dissemination of some opinions, those called dangerous, that is, unfavourable to the monopoly of power in the hands of a particular class, in a high degree penal.

Next of the articles left us by the war carried on for the purpose of quieting aristocratical fears and consolidating aristocratic dominion, we may notice the increase of the national debt.

Money raised by loan, and spent in war, is the destruction of so much of the national capital; the destruction, therefore, of so much of the means of national production, that is, of the means of paying taxes, at the very time that there is imposed upon the nation the burthen of new taxes to the amount of the interest of such debt: it acts therefore with double oppression, the oppression of the new tax, and the oppression of diminished means.

It is not, in general, sufficiently considered to what an extent an expensive government is a bad government; not merely when it trenches upon the national capital, and cuts off so much of the means of annual production, but when it absorbs too much of the annual produce, and harasses the people with taxes. The whole of the mischief does not consist in the degree to which it robs the people of the fruits of their labour and capital, and deprives them of the enjoyments for which they have laboured and cared. An enormous mass of evil is further generated, in the misdirection which taxes force upon national industry, in the impediments to improvement in the various manufacturing processes with which the taxes interfere, and the destruction of the means of adding annually to the national capital, and increasing the wealth and prosperity of the nation.

Even this is far from being the whole of the dismal account. The moral evils are still more, perhaps, to be deprecated. A vast amount of taxes raised upon the people supposes a great amount of persons who live upon the taxes. Of all classes of men, in any country, the most noxious is that of those who live upon the labour of others,

without rendering them an equivalent. This includes the whole race of evil-doers in the nation; robbers, thieves, and cheats of every description. Of all dispositions of mind that can be generated in a nation, the most noxious by far is that of desiring to live upon the labour of others. This is increased to the greatest degree by extravagant taxation. Not only does extravagant taxation increase enormously the number of those who live noxiously upon the labour of others, but, in addition to every person who does so live, it raises up two or three who expect so to live, who are striving to be placed in that situation, and who, of course, have the disposition in full perfection.

Reflect upon another circumstance which dreadfully increases the amount of this evil. It is well known that the leading class in every country, the class most remarkable for power and wealth, give the tone to the rest of the community. It is a matter of ambition to imitate them, and a source of honourable distinction to resemble them. Their opinions are the esteemed opinions, their manners are the elegant manners, and their maxims of conduct the refined morality.

Those who have observed the workings of human nature upon the greater as well as the smaller scale, are well aware of this most important fact, that every class or combination of men have a strong propensity to get up a system of morality for themselves, that is, conformable to their own interests; in other words, to urge upon other men, as good, such lines of conduct as are good for them; as evil, such as are evil for them, whether good or evil to other people. Thus, the first of virtues in a family of servants is, to conceal from the master the faults of one another; and a tale-bearer is among them the most opprobrious of all designations. We should feel great pleasure, and we should render great service, in fully illustrating this important phenomenon of human nature; but, on the present occasion we must take the fact for granted, only referring those of our readers who wish to render themselves more familiar with it, to a work which, to this purpose at least, is highly instructive, that of Helvetius, "De l'Esprit."

The aristocracy of each country feel this propensity not less strongly than any other class, and have much greater advantage for giving it extensive effect. The consequence is, what every one would expect to find, that the morality in every country is to a great degree aristocratical morality; in other words, that among the maxims laid down and approved for the classification of actions as good and bad, as right and wrong, there are many by which actions are received into the class of good, solely or chiefly because they are good for the aristocracy, though not good for the rest of the community; into the class of evil, solely or chiefly because they are

evil for the aristocracy, though not for the rest of the community. As the truth of this proposition cannot be disputed, we shall not occupy any of the space which is too limited for other more immediate objects of this article, with the illustration of it, which we recommend to each of our readers to follow out for himself. To a student in Ethics, few exercises will prove more useful than that of culling out the parts of the system of English morality which rest solely or chiefly upon their usefulness to the aristocracy, and distinguishing them from those which are founded on a more comprehensive and generous scheme of good.

Of course, of those who live upon the taxes, in an over-taxed country, the greater proportion by far belong to the class who legislate and who impose the taxes. This, at any rate in this country, is the aristocratical class. Of those who live upon the labour of others without rendering them an equivalent, by far the greater proportion, therefore, belong to the aristocracy. It follows, that the disposition of so living, that most immoral of all dispositions, the real origin of almost all the crimes which infest human society, exists in the aristocracy to a degree far greater than that in which it exists in any other class in the community. The aristocracy get up a morality to favour this propensity, and this interest. Among them the thing does not pass for wicked and shameful. It is treated as an excellent part of the wisdom of the world. Their example and approbation give countenance and encouragement to the propensity; and the disposition to live upon the labour of others is diffused throughout the community. The moral sense of the nation is perverted; the distinction between what is right and what is wrong, in one of the great departments of human action, is lost, and the horror of crime is almost wholly extinguished. In vain the aristocracy endeavour to distinguish the cases in which the disposition to live upon the labour of others is useful to themselves though hurtful to others, from those in which it is hurtful to them in common with others; and endeavour to make a crime of the one without making a crime of the other; to make a crime of robbing the people by unlicensed, no crime of robbing them by licensed, imposture. They do not succeed. Profitable imposture ceases to be opprobrious. The nation becomes a nation of swindlers; and nothing hinders them from being as generally thieves and robbers, but the greater risk to which these vices expose the practitioners. It is demonstratively certain that an over-taxed country must be an immoral country.

Assuredly among the items in the state of this country may be enumerated, as standing in the first rank, prodigal expensiveness on the part of the government; and consequent upon this, and inseparable from it, the vice, in the aristocratical class, of living upon the labour of others. An enormous enhancement of both evils

we owe to the war waged against the horrid ideas of the leading party in France, the war for quieting aristocratical apprehensions, and consolidating aristocratical power. During that war the substance of the people was lavished on the aristocracy, in a manner which had no parallel in this or in any other country. The practice became a habit on both sides; the habit on the one part of receiving the public money; and the habit, the no less fatal habit, on the other, of submitting to be deprived of it. When the war ceased, the expenditure went on; and it is perfectly amazing to see how small is the difference between the burthens of the people during the most expensive of all wars, and the peace by which it was succeeded. Enormous fleets and armies during the war paved the way for enormous establishments during peace; the nation was inured to such a state—the aristocracy to hold the lucrative posts, and the people to pay the expense. The connection between cause and effect is here abundantly obvious; but suppose that our interpretation is challenged; what can be said? That it is not the aristocracy, but the ministry, to whom the blame of such expenditure belongs? If this be asserted by any person, he must be able to tell us distinctly what inducement a ministry can have for adopting this mischievous policy; and it is plain he can render but one account: the ministry make a large expenditure in order to make partisans.

But partisans, where? In parliament, to be sure. And when you say partisans in parliament, you mean the aristocracy, do you not? To this our objector must of course reply in the affirmative. The ministers, because the creatures of the aristocracy, make an extravagant expenditure, that the aristocracy may profit by it; and this he calls an expenditure not made by the aristocracy.

So much for that grand item in the state of this country, the enormous expense of the government, and the morals which it tends to engender. We must hasten to other topics.

The fluctuations which have attended the enterprises of industry, have been a remarkable feature in the period which has intervened since the termination of the war. One season of distress has followed another, each involving a great portion of the population, and some grand division of the national industry, from that to the present time. It would be an inquiry of length, and of some difficulty, accurately to assign the causes of all that disorder which has afflicted the productive classes of the community, and impaired the efficacy of their powers and endeavours. No one can be mistaken in assigning all that is peculiar in it to the position in which we were placed by the monster of a war, at last destroyed, and the errors of legislation by which it had been accompanied and followed. The position, as a commercial people, in which we were

placed by the war, is too complicated a subject to be unfolded here. One thing will easily be understood to have had an extensive operation, that it was savagely, and, for a commercial nation, insanely, a war upon the commercial intercourse of the world. Short-sighted aristocrats! Little did you know, when you boasted of giving England, by your vigour, as you called it, the monopoly of the world's commerce, that is of extinguishing the commerce of other nations, in the magnitude of which commerce, not in its destruction, England of all countries, as the most commercial, most peculiarly found her interest, that you were preparing the greatest calamities for your country, insuring the return of a season when the guides of commerce would be unable to see their way, and when calamitous suspension, or hazardous speculation, would be the only alternations. Alas, we have drunk of both these cups, to the bitter dregs.

Of the bad legislation which aggravated the evils of this bad position, three cases deserve peculiarly to be considered and understood; the alterations in the currency, the corn laws, and the usury law.

At a certain period of the war, to meet a pressure upon the Bank of England, the legislature came to the resolution of enabling it to suspend payments in cash, in other words, to issue its notes without the obligation of paying them on demand. This the legislature did, in profound ignorance of the consequences, and under the comfortable feeling of being entirely practical, without one ray of that foresight which theory would have bestowed. The measure was intended to be very temporary. A practical legislature did not foresee that payments once suspended, would not be very easily resumed. The suspension continued, and the legislature began shortly to proclaim that vast advantages were derived from it; that it strengthened the nerves of war; and that its services could by no means be dispensed with as long as the war endured. The same legislature, however, at the same time proclaimed its design of destroying this mighty instrument of good at the end of the war; though, why depreciation of the currency should produce good in war, not in peace, practical legislature never explained.

First, by depreciation of the currency the legislature disturbed all pecuniary contracts, and altered the price of all commodities one way; producing all the loss, all the disorder, all the uncertainty which necessarily result from such an operation.

Secondly, by raising the value of the currency to its ancient standard, it again disturbed all pecuniary contracts, and altered the price of all commodities another way, producing similar loss, disorder, and uncertainty: it rendered a state of fluctuation habitual



in the pecuniary transactions of the nation, and nourished a spirit nearly allied to gambling in those who desired to make their profit amid the agitations of commerce, and ventured for a prize in the lottery of profit and loss. We are now but slowly recovering from a terrible crisis, which that spirit contributed mainly to produce.

In excluding foreign corn, the object of the legislature, which essentially consists of landlords, was to keep the price of corn high. The laws for this purpose have had the intended effect only since the peace of 1815. Up to the year 1793 this country was an exporting country: the war placed the trade in corn, as it did other trades, on a footing peculiar to itself. In the mischievous revulsions which we have experienced since the termination of the war, the share of the corn laws has been most important. Their tendency to renew such calamities in endless succession no man of reflection can fail to perceive.

That they have a tendency to produce enormous fluctuations in the value of corn is seen and lamented, even by the persons who are most eager to preserve them.

The period of low prices is a period of calamity to the growers of corn. The period of high prices is a period of calamity to the consumers. To see-saw between these two horrible conditions, with one half of our population always in misery, is a grand item in the present state of the nation; and one of the blessings which we owe to a practical and landholding legislature.

All the calamities which arise from fluctuations in commerce and manufactures are heightened enormously by the operation of the corn laws. When the price of corn is high, there is a forced exportation of British commodities. When the price of corn is low, there is a forced importation of foreign commodities. The connexion here between cause and effect is obvious. When we import foreign corn we must pay for it in commodities; our manufactories are called into increased exertion; manufacturers augment their establishments, employ an augmented number of hands, and retain a larger stock for the supply of an extended market. This state of things having lasted for a few years, another state comes round. Price of corn falls; we cease to import; possibly we export; the whole of that demand for our manufactures which was created by our importations ceases, and perhaps something more; stagnation ensues; the price of manufactured commodities falls; increased establishments become useless, and the expense bestowed upon them is lost; while hands are thrown out of employment, wages fall, and bankruptcy and starvation are the lot of the manufacturing population.

That the high price of corn produced by the corn laws is a tax upon the rest of the community for the benefit of the receivers of rent and the receivers of tithe, exclusively, and that it exists only to make them richer, the rest of the community poorer, has been so often and familiarly proved, that we may here take it for granted. A tax, however, of this description, though a curious item in the state of a country which pretends to be well governed, is too familiar to the people of England to excite any peculiar indignation. It has, further, been often shown, that the corn laws extract from the people much more than they bestow upon the landlords. The mode in which this effect is produced will be explained in a subsequent article. Even this, however, is far from being a peculiarity of the bread tax. It does not carry this atrocity to a length which can be compared with the taxes for the support of extravagant fleets, and armies, and colonies. There the benefit to the aristocracy, for whose benefit solely their extravagance is maintained, is often not one hundredth part of the cost to the people. A regiment of soldiers, for example, is good for the aristocracy only by its colonelcies and majorities, but it is bad for the people in the whole cost of the regiment, men and horses, which is many times as great. Ships of war are good for the aristocracy only in the admiralships and captainships; but the cost of every ship to the people is enormous. Colonies are good for the aristocracy only in the governorships, and other places they afford; the cost of colonies is always atrocious. To make good things in sufficient abundance for the aristocracy in fleets, and armies, and colonies, the minister, it is evident, must put the nation to a ruinous expense; witness that under which we labour. By far the best mode of feeding the aristocracy would be by pensions. The minister should have a licence to give pensions, almost at his pleasure, to the aristocracy, provided he kept them out of all those employments which give them an interest in enormous establishments. If, instead of regiments, and ships, and colonies, he were to give them pensions to twice the amount of what they can derive from the regiments, the ships, and the colonies, we should be gainers to a prodigious amount. In such a case we should be sure to have no more of any of those things than would be really good for us. Feeding the aristocracy, as we do now, under a veil of imposture, we are sure to have much more than is good for us. In feeding the aristocracy in the direct way, by pensions, the people would lose no more than what the aristocracy would receive. In feeding them through enormous establishments the people lose infinitely more.

Beside the laws regarding currency and corn, we mentioned the usury laws as a third case of the bad legislation by which the evils of a bad position were aggravated. We have seen in what manner the laws affecting the currency and the trade in corn have tended to introduce fluctuations in commerce, producing alternate periods

of high confidence and deep depression. When the depression comes, and demand is contracted, prices fall, and loss is sustained unavoidably; but prices will fall, less or more, and the loss will be more or less severe according to circumstances. If the merchants can find the means of meeting their pecuniary engagements without crowding their goods into a falling market, they prevent any considerable fall, and lose little more than interest till the glut is expended. If they cannot find the means of meeting their pecuniary engagements without hurrying their goods to an unseasonable market, many of them lose enormously, and many are ruined; a panic seizes the commercial world; payment of debts is demanded with eagerness; loans are refused, or scantily given, and the evils of fluctuation are carried to their greatest excess. The means, on the other hand, of confining those evils within the narrowest limits, are all summed up in the means whereby the merchants meet their pecuniary engagements without unseasonably parting with their goods.

As if to exemplify bad legislation in its perfection, not only have we had laws to carry fluctuation to excess, but, in addition to them, we have had a law to prohibit the means of best obviating the effects of these fluctuations, and to force up the evils of them to their greatest height. That such is the effect of the usury law it must be a thoroughly ignorant legislature which can still need to be taught. In periods of depression a greater number of merchants than usual need loans, to enable them to keep back their goods from market. Of course the rate of interest rises. The merchant repairs to the monied man, and requests a loan. "No," says the monied man, "you can give me only five per cent interest, such is the law, and I can make more by using my money in another way." Without this wretched law the merchants, in a period of depression, would obtain the means of meeting their engagements to the utmost extent of the disposable funds of the community. Under this law they are, to a great degree, excluded from the means of meeting them. And for whose benefit does this law exist? Why should you inquire? Is it possible that such a law could continue in existence if the landlords did not imagine it were good for them? This is another of the blessings we owe to a landholding legislature.

With a people whose productive powers are so enormous as ours, and where there is so strong a disposition to accumulate property among all the classes of men by whom capital is employed, it would require a still worse legislature than ours to prevent the progress of wealth. Accordingly, we have no doubt that the nation is growing richer. It would have been richer still had not our bad legislation sent a portion of our capital to other countries, where the employment of it was more advantageous. Something more than a beginning has been made in the passage of our capital to other

countries; and nothing can hinder it from passing in greater and greater quantities, except either an improvement in our legislation, and a diminution of our burthens, improving the advantages of employing capital here, or a deterioration of the legislation and increase of burthens in all other countries on the globe to which it can possibly migrate. For it is vain now to put trust in that aversion, which was once so strong, of removing from the country of one's birth. The intercourse of nations is upon such a footing, that there is now little strangeness among them. Different countries are hardly separated by such lines as formerly divided the different provinces in the same country. All over the civilized world men are hastening to become, as it were, different branches of the same family, having fewer points of repulsion, and far more numerous points of attraction.

But, although accumulation is making progress among the capitalists, who are one class of our productive population, and though, under all these disadvantages, they may still be considered prosperous, there are many symptoms of adversity among the other, the far more numerous class, the labouring part of the productive population. We are not among those who think that their condition has greatly deteriorated, because we see no reason to suppose that it ever was good. We can have very little doubt that, in former times, when accumulation was very slow, compared with what it is now, the increase of population pressed as sorely upon the means of employment and subsistence as it does at present. And though the people are now harassed and degraded by parochial officers, unpaid magistrates, and game laws, we can have no doubt that their state of servitude, when lords were still more lordly, and squires still more squirish than they are at present, was, though in another form, even harder and more corrupting than at present.

The remarkable thing in the present day is, that the state of the labouring classes is not improving; does not keep pace with the progress of the times. It is not enough to say lazily and coldly that they have themselves to blame, and that where a given amount of produce is to be divided, and the numbers among whom it is to be divided are too great, the share to each cannot but be small. This is perfectly true; but it is not true that all the blame of making the numbers too great belongs to those who suffer by it. Why are any institutions allowed to exist which have a tendency to augment the evil? Why is not every expedient, which it belongs to wise legislation to devise, adopted to lessen or to prevent it? Are the people incapable of being taught to understand their own interest in a case of such importance as this? The condition of the people is low, and their numbers superabundant, because they are stupid, because no pains have been taken with their understandings, and

because a bad morality is propagated through the nation. Why is it not felt by the labouring man to be infamous to live upon the labour of others? If it were so, a numerous brood, sprung from the engendering of a base couple, unable to support them, would be as rare a phenomenon in the immoral world as robbery and murder. But how can it be infamous among the labouring class to live upon the labour of others, while it is the subject of universal competition among the leading classes? The Turkish proverb says, "When a fish stinks it begins at the head." This is not only most true, but it is likewise true that when the stinking has begun at the head, it certainly goes on to the tail.

Still the progress of civilization has not been without its influence on the lower classes. In manners, in all the little moralities of daily intercourse, there is, even within the memory of men still living, a prodigious amelioration. There is a gentleness and civility in their deportment towards one another, not to speak of their superiors, rarely met with a century ago. Riot and drunkenness are greatly diminished. There is also, which cannot be regarded as less than a signal improvement, not only a great diminution, but almost a cessation of the more atrocious crimes. Reading is becoming every day more and more a practice and a habit. Books adapted to their wants and improvement will follow, as the supply follows the demand; and then doubtless we shall have a more prudent and high-minded, as well as a more honest and intelligent population.

But here a most serious consideration occurs. An Irish population, wretched and degraded to the last degree, is pouring into this country. Suppose that we should succeed in implanting that high-toned morality in the minds of our people, whence an English labouring man should feel it as a crime, and a turpitude, more to be shunned than death, to be the means of bringing children into life without the means of maintaining them; what would be the consequence? Such conduct, if left to its own natural effects, would speedily raise the condition of the labourer, and place him in those circumstances of physical well-being which are essential to his existing in a state of intellectual and moral well-being. It can have no such effect if a perpetual influx is permitted of starving Irish. This may be sufficient, and there is the strongest probability that, unchecked, it will be sufficient, to keep wages down to the starving degree, whatever the prudence and morality of the English population. If so, the continued prudence of the English population would have no other effect than gradually to diminish their number, and increase that of the Irish, till our own superior population would be wholly rooted out and supplanted by the Irish, a misfortune with which no other which can be dreaded for this land, is at all to be compared. Here is an evil, against which a wise and beneficent legislature would lose no time in seeking a remedy. If a

cordon against the ordinary plague is an expedient measure, a cordon against the most dreadful plague that ever infested human nature cannot be regarded as too much.

We must now touch upon the more extended interests, those in which all other interests are included.

The composition of our legislature, the main spring of government, is pretty nearly the same as it has been for ages. A great majority of it is composed of the landed aristocracy; and a still greater majority is nominated and sent there by the will of that aristocracy. The consequences hardly need to be pointed out. The resolves of an assembly are the resolves of the majority. A class of men who have the power of speaking in an assembly, but are always out-voted whenever it is the interest of the predominant class to out-vote them, exist in that assembly in one capacity only. They exist in the capacity of advocates, but it is a delusion and mockery to say that they exist in the capacity of legislators. They have no legislating power whatever beyond the influence which they can exercise on the minds of the major class, by their powers of persuasion. This, it is evident, they could exercise as much if they were admitted into the assembly in the capacity of advocates merely. And we are fully persuaded that it would be a great improvement if our House of Commons were made to be in appearance what it is in reality. It is substantially as much an aristocratical, hereditary assembly as the House of Lords. Why continue the farce of election? Let the principal landholders, by hereditary right compose the House of Commons. Only let the other classes of the people have the power of choosing men who, under the name of advocates, shall attend their debates, and have the power both of originating motions, and taking part in discussions. The operation of the machinery would then appear without disguise; the real authors of every measure would be seen to be the authors; the business of advocacy would be much better performed; and all the advantages which at present are derived from the proceedings of the House would, in our opinion, be derived in much greater perfection.

But, steady in its composition as our legislature has been, and steady in the prevalence of those interests which its composition implies, it is subject to influences which deserve the greatest attention. The maxim has long been established, that all government depends upon opinion. And this is universally and rigidly true; because government is made out of obedience, and obedience rests upon the opinion either of good to be got by the obedience, or evil by the want of it. But there is this difference between the present times and all former times; that, in former times, governments made and fashioned the opinions of their people nearly as much as they made their laws; at present, the

people throughout Europe, and especially in England, form opinions to a great degree for themselves, and are every day allowing government less and less of a share in settling what they shall think on any subject. This is a novelty in the state of the times, the force of which existing governments might be expected to undervalue. We find that actually they have hardly any idea of its importance. They are going on as if such a power (a power, in the long-run, destined to overmaster every other power) had no existence.

This power has begun to be felt in the British legislature, which is often puzzled to know what is the matter with it, and what it is that is possessing it. The knowledge that what they do, and what they say in parliament, will come before the public, and that they in parliament have very imperfect means of determining what the public shall think of their proceedings, is an element in the motives of action. It is not a matter of indifference to have or not to have the good opinion of the people of England; but it is a matter of greater importance to one set of people than another. This has produced a great change in the practical workings of the House of Commons; a change amounting, in reality, to a great revolution, and implying the most important consequences.

The ministry are, beyond all comparison, more dependent upon public opinion than the hereditary aristocracy who compose the legislature. This needs very little illustration. They who fill the House of Commons, by regularly nominating themselves and others, are hardly dependent upon the opinion of the public at all, except in the way of sympathy, which they are too high above the public much to feel; or by the prospect of the ultimate loss of power, which is too distant to produce much effect. The state of the ministry, and the amount, as well as the stability, of their power, are deeply affected by the favour or disfavour in which they are held by the nation. The advantage or disadvantage which it gives to their enemies—we mean their enemies at court, of whom they always have abundance—when the voice of the nation is for or against them, is one of the prime elements in their condition. Their influence with their friends, as well as with their enemies, is much greater when the esteem of the public is greater. In fact, nothing can be more different than the position of a popular and an unpopular ministry.

The consequence is remarkable. Formerly the House of Commons was considered the check upon the king's ministers. Now it is the king's ministers who are the check upon the House of Commons. Whoever has contemplated the proceedings in the House during recent years must have observed many occasions on which it would have gone much greater lengths in evil courses, had it not been

withheld by the ministry; and that most of the useful measures which the ministry have promoted, they have promoted not without ill will on the part of the House. This is a change, the effects of which every session of parliament must render more conspicuous. The great makers of the House care little for the people. Why should they? And why should they be retarded in the promotion of their interests by the fear of what the people will think of them? They are more apt to be irritated, than subdued, by the opposition of the public voice. Not so the ministry. They are the conspicuous marks. The mode in which they must answer at the bar of public opinion amounts already to something of a real responsibility; it carries punishment and reward along with it.

One phenomenon of the public mind deserves to be well considered by those who are collecting the signs of the times. During recent years, in the course of which the nature of the composition of the House of Commons has become better understood, and its inherent incompetency to the business of good government has become an opinion more deeply impressed, and more widely diffused, the efforts on the part of the people to procure the requisite alterations in the mode of forming the House have almost ceased, and the demand for parliamentary reform is scarcely heard.

What are we to augur from this? Are the wise men of practice satisfied, that the silence of the people is the indifference of the people? Are they fully assured that there is not a spirit collecting, which, like a fixed air, will issue with unexpected force, when the moment of disengagement arrives? What if the people have ceased to importune the legislature from something more deep-rooted than the want of prospect of success? Their present repose is rather an indication of confidence than of despair, and of strength, if strength consists in wisdom, rather than of weakness. The people can afford to wait, and they know it. They know that every day adds strength to their cause, and takes it from their enemies. Why should they approach a legislature in which, for years, their appearance was only an occasion of laughter; in which those who dared to ask for them such a share in legislation as their protection required had gradually diminished, till at last there seemed to be not a man who had courage for the enterprise? Yes; the people must wait the birth of events. The womb of time will not be found barren. The petitions of the people for reform of parliament will not be met with laughter by-and-by. Scurril jests will not exclude grave consideration upon the subject, when a few more years have gone over our heads. In the mean time, it is not the less discreditable to those who assume the character of advocates for the people in parliament to have become silent from pusillanimity, or, which is still worse, the force of sympathy with those among whom they are placed.



In Literature and Education, the most remarkable feature of the present times is their diffusion. This is of immense importance. Literature and education become valuable in a national point of view, only as they are diffused. That a few men in a nation, or some one narrow class, should be very learned, has seldom much effect upon the happiness of the community. Sometimes it has a bad effect; by enabling the few more perfectly to enthrall the many. But when the knowledge of useful things becomes general among the people, the knowledge of what is useful in politics, and good in morals, as well as the knowledge of those powers of the natural world which can be rendered subservient to their advantage, it is impossible that their condition should not be improved in every way; impossible that the vices of government, which are seen through and hated, should not be removed; that the mental qualities which are known to be the foundation of happiness, should not be cultivated, and that a sound intellect and high morality should not characterize the nation. Toward this diffusion in England a great commencement has been made. The rising generation are almost all taught to read. This is the first step. Knowledge gains access to the mind through books. The next step is, to make the proper provision of good books. And, afterwards, all that remains is, to put in operation the best means for facilitating the access of the people to such books; of placing them within their reach, and exciting the desire to peruse them, and to profit by them. Every thing is in the highest degree encouraging in the signs of the times. The mechanics' Institutes, which have been erected in many parts of the country, and are still rapidly multiplying, have been received in every instance with all the tokens of their being duly appreciated by those for whose benefit they were intended. In a short time we may expect that the inhabitants of the towns, even those of the poorest classes, will all have within their reach the means of much useful instruction. There is considerably greater difficulty in forming satisfactorily the channels of communication with the agricultural population, in placing books within their reach, or in giving them a taste for reading, which is so much stimulated by sympathy and communication with others. However, the example of the towns always acts upon the country; and with much more rapidity now than heretofore, when the intercourse between the inhabitants of town and country was so little, compared with what it is. The accommodations for reading and instruction, which will exist in the towns that are situated in the agricultural districts, may be partaken of by those of the agricultural population who are in the immediate vicinity, who will spread the taste to a circle beyond them; and, when the demand for books comes to exist, it will suggest the means of supply. There are few parishes in which there is not some central spot, in which a reading-room, and a small library of useful books, might not be resorted to without inconvenience by most of the inhabitants. In all

the more populous villages something, even on a larger scale, might be provided. In few districts, too, in England, will it be found that there is not resident some individual or individuals, both qualified and disposed to render important aid in making those little establishments as useful as possible. In fact, we are persuaded, that when the thing is begun it will go on with rapidity.

The great difficulty in such establishments is with religion; because in respect to religious books there is a total diversity of opinion. What one man likes, another detests. This is a troublesome source of discord. It would, in our opinion, be useful if those establishments were regarded as having to do with that instruction only, which is subservient to the happiness of this life: leaving that instruction which is important with respect to the future life to be derived through channels appropriated to itself; channels which the zealous individuals concerned in the diffusion of that instruction have been so much before-hand with those whose object is instruction for the present life in opening and employing.

Not only the circumstances favourable to the diffusion of useful knowledge among the lower classes are an important ingredient in the present state of this nation, another case of diffusion, the highest and the most important of all, presents a prospect, which we trust we may number among the constituents, and the cheering constituents, of our present situation. The value of the middle classes of this country, their growing numbers and importance, are acknowledged by all. These classes have long been spoken of, and not grudgingly by their superiors themselves, as the glory of England; as that which alone has given to us our eminence among nations; as that portion of our people to whom every thing that is good among us may with certainty be traced. Surprising it is, that, notwithstanding this value, so acknowledged, it remained for those who projected the University of London, to take the first steps towards affording to those classes the means of education in the higher departments of learning; the first steps for effectually diffusing among them those kinds of knowledge, which are, indeed, most difficult of attainment, but the most potent to bestow the grand faculty of judging soundly of all the circumstances and combinations of circumstances which affect the happiness and prosperity of the individual, the family, and the state. Surely the understandings of that portion of the people to whom we owe almost every thing which understanding has done for this nation, and to whom we must look for all the great products of mind in time to come, should be trained to the greatest perfection in our power. London affords a field of singular importance. There is an aggregate of persons of the middle rank collected in one spot in London, the like to which exists in no other spot on the surface of the earth. It is deplorable to consider how defective an education

has been provided for the children of this vast and unspeakably important portion of our population; and how completely the years and the expense which would have sufficed for accomplishing a highly perfect education have been wasted in acquiring hardly one idea, or one faculty which can be useful to them as men and as citizens, beyond the acquirements now common to the lowest of the people, of reading, writing, and accounts. An aversion to reading is a much more common effect of their education, than a taste for it; and a taste for any reading which implies a serious exercise of the understanding, and can yield it any discipline and improvement, is one of the rarest and most unaccountable of accidents.

To supply this great desideratum, an Institution, such as the projected University, is the very object desired. Without entering here into the details of the plan, which our space will not permit, and which may have more or less of excellence according to circumstances, one thing is certain, that it can stand upon its merits only; its existence will depend upon the satisfaction it affords, and it is only a high degree of approbation that will draw to it that resort of pupils, in which its prosperity must consist. It must, therefore, act under the strongest motives to perform the business of education well. It will have no ties to withhold it from changing a less important for a more important mode of instruction; and the business of education may be confidently expected to improve in its hands.

It is not at all surprising that old establishments of education, possessed of a monopoly, should regard with a jealous eye the designs of interlopers. They will soon, we doubt not, perceive that, whatever the interlopers take from them, they will replace with interest. Ease and dignity are two good things: but utility and dignity are two better. There is no doubt, if the new Institution answer to its design, that it will render the idea of a much more perfect education, than has been exemplified in this country before, familiar to the nation. It will then be impossible that Oxford and Cambridge should not improve themselves up to the demand of the nation. But, surely, this will be no calamity to them. Though old monopolies, and, above all, monopolies of influence over the mind, are not a favourable soil for the higher moralities, and tend strongly to generate incurable selfishness, we doubt not that both Oxford and Cambridge possess in their bosoms men of generous feelings, to whom a great loss of ease, for a great acquisition of utility, would not appear a thing to be deprecated. The class of men whom these two establishments have hitherto educated, they will continue to educate, if they do not remain too far, which they have no occasion to do, behind the point of perfection attained by other institutions. The London population, to whom primarily the University of London will be useful, will be rescued, not from

Oxford and Cambridge, but from themselves; from that misemployment of time which young men without a guide are so apt to fall into.

Beside the stronger symptoms exhibited by the country, some of the discussions and opinions which recently have been brought forward yield useful indications of the state of the public mind.

We know nothing, in this respect, more worthy of examination than the Equitable Adjustment which has justly excited an extraordinary degree of attention. The proposition, under all the disguises which it puts on, is one and simple, that the contract with the national creditor shall not be kept, and that we shall pay him less than we bargained to pay him. Between individual and individual, this would no doubt be reckoned a very shameful proposition; as it is upon the observance of a rule directly the reverse, that all the happiness of human society is built. Destroy confidence in men's engagements, and society exists no longer. Confidence in engagements is the cement which makes an aggregate of human beings to differ from a rope of sand.

Had this proposition met with a favourable reception from the nation, we should have thought it a fearful prognostic; and our estimate of the progress made by the people in intellect and morality would have had to sustain a very serious reduction. We have been saved from this mortification, and a high confirmation it is of the opinion we entertain of our fellow countrymen. The numerous newspapers in town and country, the sentiments of which are so carefully adapted to the taste of their readers and may therefore be taken as a pretty good index of their state of mind, have been, with hardly an exception, loud in their condemnation of this immoral proposition, and have proclaimed the value of inviolate faith and justice.

The whole glory of this proposition belongs to the class who hold the lands, and the powers of legislation. It is a singular proof to what a degree, even in this country, the continued exercise of power demoralizes the man. From no class but the landlord class could such a proposition have come in the present day; because they are the only class whom the possession of power has taught habitually to consider their interest as morality, what is inconvenient to them as vice. If morality and intellect be the grand blessings of man, what advantage would the landlords of this country derive from a radical reform in parliament!

One of the tracts of which the titles stand at the head of this article holds a conspicuous place among the endeavours which have been made to show the propriety of robbing the public creditor. It is the

work of a young landlord of great promise, and of amiable qualities; for the immorality which is generated in men, as a body, by the possession of power, and makes them act badly in their public capacity, does not necessarily adhere to them in their private relations, and in that respect any imputation upon landlords in general would be wholly unjust.

Sir James Graham is for carrying the remedy to the full extent of relief to the landlords. He proposes to deduct as much as he thinks convenient from the interest due to two classes of men; those who have lent their money to the state, and those who have lent it individually to the landlords. He proposes that about two thirds only of their due shall be paid to all annuitants upon the treasury and the land; or, in other words, that 30 per cent shall be deducted in the payments hereafter to be made to them. This is, in other words, cancelling about one third of the debt of the government and of the landlords. But why should the landlords and the government have the privilege of contracting debts without paying? For one reason, and one reason only, that it is for the interest of landlords.

Neither is this a new thing to landlords. It would be wonderful if it were. They have long provided themselves the benefit of a law, by which their property is protected from the claims of their creditors.

Sir James Graham supports the proposition of the landlords, by a long and not very sapient disquisition on the currency; in which, after the very perfect exposition he gave of the principle of rent, we expected to find a more accurate discrimination of truth from error. In all that can be said about the currency, nothing is material to the question but the two alterations in its value; first, from a higher to a lower; secondly, from a lower to a higher, value. The first alteration followed the suspension of cash payments in 1797. Paper was issued in such quantity, as materially to reduce the value of the currency. In 1797 the nation had a great debt, all contracted when the currency was of full value. When the value of the currency was reduced, the interest of this debt was paid in the degraded currency. So far the national creditor was defrauded. He got less than his due. Was any proposition heard from the landholding and legislating class to make up the difference to the national creditor? Not one. No one's inconvenience touches them but their own. All depositaries of power are the same. This is the strong man's morality all over the earth.

During the period of the depreciation, a great amount of new debt was contracted. This was contracted in the depreciated currency. When the value of the currency was raised by the return to cash payments, the interest of this debt was paid in a currency more

valuable than that in which the loans were advanced. "On this account," say the landlords, "30 per cent should be deducted from the interest of the national debt."

But, first of all, if we make from the last portion of the debt a deduction equal to the increased value of the currency, we shall, of course, perform a similar act of justice with regard to the former part, which, during the whole period of depreciation, received less interest than ought to have been paid for it. The amount of what we should have to pay in that case, has been accurately computed by Mr. Mushet, and the result exhibited in a set of very valuable Tables. The fact is, that the annuity we should have to pay in perpetuity to the first set of creditors, as an equivalent for their loss, would be greater than the annual deduction which could be made from the annuities of the second class. The creditors, taken as a whole, have a demand upon the nation for loss, on account of changes in the currency. The nation has no demand upon them on account of over-payment.

There is another view of the case, which will be of great importance as often as equity and morality are deemed elements in the calculation. The loans which were made during the period of depreciation, were made by open competition, and of course were as favourable to the government as the circumstances of the times, all taken together, would permit. If any of the favourable circumstances had been taken away, the terms of the loans would have been less favourable. If any had been added they would have been more.

During the whole time of these loans, it was the law of England, by an express act of parliament, not considered as words without a meaning, not regarded as a case of legislative fraud, but an enactment of the highest importance, that payments in cash should be resumed six months after the termination of the war. Unquestionably this resumption was as much a part of the terms of each of those loans, as the amount of stock which was to be given for the money advanced. It is false, therefore, glaringly false, to say that the holders of such stock are not entitled to the payment of their interest in the reformed currency. They are entitled to it. It was part of their bargain.

The attempts to give this "equitable adjustment," as they are pleased to call it, a show of equity, failing totally, it stands in its true colours, an act of bare spoliation. Some of the highest names in parliament have implicitly confessed as much. It was an event, they said, greatly to be deprecated; it was to be avoided, if possible; but then necessity has no law except its own; and they pedantically quoted the law jargon of *nemo tenetur ad impossibile*.

There is in this language a singular union of folly and atrocity. An act of confiscation, more extensive than was almost ever perpetrated by the injustice of hostile factions in the fury of a civil war, is proposed to be founded, in a state of profound tranquillity, on an assumption, the absurdity of which may be made visible to a child.

At the present moment the annual produce of the country, leaving out the portion unavoidably consumed by the labourer, is divided, in certain proportions, among the landlords, the capitalists, and the national creditors. Can there ever be an impossibility of so dividing it? Can less than the due share ever be given to one of those classes, to any other end, than to enrich the other two at that one's expense?

Impossibility! When, in common justice, is this plea held valid on the part of a private debtor? Only when the whole of his property transferred to his creditors will not pay his debts. To allege impossibility, then, on the part of the people of England, is the most impudent of all pretences.

Impossibility! Is that plea to be listened to on the part of a debtor who is all the time rioting in boundless extravagance? Oh, no! Before the people of England will think of the impossibility of paying their debts, they will cut off every atom of wasteful expenditure, and apply to their discharge the last penny of public property. All sinecure places must be abolished. All overpaid places must be retrenched. All extravagant establishments must be reduced. Army, navy, ordnance, all must come down to a fraction of what they are. What a breaking up of the resources of the aristocracy! Why, all that they pay to the national creditor is a trifle to what they must relinquish, in such a reform as this, a reform which must take place before we dare articulate the word, Impossibility. Even then, we should not be at the end of our resources. There is, first of all, the crown lands, which should be sold to the last acre, and the last brick. Next we shall be able to do, and much better than we do now, with a far less costly ecclesiastical establishment; and the whole of the tythes and church-lands may be rendered available to the discharge of the national debt. Even "the decent splendor of royalty" must part with some feathers to avert the calamity of a national bankruptcy. We therefore believe we have said enough on the subject of impossibility.

It may be thought a work of supererogation to talk of the want of foresight on the part of the landholding and legislating class. Desire blinds the understanding in men less corrupted by power than they are. Yet there is something so incredibly foolish in their

setting a great, an almost unparalleled example of disregard for the rights of property, that it is worth dwelling upon for a moment.

There is no man who considers the present state of the government of this country, and the changes which are working in the public mind, who feels not an assurance that important changes at no very distant period will take place in the administration of public affairs. These changes will affect so many potent interests, that it would be too much to expect they can be brought about without something of a struggle. In times of this description, it is of all things the most important that respect to the rights of property should be held an inviolable principle. The insecurity and revolutions of property in times of transit from one state of government to another constitute almost wholly the evil that attends them. The people, the mass of the people of England, are attached to the laws of property; they know their value; and in any change which can be contemplated in this country—for we need but a very easy change if there be any danger to property—it will arise from the aristocracy themselves. If the aristocracy commit an act of confiscation upon a class of their fellow-citizens, they may be assured that it will suggest the idea of another confiscation when the monopoly of the powers of government is made to quit their hands. And, as far as men who should have committed such an act were concerned, who but would feel his indignation cooled?

There is another case of opinion and discussion, of so much importance that it is with regret we perceive we have left hardly any room for its consideration. A new era with regard to the law has begun. It is not many years ago since an Englishman was treated as a sort of traitor to his country who questioned the goodness of its laws, or of their administration. Already no writings are received with more favour than those which point out defects in both. On no subject, perhaps, is the public mind advancing more rapidly toward the right opinions, than on the legal system of England as a whole. At no distant period that system, we may with full confidence predict, will be seen for what it is, the best preserved piece of barbarism, and the most hideous, that ever was found in any civilized country.

In all countries, the rude, and very often the fraudulent, expedients of barbarous times have been allowed to hold their place in law, after improved modes of thinking have changed almost every thing in all other departments of human action. There are reasons for this, to which we may return on a future day, but which we cannot explain at present. All that, in the mean time, is necessary to be said is, that such reasons have nothing to do with utility, and that old laws are continued in no country because bad laws in existence are preferable to good laws by which they might be replaced. It is,



at least, something remarkable, that, of all civilized nations, the English have preserved, to the greatest extent and with the greatest veneration, the wretched laws of a barbarous period. In no great concern, certainly, in the hands of any civilized people, is the adaptation of the means to the end so unspeakably absurd as in the law of England. If the ends of law, the most perfect protection of property and person, be, of all the ends attainable by human ingenuity, the most important, how disgraceful must it be to the legislature of England to have remained to this day with a set of means so utterly inadequate, that they would be perfectly ridiculous, if they were not absolutely atrocious.

The beginnings of better thinking, which have been made on this subject, have reached both the legislature and the profession. The attempts of Mr. Peel deserve the thanks of the nation: the timidity which marks them ought neither to be wondered at nor blamed. It is not possible that Mr. Peel should have familiarized to his mind the ends of law, and the means of accomplishing them; and should hence be aware to what extent the ends must remain without attainment by the present means. When a man walks in the dark, he walks fearfully of course, especially if he is surrounded by people who are crying out that there are pitfalls around him. Let us give our assistance to Mr. Peel, and believe that his timidity will give other men courage; perhaps, in the end, will give it to himself.

Of the progress of philosophical views of law in the profession, we could mention several striking indications; for some of which we may refer to the Report of the Chancery Commissioners, with its Evidence. But the most important by far is the work of Mr. Humphreys, on the law of Real Property, where great knowledge is exhibited, both of the defects of one of the worst parts of our law, and of the means of remedying them. We destine this work, however, to what it well deserves, an article apart. We shall now, therefore, check the desire which we feel of enlarging upon its merits.

Oh, Ireland! blind would be the man who, making a sketch of the state of England, should overlook thy influence on the fortunes of thy predominant neighbour! It is the knowledge of the impossibility of doing justice to this part of the subject in a sketch, which has induced us to mention it only at the end, and that for little other purpose than to mark our sense of the evil which that country lays upon this. It is, in fact, the great drawback upon the energy and resources of England. It stands the foremost among our mountainous burthens. There is the genuine picture, the *beau idéal* of an aristocratic government. The principle of aristocracy acts there without any disturbing force. In its double form, partly secular, partly ecclesiastical, it seeks from its country that which is

good for itself, without any, the smallest, regard of the evils which it brings upon others. A government in England which would not have sympathized with aristocratical abuses in Ireland would have rendered that country unspeakable service, by extinguishing the principle of misrule, by making good laws, and enforcing obedience to them. A government in England thoroughly sympathizing with them has rendered them tenfold more atrocious than they would otherwise have been. Why? Because it has protected them with English bayonets. In the worst of governments the patience of the people can be counted upon only to a certain extent. Had the Irish aristocracy rested on its own strength, it could have carried misrule only as far as the Irish people would bear. Being sure of English soldiers to kill Irish people, whenever it needed to kill them, of course it had no motive to set any limit to its oppressions. Good God! what a tissue of evils! And how one detestable thing grows out of another, and another out of that, and so on, without end, when the principle of rascality is the *primum mobile* in affairs! It would go a great way towards the remedy of the evils in Ireland to withdraw entirely the English soldiers, and leave the parties there to settle their quarrels among themselves. A long experience has shown us, that we interfere in them only to exasperate them. Nothing could be lost by this experiment, for it is impossible that the Irish could render themselves more wretched than they are; and a great deal would be gained to us, for we might disband all the soldiers. We have not the least doubt, that the expedient thing for England would be, at once to dissolve her connexion with Ireland, and to live with her as we live with Sweden or Denmark, as good neighbours only. The commercial intercourse of the two countries would be most important to both. It never could be the interest of Ireland, unless by some very gross misconduct of ours, to join with our enemies in war; and, if she did, she would add to their dangers, not to ours. But this, we are aware, is idle talk. While the aristocratical government of England remains as it is, so will that of Ireland. That which shall improve the first, can alone be looked to as affording a chance for the improvement of the latter.

JULY, 1830.

[\[Back to Table of Contents\]](#)

## Art. I.—

### ***Thoughts On Moderate Reform In The House Of Commons.* London. J. Ridgway. 1830.**

THIS article is destined to the consideration of the Ballot; leaving out of account, for the present, all the other ingredients, which go to the formation of a true Representative System, and are indispensable to the establishment of good government.

In proceeding to prove the utility of the ballot, this uncomfortable feeling intrudes itself,—that the task is useless. The evidence is so clear and incontestible, that it seems a loss of time to put it in words. The same considerations, one imagines, must occur to every other mind, and strike it with similar conviction.

Another feeling is produced, by the arguments of those who assume the part of enemies of the ballot. What they say has not the countenance, the colour, not one of the marks, of *bonafide* reasons; such grounds as a man rests upon for the truth of an opinion really held. All their allegations bear upon them the broad appearance of mere pretexts; the sham pleas, which are invented and set up, as often as men are summoned to defend opinions, which they have adopted and are determined to maintain, from other considerations than those of their truth, or falsehood.

As matters stand, at present, in England, we should never forget, that in determining our preference of the secret or open mode of voting for a Member of Parliament, the real question is this; Whether the people who vote, should really have the choice of the Member of Parliament; Or should only go through the formalities, the mummery of voting, including in it the prostitution of an oath, little regarded by a religious people;—while the whole power of choosing, should be really possessed by other parties.

It may indeed be affirmed,—it is not often so done in plain words, though it is of course habitually assumed,—that the last is the proper result; that the House of Commons ought to be chosen,—that is, a majority of the House,—by a few of the most powerful and wealthy men of the kingdom.

Allowing this assumption for the moment, overlooking all that is monstrous in the averment,—that a few men, who may, by their choice of Members of Parliament, employ, and abuse, the property and the persons of the rest of the community, for their own

purposes,—will make a better choice for the community, than the community will make for themselves; we are then met by the inevitable question; Why, if this be so,—if it is indubitably true, that the small number will choose better than the great, and that the choice is actually and fortunately secured to them,—do we not abolish the fraudulent pretence which we now uphold? Why give to the people the appearance of a choice, which is nothing but a delusion? Is there not such a thing as lying by acts, as well as by speech? Is the turpitude of the mendacity less, when it is effected through the medium of the deed, than the word? Is there a more perfect instance, in the whole compass of imposture, of mendacity by deed, than that which is exhibited in the process of open voting for Members of Parliament in England?

If it be affirmed that the fraud and mendacity are, in this instance, good, in consideration of the end; because, though it be very undesirable that the people should have, in their rude and shapeless hands, any security for good government, it is very desirable that they should have the belief of it,—to this an unanswerable objection occurs,—that all hope of upholding such delusion has become vain. There is a new element among the working principles of human society, on the effects of which the retainers of this hope would do well to ponder. The art of printing exists. And the irresistible progress of the information which it diffuses necessitates, not a change merely, but a perfect revolution, in the art of governing mankind. In the times that are gone, the art of government has consisted in a mixture of fraud and force; in which, commonly, the fraud predominated. In the times that are to come, as fraud will be impracticable, and a knowledge of what is good and what evil in the mode of managing the national affairs cannot be withheld from the nation, government will be left either to rational conviction, or to naked force. This is the grand revolution of modern times. This is the new era. And another thing in this altered condition of human affairs may deserve the serious consideration of those who have to do with the powers of government. All history proves, that force alone is inadequate to the government of mankind: even the approaches to the use of it have uniformly failed. The resort to fraud is alone complete evidence of the impotence of force by itself; for, doubtless, the fraud—always imposing shackles, more or less—would never have been submitted to, had the naked force been adequate to the end.—What is the conclusion?—As fraud has, heretofore, been combined with force; fraud must be supplanted by knowledge, in the future history of the world; and force left by itself is not competent to insure the obedience of mankind. It follows, that rational conviction alone is left for the auxiliary of force. But rational conviction will not afford its aid upon any terms except its own. It then becomes the governing power: and becoming the

governing power, it becomes the sole power; for rational conviction needs not the aid of force.

But, to pass from these clear revelations of reason, which hold forth, as in a mirror, the future history of mankind; one remark is yet necessary to be made, upon the conduct of those abettors of delusion to whom this part of our discourse is more particularly addressed. This their plea for mendacity and imposture,—to which religion ministers as a handmaid, in the instrumentality of the oath—stands directly opposed to the argument, which we shall have occasion to handle more particularly farther on,—that the ballot is unfavourable to that grand principle of morality, Truth. What are we to think of the morality and faith of those men, who display all the vehemence of outraged moral feeling, when they contemplate the chance that, under the safeguard of secrecy, the voter for a member of Parliament may break the promise—extorted from him by a villain—to violate his conscience and betray the trust confided to him by his country; while at the same time they uphold the virtue and excellence of the grand practical train of mendacity by which the people are to be cheated into a belief, that they have a power, of which they are wholly deprived? Was there ever a more glaring exposure of a hollow pretence? What is different, in the two cases, upon the shewing of these persons themselves, is not the mendacity but—the end. In the one case, the end is, to place the powers of government, without limit or control, in the hands of the few. For that end, according to them, active mendacity is laudable. In the other case, the end is, to limit the exercise of the powers of government to the attainment of the public good, by rendering the men, to whom the powers are confided, responsible to the nation at large. For this end mendacity, or the very chance of it, is to be treated as the most detestable of all conceivable things. We understand this morality; and we understand the men who seek credit upon the strength of it.

Besides the class, of whom we have hitherto spoken, who think that only the farce of voting should exist,—there is another class of our public men, who say, that they to whom the suffrage is given ostensibly, in England, exercise it substantially.

These men, of course, hold, that such a portion of the people as, in England, have the shew, should have the reality, of voting; otherwise they would belong to the class of whom we have already treated, and of whom it is not at present necessary to say any thing more.

It is implied in the supposed existence of such a class, that they believe the true, not the pretended, exercise of the power of

choosing by the people who vote, to be necessary to good government.

The good arising from the freedom of suffrage being upon this supposition the greatest possible, the evil from corrupted suffrage, corrupted either by hope of reward or dread of punishment, the greatest possible—what would men do, who were in earnest about the attainment of this good, escape from this evil?

1. They would shew a great anxiety about the securities as they are, to know whether they are as complete as they can be made.
2. They would shew a great anxiety about the securities as they ought to be—that is, the means of making them as perfect as possible.

It will be very instructive to take a view, in these two respects, of the conduct of the class, who, assuming that the suffrage is now free, treat the proposition of ballot as contemptible or odious; in which class are comprehended the major part of the public men of England.

First, let us contemplate the pains which they take to make sure that the suffrage is now free; that there is no mistake in a matter of such vast importance; that the men who vote are really secure from any undue influence, and never lend themselves to the election of any but the men whom their innermost thoughts prefer. Did any of us ever observe any such anxiety? Men in earnest about an affair of so much importance would shew great jealousy of every suspicious appearance.

Elections are of two kinds; those for counties and those for boroughs. Take the first, the county elections. What do we observe in regard to them? Are they perfectly free from suspicion? Does every honourable or right honourable person know with certainty, that no application is ever made to a county voter, which can hang a bias on his mind, and stain his vote with the character of corruption? If this were the case, the absence of all solicitude on this subject, so conspicuous in their conduct, would be perfectly accounted for, without impeachment of their sincerity and truth.

Let us advert to the real matter of fact. A large majority of all those who vote for county members, vote, under such circumstances of dependance, that they cannot vote contrary to what they know to be the inclination of such and such men, without the prospect of serious, often ruinous, consequences to themselves. This is a matter of fact, so notorious, that no man who desires to be treated as a gentleman would venture to deny it, in any other place than an

assembly of representatives, chosen according to this impure principle. That, indeed, is a place, where men, under the guidance of a common interest, do make assertions, pleasing to one another, which the rest of the world hear with astonishment; and, when they hear, turn round to one another and say, "If these men were to use words to us for such purposes in private life, after what fashion should we treat them?"

Is there among those honourable and right honourable persons one, who has either been candidate for a county, or supported a candidate; and who has not, himself, to the utmost of his power, exerted both engines of corruption; both the dread of evil, where that engine was at his command; and the prospect of good, where it was not?

Is this the fact? And do we still witness, in an assembly so chosen, the language and countenance of men, who maintain, that the members of a representative assembly ought to be chosen without corruption—and that the representative system of Great Britain ought to be preserved as it is?

There is a pretext which is employed, and often successfully, to create and to spread delusion upon this subject. It may be necessary to expose this piece of sophistry before we proceed any farther. It is contained in the language which is held about the legitimate influence of property. We are asked if we would destroy the legitimate influence of property? They accuse us of a desire to preclude the legitimate influence of property; and under the shield of an equivocal expression, they vent a quantity of moral indignation. Those are exceedingly wicked people, who desire to destroy the legitimate influence of property. They who desire secrecy of voting, desire to destroy the legitimate influence of property. Can there be a more complete demonstration against them? Can any men be more completely made to appear the proper objects of insult? richly meriting at once the scorn and the hatred of all those to whom property is dear; that is, of all but the most worthless and detestable of mankind, for how can society exist, or the innumerable benefits of it be preserved, if property is not secure? Thus the friends of the ballot are represented, obliquely at least, as the enemies of property; and then come all the images of spoliation, confiscation, anarchy, bloodshed, to annex odium to the individuals, and discredit to the cause.

The extreme folly of all this is easy to be made appear. It is only necessary to compel those fair and honourable, opponents, to show what they mean by the legitimate influence of property. We, the friends of the ballot, the plebeian, the democratical, the base, are fully persuaded, that there are two influences of property; one

good, moral, beneficent; another bad, immoral, pregnant with the most baneful consequences. The first of these we are so far from desiring to see extinguished, that all our endeavour is to increase it. We can prove to demonstration,—at least before such men as care for evidence upon these subjects, and know how to value it,—that the course we propose to follow is not only calculated to raise the moral influence of property, to its greatest height, but that it is the only course by which it can be so raised. With respect to the immoral, the baneful, influence of property, we confess that we are democratical enough to wish to see it wholly destroyed. The men whose mouths are full of the talk about legitimate influence, did not like to be so explicit. We will explain the reason. Their terms, “the legitimate influence of property,” includes both meanings; the moral, and the immoral, influence of property both together. This is exceedingly convenient. In this we see an example of the main artifice by which discourse is rendered the instrument of fraud.—Let two things, one good, and one evil, be confounded under one name; it is not difficult to transfer the approbation, the attachment, or, on the other hand, the detestation and abhorrence, which they severally deserve, from the one to the other. And this delusion is always most easy, in things which are remote from the familiar knowledge of the senses, things which can be apprehended distinctly only by a certain clearness and force of the intellect. It is worth while to attend to the working of this sophistical machinery. The moral influence of property deserves all the approbation which its eulogizers bestow upon it. That we may have clear ideas upon the subject, let us think for a little what it is. Riches, to the purpose we are now contemplating, mean, a certain quantity of power: power of bestowing—good more or less extensively—and also of inflicting evil on our fellow creatures. It is possible, we all know, for a man who is possessed of this power, to exercise it in such a manner as to become the object of the affection and reverence, not only of all those who come within the sphere of his virtues, but, by sympathy with them, of all those to whom the knowledge of his character is diffused. The opinions, the wishes, of such a man, become a motive to his fellow creatures. We desire to be able to concur with him in his opinions, we desire to be able to forward the objects of his wishes. If such a man expresses a decided preference of one of two candidates; the opinion of his virtue, that he would not recommend the man whom he did not inwardly prefer; and of his wisdom, that he would not be deceived, together with the unavoidable pleasure of giving him pleasure, would always go far to determine the choice of those who live under the influence of his virtues. This is the legitimate influence of property, in the sense in which it is moral. This is an influence which is as safe under the ballot, as without the ballot. The man who proceeds to the scene of election with that reverence in his heart, which the moral influence of property implies, will not be deserted of that moral impulse,



when he places his vote in secrecy. The effect of it is as sure as if it were delivered before an assembled world; because it is the mind of the man that acts. The will, the choice, are his own.

Let us next contemplate the other, the immoral influence of property; to which also, by a vile profanation, the term “legitimate influence” is applied. We all know that, commonly, riches are so employed as to create no affection towards the possessor of them; to produce no reverence of his wisdom, and no sympathy with his desires, in the mass of the people by whom he is surrounded. This is not to be imputed, with any degree of harshness, as blame to the individuals. The effect cannot be otherwise, in a country, where the social relations are so ill constituted, as to afford no adequate motive to a more virtuous course. On the contrary, praise is to be awarded to those, as often as we find them, who think that one good of riches is to earn the love and esteem of those among whom they live. We are not without examples of persons who so employ their property—of not a few, who so employ it in the lower degrees,—of some, even in the higher. It is notorious, however, that these are not the great body of opulent persons. The rest seek their influence in a different way. That way is so familiar to us all, that nothing more is wanted for the account of it, than the few words which are necessary to suggest it. We see, by daily example, how easy it is, for those who employ little or no part of their fortune to obtain the favourable sentiments of their countrymen,—nevertheless to make such a use of it as places a considerable number of persons in their dependence,—so to arrange their own permanent position with regard to such and such individuals, as to possess a great power over their happiness; the power of taking from them, or leaving with them, important means of well-being. This power over their happiness is unavoidably attended with a great power over their wills. Men do not choose to act in opposition to the desires of a man who can injure them greatly, when they have great reason to apprehend, that, by so acting, they will ensure whatever evil he can bring upon them.

This we call the immoral influence of property. This is an influence which can be used by the worst of men, as easily as by the best; supposing it for the moment an influence which any good man would consent to use;—an influence, which can be as easily used for the worst, as for the best of ends. The very opposite is the case with the moral influence of property; the native, inborn tendency in the human breast to promote the wishes of the man who has so employed the means of happiness at his disposal, as to fill our hearts with affection and esteem. This can be exercised only by virtuous men—can be employed only for virtuous purposes.

Let us now ask ourselves, under which of these influences, if we had our choice, should we desire our country to be governed. Suppose we had it in our power to give full scope to the exercise of the moral influence, and suppress entirely the immoral, will any man say that it should not be done?—What we affirm of the ballot is,—that it has this precious quality. It does bestow upon us this invaluable power. This is what we doubt not to be able presently to prove.

To return however for a little to the working of the immoral influence. Let us put before us a case. Let us suppose a country in which the representative system has been long established; and on such a footing that the powers of government are substantially placed in the hands of the representative body. Let us also suppose that portion of the community by whom the representatives are chosen to be so circumstanced that a large majority of them can be placed, and are at last effectually placed, mediately, or immediately, under the immoral influence of the property of a small number of men; in other words, that they vote such men to be representatives, as that small number bid them, under compulsion of the evil which disobedience would bring upon them. Let us rest our thoughts, for a moment, upon the qualities of this social order,—upon such a relation of human beings to one another in the political union.

Let us first observe the obligations of those, to whom the function of voting is consigned. They are elected, and set apart from the rest of their fellow citizens, for the performance of a service to their country, upon which its vital interests depend. They are Trustees for the Community to which they belong; and in a Trust, importing the greatest good or evil, to the vast majority of their countrymen. Can there be a more sacred obligation? Is there any thing binding upon the conscience of man, if this is not to be considered binding in the highest degree? Is it not an act of virtue to be faithful to this Trust? Not an act of vice, to be unfaithful to it? Is there any thing in any conceivable act of treachery to render it odious, which is not in this act? Is not the habitual consciousness of treacherous acts, the perpetual feeling that a man is a villain? Is not the habitual consciousness of having been, and being now a villain, with the intention of continuing to be so, a complete perversion of the moral faculty? Is not such a man completely degraded from the rank of a moral being?

Let us now apply our serious thoughts to the condition of the men who are vested with this trust in our own country. It is matter of fact, notorious, and undisputed, that a certain number of opulent men hold the great majority of them in such a state of dependence, that they command their votes. Whatever may be the opinion of any individual of this large majority respecting the superior fitness of

one of two candidates, he will vote for the other, if the man on whom his fears or hopes depend commands him, to what degree soever he may deem him unfit for the exercise of the power, with which he so contributes to invest him. The nature and quality of the proceeding are obvious to all men's perception. The opulent man applies to the voting man the means which are in his power to make him commit an act in the highest degree criminal,—to betray a trust of unspeakable importance, committed to him by his country.

We are told that the voters ought not to be guilty of such criminal compliance. True. So say we. They ought to perish rather. And so they would, under a social order morally constituted. But what is to be expected, in a state of things which has no tendency to generate the high feelings of public virtue; a state of things in which the hollow pretence of public virtue is indeed in sufficient repute, but any effective display of the reality excites only feelings of hatred; a state of things in which the interests of the men who have the lead in the country, and who set the fashion, in morals, as in clothes, are habitually pursued in opposition to the interests of the country; a state of things in which not only the morals of the people (at least any morals except those which are cultivated for the benefit of Priests and Masters) are neglected from their infancy, but the means are withheld by which even the seeds of morality could be sown in their breasts? Does their country in this manner abandon the care of the people's morals; and does it reproach them with the want of them? Inconsistency here is not all;—the inconsistency has dishonesty for the cause of it. The people are placed in circumstances in which they cannot have morals—the grand morals we now speak of—the enobling sentiment in the breast of every man to regard the public interest as his own. We upbraid them with this; and what next? What is the inference we draw? Only this—that the care of the public ought to be abandoned; and a few men ought to have the power placed in their hands of sacrificing, according to their discretion, the interests of their country to their own. Is the inference fairly drawn? Is it supported by the premises? The virtue of the people, you say, is weak. Unhappily it is so, deplorably weak; What then? Would it not be good to take all possible means to prevent it from being exposed to strong temptation? So say the men, who recommend the ballot. This is denied by the men, who resist the ballot, and who of course desire that the bad morals of the people, and all their pernicious consequences, should remain; as he who rejects the remedy, clings to the disease. Who are the men who profit by these bad morals? The men in whose hands, through that odious instrumentality, the powers of government are placed. Have they any interest in improving the morals, by the badness of which they derive advantage of such importance?—Is it not a dreadful state into which a nation is brought, when its leading

men have an interest in the badness of the morals of the people? Is it in the nature of things that, so situated, the morals of the people should be good?

Acknowledging, as we do most fully, the criminality of the voters; deeply sensible of the degree to which they are demoralized and degraded, by the part they act in returning members to parliament, let us now turn to the men who influence their votes, and endeavour to make an honest estimate of their virtues.

Let us first look at their conduct in its essence, and afterwards consider it in its circumstances. What is the nature of the act, when a man attains the end he has in view, by being the cause of the criminal act of another person? Suppose the object, is to avoid the payment of a just debt; and that the man in question hires a person to make a false oath, which secures him that advantage; he is of course regarded as guilty of the perjury, in a higher degree, if possible, than the man by whose lips it is performed. Suppose the object is, to obtain possession of a fortune by the death of the person who holds it; and that the man we are supposing hires an assassin who executes his purpose: is not he who hires the assassin the real author of the murder?

Who is there that has not already made the application to the case which it is our present business to illustrate? The voter for a member of parliament has a trust placed in his hands, on the discharge of which the highest interests of his country depend. Moral obligation is without a meaning, if the faithful discharge of this is not among the highest of all moral acts; the faithless discharge one of the basest of all immoral ones. To render this high obligation more binding still, the sanction of an oath is added. The voter solemnly swears, that he will not betray, but will faithfully execute, his trust. What happens? The unfortunate voter is in the power of some opulent man; the opulent man informs him how he must vote. Conscience, virtue, moral obligation, religion, all cry to him, that he ought to consult his own judgment, and faithfully follow its dictates. The consequences of pleasing, or offending, the opulent man, stare him in the face; the oath is violated, the moral obligation is disregarded, a faithless, a prostitute, a pernicious vote is given. Who is the author of this perjury, this prostitution, this treachery? There are two odious criminals; but assuredly the voter is the least criminal, and the least odious of the two.

Observe the horrid spectacle; two sets of men, the one comparatively rich, the other poor, so placed with respect to one another, that they act upon one another, for mutual corruption; that they gain their ends upon one another, only by a renunciation of the most sacred obligations, and the commission of the greatest

crimes; that, in order to have inward peace, in such a course of acting, they must succeed in obliterating every trace of the higher morals from their minds. The sense of obligation to the community to which they belong, the regard due to a trust, are not compatible with their situation. The men who have occasion for the prostitution, the perjury, the faithlessness of voters, and the most perfect indifference on their part to the interests of their country, must beware how they appear to have any regard for morality before such persons, or any regard for country. The appearance they put on is a curious one: it is that of a feigned scorn for all the public virtues, and a real hatred. This mixture of feeling gives a curious character even to the countenances of persons of the higher ranks in this country, distinguishable in most, and very marked in some.

When men have renounced the real virtues, they look out for substitutes, to conceal the state of their character, and, if possible, make its outside fair. It would be inconvenient, in almost any state of the world, for a set of men to proclaim their indifference to the good of the community in which they live; even where they are exerting themselves with the utmost energy to place the interests of the community permanently in a state of sacrifice to their own. What do they do? They find out whereon to display their zeal something which may be made to appear the interest of the community, but is in reality their own. Thus, under the old monarchy of France, the privileged classes possessed Loyalty in a high degree—an ardent love of the *grand monarque*; in other words, an ardent love of seeing placed as much as possible of other men's property at the disposal of the king, which he with royal bounty distributed among them. Our own gentry have a still better cry. It is the constitution—the British constitution! When trampling on every moral obligation in their way to their object, they still claim to be patriots, on the strength of a love to the constitution. Their actions interpret their words. Their love of the constitution is a love of suborned and prostituted votes; a love of the power, thus placed in their hands, of raising taxes without limit upon the community, and dividing the proceeds among themselves. Loyalty, constitution, are pretty sounds. But what they mean is, Plunder.

The prostituted voter, we said, is less criminal, than his corrupter. Not only is he less criminal in the principal act; he being to a great degree the passive tool, the other the active agent; his crime being single, that of the suborner multiplied in every individual whose villainy he has secured; he is also less criminal in the circumstances of his act, they almost all in his case being extenuating, almost all in his suborner's case aggravating circumstances, of the guilt.

For what is the object of the suborner?—To seat himself in parliament. This may be for a public purpose, or a selfish one. The public purpose is not that of the majority of candidates. No man, even a member of parliament, out of the House of Commons, will pretend that it is. No man, who knows his countrymen, and who means not to counterfeit or deceive, will deny, that those who go into the House constitute two classes; those who go in for the vanity of the thing; and those who go in for plunder: and that the rest, at the highest estimate, constitute a miserable exception. Take the most favourable case, that of the man who goes into the House with a virtuous intention; this is not one of those motives, which urging a man with vehemence in a particular direction, takes off from the odiousness of a bad action. But pass this case, and go to those which so nearly include the whole body. Take one of the men whose object is mere vanity—the distinction of being a member of parliament. Is there any thing, in this petty, vulgar, motive, to extenuate the guilt of an enormous crime? The motive of that proportion of candidates who seek admission for the sake of plunder, is itself wicked, and of course adds to the wickedness of the conduct by which the admission is procured.

Contrast with these motives that of the voter on whom the immoral influence of property takes its effect. His situation, most commonly, is that of an occupant of the land, or of a house, of the man by whom his vote is suborned. His prospect is that of being turned out of such occupation, if he does not lend himself to the designs of his suborner. In general this is a calamity of the severest kind. Often it is ruin, or something little short of it. In most cases, it is a great revolution in the circumstances of the man, and his family; full of anxiety, full of labour, full of risk. Not to incur such a catastrophe must always be among the strongest desires, the most overpowering motives, of a human being. It is a crime in any one, even for such a motive as this, to betray his trust, to violate his faith pledged to his country, and, as far as he is concerned, to deliver it up to misgovernment and plunder. But assuredly, if temptation makes any difference in the degree of crime, and every system of law in the world assumes that it makes the greatest, there is no comparison between the turpitude of the man who gives a dishonest vote in such circumstances, and the turpitude of him who suborns it.

Another tremendous accusation lies upon the class of suborners. They are the class by whom chiefly the moral character of the voting classes is formed. The opinions which they spread of what is honourable, and what dishonourable, become the governing opinions. But the habits of thinking, about what is right and wrong, what is shameful, what the contrary, diffused among any people, constitute the moral character of that people. If pains are

successfully taken with them to prevent their thinking a certain course of action shameful, though it really be so, they lose by degrees all moral feeling on the subject; in other words, are reduced to the most frightful state of moral corruption; they obey every temptation to any vicious act of the kind supposed, without the smallest self-condemnation or moral repugnance; the most feeble, the most contemptible of motives, therefore, is always adequate to the production of the crime.

Those who desire to get possession in their own country of the powers of government, exempt from all real responsibility, that is, for the purposes of plunder—for in such circumstances the motives to public plunder are irresistible—have no stronger interest, than in preventing, as far as they can, the existence of any such opinion as that public plunder is disgraceful; that is to say, public plunder in the essence of the thing; for as to certain forms of it—if such as they have no occasion to practise—they care not to what degree public opinion may be turned against them; nay, are ready with their aid to heap disgrace upon them, as a convenient method of diverting attention from the forms in which they indulge and preventing them from being duly considered and understood. If they have such an interest in preventing public plunder from being reputed disgraceful, they have no less an interest in saving from such moral condemnation all the crimes which minister to that result, and are necessary to its attainment. Among these the most important by far is the prostitution of votes. And, accordingly, no more remarkable instance can be produced of the power of the leading classes over the moral sentiments of mankind; the efficacy with which the successful prosecution of their sinister interests generates moral corruption in the body of the people; than the utter extinction of moral feeling in England with regard to voting for members of parliament. Shallow, thoughtless men, even if they are not corrupt, can hardly be made to conceive the extent of this calamity; for, along with the extinction of the moral feeling in regard to voting, must go the moral feeling in regard to acts in general, by which the common good and evil rarely are affected; the very notion of virtue and vice therefore becomes divorced from the thought of public acts as such; and men may be wicked to the highest degree in public transactions, without becoming disgraceful. This is nearly the last stage of public calamity: for there remains but one alternative;—the eternal existence of the misrule;—or a convulsion to obtain deliverance from it.

We conceive that little more remains, to demonstrate the utility and the necessity of the ballot: For we affirm, and think we shall be able in a few words to prove, that the ballot is a remedy for a great portion of all this evil; easy of application, and of all remedies, possible to be applied, the most unexceptionable, on account of any

evil consequences arising out of itself. We reason thus:—If it be proved that any where an enormous amount of evil exists, that an agency may be applied which will remove, if not the whole, a great part, of all this evil, and that to this agency no hurtful consequences are attached, which can be reputed an equivalent for one of the millions of evils which it will remove, the argument for its application seems to be as complete as demonstration can in moral subjects be. We know but one objection which can be made to it—that it is too complete. This is an objection not unlikely to be made. There are people who, precisely because it is complete, and, being complete, is not conducive to their ends, may call it an *a priori* argument, or by some such unpopular name; and will, on that ground, with much briskness, infer, that it is good for nothing. People who have their reasons for not liking a conclusion to which demonstration leads, have nothing for it but to decry demonstration. They indeed obtain credit only among the blockheads. But then the blockheads are the greatest both in number and power. It is not every man's ambition that goes higher than this.

We suppose ourselves to be arguing with persons, who really hold that there is a difference between one government and another: that it is of great importance to the community, whether the persons, to whom the management of their affairs is confided, do or do not act under an efficient responsibility to them. We suppose that we are arguing with persons who hold the British constitution to be something more than a name. All the eulogies we hear pronounced upon it proceed upon the assumption, that there is an immeasurable distance between a good government and a bad; that in the good government there are securities for the good conduct of those to whom the management of the public affairs is confided; and that in the bad government there is a want of those securities.

Representative government is a contrivance for affording those securities, by giving to the public the choice of the persons who have the management or at least a perfect control over the management of the public affairs. But where are those securities, if the people have not this choice—if they have nothing but the name of choosing, with some vain and fraudulent formalities; while the real power of choosing is exercised uniformly and steadily by the same small number of men. This small number of men are really, then, the governors, under no responsibility at all. Is it possible that in these circumstances the public affairs should not be mismanaged;—that they should not be managed under a perfect subserviency to the interests of that small number; in other words, that the interests of the governed should not, under a government so constituted, be habitually sacrificed to the interest of the



governors? Does badness of government consist in any thing else than this?

Now is not the time to enter upon the display of all that is contained under the dreadful term, badness of government; or of the items in the shocking catalogue which are most remarkable in the government of our own country; though nothing is more important than the frequent recounting of those evils, which they who suffer them always know, but of which they lose the accurate and pungent sense, if the thought of them is not frequently and vividly renewed.

The question we have to resolve will now be seen to be easy, because it turns upon a single point. All the evils of misgovernment, which we suffer, and to which we are liable, cumulated with all the evils of that horrid immorality which results from the giving and suborning prostitute votes, arise from this;—that the people of England do not choose the members of parliament, that the majority of them are chosen by a small number of men.

It is so clear as not to admit of being rendered clearer by argument, that what gives this small number of men the power of choosing, is the openness of the voting. It is the openness, therefore, of the voting that corrupts the government of England, and corrupts the morals of the people of England. That which enables the men, who hold the voters in dependence, to suborn the votes, is their knowing how the vote is given. Render it impossible for them to know how any vote is given, and their power over it is gone. The power either of rewarding a prostitute vote, or punishing an honest one, is useless, whenever it has been made impossible to be known whether the prostitute or the honest vote has been given. Effect this impossibility; take away the power of knowing how the man who votes for a member of parliament has bestowed his vote, and see the consequences. You give effectual securities to the public, that the affairs of the public will be managed for their interest, not sacrificed to the interest of their rulers; and you take away at the same time one of the most terrible engines of moral depravation, which ever was wielded for the pollution and degradation of any portion of mankind. Are not these important effects to be derived from so simple a cause? And is not the cause which produces such effects the more to be cherished and esteemed because of its simplicity?

The men in parliament who allow themselves to speak without repugnance of parliamentary reform at all, generally confine their favour to moderate reform. If the actions of these men corresponded with their words, we should have them with us on the question of the ballot. For can there be any change more moderate,

than that of converting an open vote into a secret one? Allow every thing else to remain as it is. Keep to the same voters exactly, and distribute them after the same manner. Do not even alter the duration of parliaments. Not that these things are as they should be. They might be altered, we think, for the better. But the ballot would operate so powerfully as an instrument of good, that the inconveniences which might still arise from these defects, if we had the ballot, would be far less severely felt.

This moderate, very moderate reform, could obviously have none of those effects, which are commonly painted in tragic colours, to frighten weak, fearful people, from every thought of reform. It cannot possibly have any farther effect, than that of bringing the practice of the English constitution into a conformity with its theory—that theory, which renders it “the envy of surrounding nations, and the admiration of the world.” That theory, undoubtedly, is, that the people choose. The practice is, that they do not choose. The ballot, and that alone, can enable them to choose, and render the British constitution in reality what it now is only in pretence.

There is another important argument in favour of the ballot. Nothing else can render the constitution of England conformable to the conception and expectations of its kings. When they, upon some great emergency, have recourse to a new, as a fitter instrument than an old, parliament, they declare that they have recourse to the sense of their people; meaning, of course, that the sense of their people is expressed in the choice of members of parliament. They know not, it seems, that it is not the sense of their people which is so expressed, but the sense of a small number of suborners of votes.

There are two blemishes in our representative system, as it stands, which even those who admire it as it stands, allow to be blemishes; and on which they are often pleased to descant as great and horrible evils. These are—expense of elections, and bribery in corrupt boroughs. Often have they tried their hands at legislating for a remedy of those evils. Notwithstanding the greatness of their efforts, notwithstanding the magnitude of the expended power,—the difficulties have still overmatched them. The collective wisdom of the nation has been baffled in a contest with cost, and corruption; and these blemishes still remain. It ought, with such parties, to be a strong recommendation of the ballot, and would be, if they were honest and sincere in what they say, that it would radically cure these acknowledged diseases of the parliament. See how clearly and immediately the result appears. With regard to bribery, who would go to the expense of paying any man for a vote, when, for aught he knew, it was given against himself? As money for votes rendered in secret can have no effect whatever to secure

the vote for which it is given, the man would be mad, who would throw it away in that manner.

Let us next attend to the cost incurred at elections, without regarding what it consists in, expense of conveying distant voters, entertainments; or favours of other description, money, or money's worth; the ballot would put an end to it all. Men will not incur expense for the attainment of an object, when it is clear that such expense can have no effect whatever in procuring the object. This is most indubitably the case with money spent on account of a vote given in such secrecy, that whether it is given for you or against you, you never can know. Under such a system the practical consequences would be, that only those men would vote who could do so free of expense, or were willing to defray their own charges.

We observed, toward the beginning of this article, that the enemies of the ballot in parliament are divided into two classes: one, that of the men who admit the limited number of real choosers, and defend it as the perfect state of the British constitution; the other, that of the men who, though they partly admit, partly also deny, the limitation of the number of real choosers by the operation of open voting, but who loudly express their conviction that voting ought to be free, and ought not to be perverted from its honesty by either of the two instruments of corruption, dread of evil, or prospect of reward. The former class are a very small minority in parliament, and the ground they take so very untenable, that they deserve no more of our regard. The latter class may be considered as making up the body of parliament. To them we now address ourselves, with an assurance of accomplishing one or other of two objects; either gaining their co-operation; or covering them with the shame of holding a language which their actions belie. By what pretence, we ask them, can you attempt to resist our conclusions? Will not the ballot render voting independent and honest; which you allow it is not at present, so perfectly at least as were to be wished. Will it not effectually annihilate expense of elections, as well as bribery and corruption? Will it not, in this manner, effect all which you conceive to be necessary to render the representative system of England perfect? It is, if your conception be right, a perfectly radical reform of parliament; and that by means to which no artifice can attach the idea either of difficulty or danger. The change of open into secret voting excites no disturbance; weakens the security of no man's rights; takes away no influence of property, except its immoral influence: while it is attended with two effects of unspeakable importance; it brings into action the only security for good government; and it puts an end to the most demoralizing traffic between the leading men of the community and the body of the people, that ever had existence upon the face of the earth.

The language which some of them sometimes employ to meet, and resist all this body of evidence is truly astonishing. If it was not seen, it would not be credible, that men could be found who without any necessity would stand up and shew such weakness.

“The ballot is not English;” that is one of their phrases, in speaking against it. Why not English? Upon what ground do you take upon you to refuse the use of the term “English” in conjunction with the word “ballot?” If the ballot be a necessary means to the most important of all ends, and the word “English” is not applicable to it, the word “English” is then not applicable to one of the best of things—that is all. But the word “English,” we suppose, is truly applicable to the system of suborning, and prostituting, votes, by which the character of Englishmen is depraved, and the interests of the English nation are trafficked away; and if so, it is applicable to one of the worst of things. Assuredly, the men who treat the word “English” in this fashion, are not the men who use it with the greatest honour.

The state of mind, however, of the man who, in the great council of the nation, when a solemn question is opened, whether a certain expedient is or is not necessary to secure the best interests of the community, gets up and pretends to terminate the whole deliberation, by refusing the application of the word “English,” must be regarded through all time as a curiosity.

This is a new test of good and evil. In point of handiness, it certainly would be, if fit to be trusted, a very desirable one. Is any man in doubt, at any time, about the goodness or badness of any thing. Only touch it with the word “English”: immediately, as when the Devil was touched by the spear of Ithuriel, it starts up in its real shape and dimensions; and all uncertainty about it is dispelled. There is, however, one objection to it, and that a serious one. It would supersede the use of wisdom, in the great council of the nation; and would entirely put an end to the veneration which is now, on account of its wisdom, so justly bestowed upon that august assembly, by all who enjoy the spectacle of its proceedings, or have the happiness of tasting their effects.

We fear also it is a test, the use of which ought to be confined to the privileged hands; for if the people were allowed to apply it, as well as their rulers, there might be strange diversity. That might appear very English to the one, which would be very un-English to the other. For example, the people might think every thing which was really good toward saving them from the curse of misrule, was most perfectly English; and of course the ballot itself, if it was a thing of that admirable tendency. They might be led the more easily into that mistake, in respect to the ballot, by observing what is the

English practice; that the ballot universally obtains where those, who have the power of determining the mode of voting, have a real interest, however slight, in the freedom and independence of the votes.

The men who themselves are in the habit of using the ballot, on small and on great occasions, during the whole course of their lives, stand up and say to an assembly of men who are all doing the same thing, that they ought to reject the ballot in parliamentary elections, because it is not English! Did we not speak true, when, towards the beginning of this discourse, we said, that the pleas of the enemies of the ballot had not even the look of honest arguments? that it was impossible to consider them as any thing but the pretexts; which must be found, when a position, which cannot be supported by reason, is to be maintained in spite of it?

Among the opponents of the ballot in parliament are some who cannot so much be said to argue, as to groan, and use inarticulate cries against it. Of this kind are those who say, They hope that they shall not live to witness the time, when Englishmen shall not have the spirit to deliver their vote in the face of day. It would be as honest, and about as wise, to say, they hope not to live to witness the time, when every Englishman shall not have his carriage and pair. If they were to say, which would be the only thing to the purpose, that they hoped not to live to see the day when an Englishman would not go to the hustings, and fearlessly vote for the man of his choice, without regard to the dictation of any person upon earth; the falsehood of the pretext would be too glaring to be successful, even in a country where as much is done by hypocrisy as in England. It is matter of fact, notorious and undisputed, that a great majority of those who vote for members of parliament in England, proceed to the hustings under the influence of what they either hope to receive, or dread to suffer, and prostitute themselves in the most infamous manner, by voting, not according to the dictates of their own minds, but like crouching slaves, at the will of another. Are these the circumstances in which votes are commonly given in England, and are men found who say they hope not to live to see the day when Englishmen will be afraid to vote openly? Patience would be found to hear them, in no assembly, we think, upon earth, but one composed of the very men who suborn such votes. Courage to vote as Englishmen vote, at the command of those by whom they are bought, or driven, is the courage of the slave, when he lends his body to the lash. Are there men, who pretend a horror at the prospect of parting with this, and receiving in exchange for it the protection of secrecy, because secrecy would degrade the people?

A wish for elevating the minds of the people is an admirable wish, and the profession of it is truly a pretty profession; but the true character of the profession is known by the character of the things which follow. Is the wish not to see Englishmen vote secretly, a wish that Englishmen should have sufficient independence of mind to vote as they please, though all the world should know in what manner they vote? We also entertain that wish most fervently. We have another strong wish; that all Englishmen were above being paupers. We apprehend, however, it would little answer any good purpose for us to use the *formula* of those who level their wishes against the ballot, and say, they hope not to live to see the day when Englishmen will live upon charity. Poverty makes the people of England willing to live on charity. Dependent circumstances make them willing to prostitute their votes. Your choice lies between prostitute voting and secret voting. There is the deepest degradation in prostitute voting. Not only is there no degradation in secret voting, but it saves from all the degradation inseparable from prostitute voting; all men, therefore, who deprecate the degradation of the people, not with hypocrisy, but in earnest, are of course the advocates of the ballot.

But, on what authority, we shall be asked, do we make the assertion, that there is no degradation in secret voting? On the authority, we reply, of those very men who say that there is. What! do the same men, who say that secret voting is degrading, say also that it is not degrading? They do; as you, and as they, and as all men, are perfectly aware. You see them constantly practising the ballot, and introducing the use of ballot, without a thought of self-degradation, wherever it is really their wish that the vote should be protected from external influence. In order to protect themselves from the trifling inconvenience of displeasing somebody, by blackballing an improper candidate for admission into a club, they themselves take the benefit of secret voting. Can there be a more perfect proof that they do not regard it as degrading? Can there be a more perfect proof that when they refuse to the honest voter for a member of parliament the same protection against far more serious consequences, on the pretence that it is degrading, they are not sincere? Observe, too, the difference of the ends. That improper members may not be admitted into a club, the secret voting is needful in the one case. That improper members may not be admitted into the legislature, it is needful in the other. Do you dare to say, that the use of it is not degrading in the former of these two cases, that it is degrading in the latter? That the end sanctifies the means in the former case, not in the latter?

"I cannot abide muffling up," says one honourable gentleman; and by such an appeal to sentimentality, manfully proposes to decide one of the most important questions of legislation. If a great end is

to be gained by muffling up, why should there not be muffling up? The nature of the pretext is so manifest, that it would seem not to be worth exposing; and yet there are persons for whose sake it may be proper to attract a little attention to it. If there were any argument in these words, it would rest upon this, that all secrecy is bad. If some secrecy is good, the man who says he does not like it, renders us one good service; he gives us full warning against taking him for a guide. Every body knows, this honourable gentleman knows, that, in itself, secrecy is neither good, nor bad. It is good, when it is the means to a good end; bad, when it is the means to a bad end. It is not base in the General, it is meritorious, to “muffle up” his designs from the enemy. The more perfectly he can, by concealment, stratagem, dissimulation, guile, delude their expectation, the more is he admired. It is not base in negotiation for the statesman to conceal with the utmost care the extent of the concessions he would make, rather than fail in the attainment of his object. Every government makes a point of concealing such part of its proceedings, and, as far as possible, such particulars in the national affairs, as it would be detrimental to the nation to let other nations know. If it be detrimental to the nation, that the mode should be known in which a man gives his vote for a member of parliament, that also, for the same reason, ought most assuredly to be kept from being known. One is ashamed to feel oneself obliged to contend against such puerilities.

There are some persons, who make a bold use of certain assertions with regard to the American United States, in opposition to the ballot. Some people have been there, and on the strength of a drive through the country, performed in a few months, give us their assurance, that, in the United States, the ballot does not answer expectation. Others have derived the same insight from conversations had with people of the United States.—What is the value of such assertions? Just nothing at all. Vague, hazarded declarations, respecting the interior and hidden working of the institutions of a foreign country, put forth in a debate to silence an adversary, declarations no man would repose even the smallest confidence in, if the question regarded a matter, about the truth of which he was really in earnest; the prudence, or imprudence, for example, of investing his fortune in the United States. He would go to other evidence, than the second-hand testimony of the one, or the reports, delivered by the other, of what was seen by the eyes, respecting a thing not to be understood by the eyes.

This, in itself, is a point of importance. It cannot be passed without notice. It is not generally understood of how very small a number of men the statements, respecting countries they have seen, can be received with moderate reliance. The number of accurate observers in the world is exceedingly small. It is well known to all those

persons who have occasion for accurate information, to judges, for example, and others, who take evidence in courts of justice, how inconsiderable the proportion of persons is who see and hear accurately, or can, by the utmost exertion of their wills, give a true account of some ordinary and not very complicated scene, in which they have been present. The merit of the judge consists, not in relying upon the statement of one witness, or the statement of another, but in confronting the statements, and from the knowledge he has of the laws of human nature, and the order of human transactions, divining the truth.

If such is the inferiority of individual testimony in the ordinary transactions of ordinary life, what must it be in the accounts we receive of countries and nations? Here the men who have occasion for accurate knowledge; the historian, for example, of a country, the state of which he is obliged to expound to readers who have but little previous acquaintance with it have most remarkable experience of the necessity of the deductive process, in order to arrive at the truth. It is not this or that man's testimony, but the result of all the testimonies, which affords any sure ground of reliance. Individual testimony here is beyond measure less perfect than that which is delivered before the judge; both because it relates to matters, of which it is infinitely more difficult to give correct testimony, and because it is delivered in circumstances far less favourable to accuracy. By combining the whole, and interpreting one thing by another, certain leading points are made out, and a philosophical acquaintance with human nature is the guide to the rest. In all history, the great, the public, notorious facts, alone, are known with certainty. The minute particulars almost always rest upon very indifferent evidence. The great, the leading facts, therefore, interpreted by a philosophical knowledge of human nature, comprehend the whole amount of the information which history bestows.

We have the very fortunate advantage of high authority upon this subject. M. Talleyrand, whose character will not be challenged as a practical man, even by those who misunderstand the value of what they distinguish by that application, passed, as is well known, a part of the time of his emigration in the United States. His testimony will be regarded by every body as possessing peculiar value. What is it that he tells us? That there are certain grand leading facts, known to all the world; and that he who is capable of interpreting these facts, knows more about the United States, in whatsoever part of the world he may be, than the ordinary man who is upon the spot, examining every thing with his five senses.



There is a letter which Madame de Genlis received from this extraordinary man, during his residence in the United States, from which we extract the following passage:

“Ce pays-ci est une terre où les honnêtes gens peuvent prospérer, pas cependant aussi bien que les fripons, qui comme de raison, ont beaucoup d’avantages. J’avois envie d’écrire quelque chose sur l’Amérique et de vous l’envoyer; mais je me suis aperçu que c’était un projet insensé. Je renvoie le peu d’observations que j’ai faites aux conversations que j’espère avoir quelque jour dans les longues soirées avec vous. L’Amérique est comme tous les autres pays: il y a quelques grands faits que tout le monde connaît, et avec les quels on peut d’un cabinet de Copenhague deviner l’Amérique toute entière. Vous savez quelle est la forme du gouvernement; vous savez qu’il y a de grands et immenses terrains inhabités où chacun peut acquérir une propriété à un prix qui n’a aucun rapport avec les terres d’Europe: vous connoissez la nouveauté du pays, point de capitaux, et beaucoup d’ardeur pour faire fortune; point de manufactures, parceque la main-d’œuvre y est et y sera encore long-temps trop chère. Combinez tout cela, et vous savez l’Amérique mieux que la majorité des voyageurs, y compris M. de L.—— qui est ici faisant des notes, demandant des pièces, écrivant des observations, et plus questionneur milles fois que le voyageur inquisitif dont parle Sterne.”\*

When certain persons, therefore, affirm to us, that the experiment of the ballot has been unsuccessful in the United States, our reply is, that we do not believe them. Why do we not believe them? Because, when we weigh the evidence which is contained in their assertions, and the evidence in opposition to them, we find the latter to preponderate. In the first place, with regard to the assertions, we know not how far those who make them do themselves rely upon them. House of Commons’ morality does not imply the existence of many men who will keep back an assertion, useful for their purpose, because they know little or nothing about the evidence on which it rests. In the next place, if we knew that they were sincere, we know not what sort of observers they are; but we do know that few observers are to be trusted. We know not from what circumstances they have deduced their inference; or, if they rest their assertions upon the declarations of other people, from what sort of people they received them. Any man, who pleases, may resort to a pretty certain test of the value which ought to be attached to what ordinary people deliver about the condition of a country. Let him but ask himself this question. To how many, of all the men he knows, would he confide the task of giving an account, on which he would rely, of the country in which they were born and bred? Of the uncertainty of men’s observations, even when confined to a single point, the controversies of every day

afford the most glaring evidence. Can we find a better example than that which we have all had recently before us? The people of England have been divided into two parties, about the distresses of the country. One would imagine that this was not one of those circumstances which it required eyes of an extraordinary keenness to discern. Yet if you asked a man of one of those parties, whether the country was in distress, he would affirm it; if you asked a man of the other, he would deny it; and both with equal confidence. Upon the experience of which are you to rely? Of neither; because the bulk of the persons who form opinions upon such subjects are led to them by partial observations. Men judge of an object by the things in it to which they direct their attention. A strong bias of the mind directs the attention to that part of the circumstances to which the bias inclines; and upon that part exclusively the opinions of ordinary men are formed.

What trifling, then, is it, to go to uncertain testimony, of which we know only that it is of no value, when the great circumstances of the case, decisive of the question, are perfectly known to us? We know well what secret voting is; and we know that it may be rendered a complete security against external influence, in voting for members of parliament. If the Americans did use it badly, that would be no argument against the thing itself. The Americans have little motive to the accurate use of it, because, by two circumstances in their situation, the general wealth of the people, and the great rarity of large fortunes, the means are wanting of placing more than an insignificant portion of them in dependence. There would be no wonder, then, if the Americans were not very nice about the machinery of the ballot, and cared but little whether it was so used as to work with much, or with little accuracy. Their case and ours are in this respect diametrically opposite; they do not depend upon the ballot for independent voting, we cannot possibly obtain it by any other means.

But beside all this, we know upon better evidence than the assertions made in parliament, that the Americans do esteem the ballot. It is evidence enough that they continue to use it. Why should they, unless they liked it? The Americans are not in our miserable condition. They cannot have institutions, under which they suffer, fastened upon them for ages in spite of their inclinations. What, then, is the fact? So far from being diminished, the use of the ballot has been continually extended in America. Some of the States, in which, originally, it was not employed, have, upon the revision of their constitutions, introduced it; and in not one, in which it has ever been used, has the thought been entertained of discontinuing it. Nothing can be more worthless, therefore, than the pretence that America affords experience against the benefit of secret voting.

Of all the assertions, however, adventured in parliament, to oppose the argument for the ballot, there is certainly not one, the audacity of which is more worthy of our admiration, than what we are next to mention;—that secret voting has no tendency to ensure independent voting. This is an infallible test of character. We strongly recommend the use of it, in the case of public men, to all who desire to understand them. We may be perfectly certain, that the man who makes this assertion will make any other assertion whatsoever, if he believes it useful to his purpose; that twice two, for example, make not four, but four hundred. Take either supposition, that he does not see the truth, or that he sees it and belies it. You, probably, will not affirm, that the man who sees the truth and belies it, in one instance, because it suits his purpose, will not, when it suits his purpose, do so again. And, if any man's intellect be in such a state that he cannot perceive the connection between secret voting and independent voting, either from its native weakness, or its readiness to be blinded by the feeling of interest, we really see no security against a similar effect from similar causes, in the case of a simple arithmetical proposition.

What we have already said upon this subject contains all the evidence necessary to determine the question. An independent vote is a vote, given in such circumstances, that good or evil, at the will of another, does not depend upon the manner of giving it. A man votes as he pleases, when nothing good is to come to him from his voting in one way, nothing evil from his voting in another. Such, necessarily, is the effect of voting in secrecy. If a man promises, or gives, a bribe to another who votes in secret, he clearly sees what he purchases; he gives his money for a certain chance that the man will vote for him; to the man who votes, the case is the same, whether he votes the one way or the other. The man who would inflict evil for a vote given against him, cannot inflict evil for its being given against him, when he cannot know but it was given for him. In these circumstances, the independence of the vote is complete, and we have already seen, that upon independent voting all the blessings of good government, and deliverance from all the unspeakable evils of bad government, inseparably depend.

It is of no consequence to tell us of certain combinations of circumstances, in which the happy and natural effect of secret voting would be eluded. We know them. We know also that under the present distribution of the suffrage in England, there are cases in which the secrecy would have no effect. Take Old Sarum for an example. Wherever the electors are so few, that good can be extended to the whole body, if the result is in one way, evil if it is in another, independence may be prevented in spite of secrecy. But these cases are a very insignificant proportion. In all counties, and in most boroughs, no such power can be pretended. Wherever the

voters consist of thousands, or even of a good many hundreds, a sum to each sufficiently large to secure their votes, would exceed the share of the national plunder which any individual could hope to attain; and the power of evil over larger numbers is more limited still. No man can afford to turn out the numerous tenants, either of his lands or his houses, without a serious calamity to himself.

This being the nature of the case, as all men cannot but see, those of our representatives who tell us, that bribery and intimidation would just as much prevail under secret as open voting, must be prepared to affirm, that Englishmen will choose to be slaves, when they may be free; that they will choose to send men to parliament, who will perpetuate the evils of misrule, rather than men who would remove them; even when they can derive no advantage individually from sending the first sort, nor evil individually from sending the latter. They who can believe this, if any such there be, and they who pretend to believe it, are clearly beyond the reach of argument.

A certain set of cases, however, are held forth to countenance this monstrous pretension; which are so far from being cases in point, that they are mere examples of a gross abuse,—the employment of secrecy in circumstances in which it is a protection, not to pure, but to impure voting. This is a point, upon the elucidation of which a few words will be not ill-bestowed; as it is one of the principal sources of obscurity, and hence of sophistry, on the subject of the ballot. There are two sets of circumstances in which votes are given. These two sets of circumstances are so very different in their nature, that in the one of them open voting always tends to good, secret voting tends to evil; in the other secret voting alone tends to good, open voting tends to evil. These two sets of circumstances were not very difficult to discover, and yet we do not know that they were ever distinctly pointed out, till Mr. Mill found the explanation necessary in his History of British India.\*

There is one set of circumstances in which, if men voted free from external influence, they would vote well; another set of circumstances in which, if they voted free from external influence, they would vote ill. We see that in one of the most recent discussions on the subject of the ballot in parliament, Sir Robert Peel tried the effect of a sophism which rested on the confounding these two sets of circumstances together. He brought forward a case of the ill-effect of the ballot in that set of circumstances in which its tendency is to produce evil, whence to infer that it could produce none but ill effects in that set of cases in which its tendency is to produce good. He adduced an instance of the corrupt use of secret voting, by members of parliament in the

business of parliament, in order to prove that electors would make a bad use of it in choosing the representatives of the nation.

He was ignorant, so we are willing to believe, that the circumstances of the two cases were not only not the same, but diametrically opposite. In the case of members of parliament in the business of parliament there is no security for good voting without the publicity of the voting. In the case of electors voting for representatives the only security for good voting is the secrecy of the voting.

The difference in the two cases is constituted by the difference of the interests. In the one case, the voter has an interest in bad voting, and will vote ill, if he is not prevented. In the other case, the voter has an interest in voting well, and will vote well, if he is not prevented. The member of parliament, who has an interest in abusing, for his own advantage, the powers of government intrusted to him, needs to be restrained. Restraint is found in the power of publicity. The electors, who have an interest in good representatives, need to be saved from the influence of men, who, if returned under that influence, would not be good. They can be saved by secrecy.

To express the circumstances generally; we say, that in that set of circumstances, in which the voter's own interest would lead him to vote well, but other men are likely to create an interest for him which would lead him to vote ill, the vote should be given in secret: in that set of cases, in which the voter's own interest would lead him to vote ill, but public opinion would act upon him as an inducement to vote well, the vote should be given in public. The effect of secrecy in the two cases is perfectly contrary. In the one case it is protection for the operation of the sinister interest; in the other it is protection against it. In the one case it is the safeguard of the public interest; in the other it is the removal of that safeguard.

To maintain the pretence, that perfect secrecy in voting for members of parliament would not annul the power of influencing the vote, by annexing the prospect either of the matter of good to the giving it in one way, or the matter of evil to the giving it in another; it must be affirmed, in the one case, that the man who has received a bribe, or the promise of one, will vote contrary to his inclination, though the receipt of the bribe cannot in the least degree be affected by his voting according to his inclination; that is to say, he will vote against his inclination totally without a motive, which is a moral impossibility: And in all other, it must be affirmed, that the man who is threatened with evil, if he votes in a particular way, will vote against his inclination, though he knows that he is

not in the smallest degree more likely to suffer the evil if he votes according to his inclination; that is to say, he will vote contrary to his inclination totally without a motive, which is the same moral impossibility as before. No *reductio ad absurdum* is more perfect than this.

The last resource, therefore, of these controvertists is, to deny the possibility of secrecy. How do they make that out? They do not make it out at all. They make out nothing; nor try to do so. That is not their way. They assert; sometimes more nakedly, sometimes more covertly, but still only assert. Please, then, to inform us in what way the secrecy is to be violated; for if it be to be violated, there must be some mode of doing it.

Voters will shew in what way they vote.

Your word *shew* has a double meaning; and is here employed in your usual, that is, equivocating way. It means either seeing or hearing. If you say, that the voter will let it be seen how he votes, we can take perfect security against that. If you say that the man would tell how he votes; we answer, that the man may do so, as much as he pleases; but the secrecy of the vote will be just as perfect as ever; since it must for ever be a secret whether or not he speaks the truth. At any rate the man who proclaims the knavery of giving a prostitute vote, cannot be depended upon for speaking the truth.

We affirm, then, and upon ground which seems impregnable; 1st. that voting may be rendered perfectly secret; 2nd. that secret voting is a perfect security for independent voting; 3rd. that without independent voting all hope of good government is vain; and 4th, that in England there cannot be independent voting without secret voting. If so, we have a pretty complete argument for the ballot.

The language which is held by the enemies of the ballot is wonderful in almost every part of it; but we do not think there is any thing in it, which excites an odder mixture of feelings, in the intelligent mind, than what they say about the high moral consequences of the tumult and uproar of an election. The excitement, they tell us, produced in the people, by such proceedings, is of an admirable tendency. Their minds are thereby filled with the principles of virtue. Tumultuous elections are a kind of school, a *gymnasium*, for the training of patriots.

In the various pretexts which are made use of to decry secret voting, that indispensable foundation of a good representative system, in all countries in which the mass of the people are not in

circumstances which place them above dependence; there is nothing which more deserves our attention than the *animus* displayed by them; the peculiar combination of intellectual and moral qualities, which alone seems competent to usher them into the world.

If what is thus affirmed were true, or if the men who affirm it believe it to be true, we should see them endeavouring to turn this admirable instrument of virtue to the greatest account. Every quiet election would, upon this principle, be an evil; it would defraud the country of so much virtue. Every close borough would not only be a blot in the constitution, but a principle of immorality; a cause why the standard of virtue, in the breasts of Englishmen, is so low as it is. Every compromise in a county, by which, for avoiding of contests, a whig member and a tory member step quietly in, would, in truth, be a flagitious conspiracy against the virtue of the country. If the men who are parties to such compromise should defend it, as they commonly do, by saying that it preserves the peace of the county; that it avoids the excitement of hostile affections, which render men bad neighbours, bad relations, bad landlords, bad tenants, bad magistrates, bad masters, and bad servants; that it saves from those scenes of profligacy, that intemperance, that ferocity, that falsehood, that perjury, that prostitution, that open contempt of all moral ties, which are the grand features of a contested election; if, we say, the men who find all these advantages in what they call the peace of the county, are the very men who tell us the ballot ought to be rejected, because it tends to prevent the golden virtues which are generated by a contested election,—they will not, at any rate, we hope, pretend to be consistent. If contested and exciting elections were thus efficacious in elevating the standard of public morality, the opulent men of the nation ought to have no object nearer their hearts, than to take effectual measures for preventing any election from ever being peaceable. This would be one of the highest services they could render to their country. Nor is this all. If contested, and exciting elections, made to be universal in the country, by the virtue of our opulent men, would produce so much virtue in the people, occurring, as they do, but once in seven years; how much higher would our virtue be raised, if we had the benefit of them every year? There are other elections, too, in the country, beside the elections for members of parliament. They ought undoubtedly all of them to be made to contain as much as possible of that which, in elections for members of parliament, is found to be the cause of such admirable effects; namely, their tumultuousness. All parish vestries ought to be open vestries. Yet here again we have occasion to deplore the little care of their consistency which is taken by our public men. There is nothing which they are more attached to than select vestries; which attachment has misled them so far,

notwithstanding their love of tumultuous elections, that they have made the House of Commons the perfect model of a select vestry. The same thing nearly may be said, of all elections of magistrates in corporate towns. These elections please our public men, in proportion as they are on the plan of a select vestry. Yet of how much virtue is the nation thus deprived, which would be surely generated in it, according to the same theory of our public men, if all these elections were tumultuous? We cannot avoid carrying our views even farther. There are various states and conditions, to which men are raised by various incidents, most improperly, if the process of tumultuous elections are so salutary upon the public mind. The appointment of clergymen, for example, not only for parochial duties, but to all the dignities, and all the riches, which some of them enjoy, ought to be made in the way which is most conducive to virtue. The peerage, so great a prize, ought assuredly not to be thrown away, by depending either upon individual choice, or the accident of birth, if so much benefit might be derived from it, in making it depend upon a tumultuous election. Nay the sovereignty itself ought to be elective, since, if the virtue generated by the small contest for a member of parliament be an object of any value, that generated by a choice of such ineffable importance to the nation, would be of infinitely greater value.

So much for the *argumentum ad hominem*; which, in this particular case, all discerning men will see to be of much more importance, than that sort of argument generally is. The intrinsic merits of the question are immediately seen, by a recurrence to the actual business done. There are two parties at an election; one, that of those who give prostitute votes; the other, that of those who suborn them. It is of no use to tell us that there are honest votes at elections; there might be more than any body will pretend there are, without affecting the truth of our description. The honest votes, taking the country as a whole, are a miserable exception. Now, then, draw the consequence. A scene got up for the most deeply immoral and degrading of all human purposes, for the perpetration of a great act of treachery to the nation, for delivering it into the hands of a small number of men, interested in all the abuses of misrule, contrary to the most solemn of all engagements, in the midst of fraud, perjury, and every other abomination, there are men who tell us is a scene, in which Englishmen have to learn their public virtue, and of which, from consideration of their virtues, it would be most dangerous to deprive them.—Those virtues in them, which fit them for the purposes of their suborners, they do learn there in great perfection. That is a truth beyond all dispute. No wonder the school should have patrons, in a class of men so deeply interested in its success.



One objection still remains, which, though we shall be able to shew that it rests entirely on misapprehension, we regard with far more respect than any of those which we have previously noticed; because the point of morality to which it refers is of the utmost importance, and because we know that it affects the minds of some men, who, on account both of their intellectual and moral qualities, are entitled to our highest esteem. These men say, that secret voting, to make it answer its end, supposes mendacity. The man who is bribed, promises to vote one way, and actually votes another. The man who may be turned out of his house, or his farm, or suffer any other evil, votes one way, while he says that he votes another. This violation of truth, they say, is so odious, that it renders odious and ineligible whatever is necessarily combined with it.

This objection requires the more words to shew the nature of it truly, because the evil which it points at is all upon the surface, and is easily seen; the evil which is prevented lies deep, and can only be seen by an attentive observer.—Of two evils choose the least,—is, nevertheless, the proper rule, in this, as in every other case of human deliberation.

Of so much importance is it to mankind, that they should be able to confide in what is said to them by one another, that no violation of the truth which would affect that end, can be justified.

There are circumstances, however, in which another man is not entitled to the truth; and these circumstances create a radical distinction. The cases in which men are not entitled to the truth constitute a class by themselves; subject to rules altogether different from the class of cases in which they are entitled to the truth.

Men are not entitled to the truth, when they would make a bad use of it. This is a maxim sanctioned by the moral judgment and the practice of all ages and nations. When men withhold the truth from such parties, they in fact do not violate the rule of veracity; they neither feel conscious of any guilt in themselves, nor is any ever imputed to them by others. The rule of veracity does not consist in giving information to a villain which he will employ in forwarding his villainous ends. Wrong information, for the prevention of evil, and, in certain circumstances, for the promotion of good, has rarely been classed among forbidden means by any set of men, civilized or barbarian. Who that saw a fellow-creature hiding himself from his intruding murderer, but would say to the ruffian whatever was most likely to mislead him in his pursuit? Instances might be multiplied without end. Take one of an ordinary sort. The Physician is not blamed, he does not consider himself as violating the sacred rule of

veracity, when he assures his patient that he is in no danger, though he knows him to be in the greatest.

In no instance is wrong information conducive to the prevention of evil of such magnitude, as when it is conducive to the prevention of misrule. In no instance is any man less entitled to right information, than when he would employ it for the perpetration of misrule. If in every conceivable instance wrong information is not to be considered a violation of the rule of veracity, not a breach of morality, but on the contrary a meritorious act, it is when it is necessary to defeat such a purpose as this.

Among the gross inconsistencies which crowd the minds of Englishmen, one of the most remarkable is that which exists between the abhorrence of the ballot, on account of the supposed mendacity connected with it, and the habitual conduct of the men who express that abhorrence. The same mendacity, exactly, if they persist in calling it mendacity, which a voter may use to baffle his corrupter, they themselves practise every day from the slightest motives. Every time they write "obedient, humble servant," at the bottom of a letter, they tell a lie, if lie it must be called, of the very same description. Every time they direct a servant to say at their door to the people who want them, that they are not at home, when they are at home, they not only lie themselves, but in this instance have no scruple at all in making another person lie, notwithstanding the intolerable pollution they ascribe to it in the case of the ballot. It surely is not necessary for us to go on shewing how much of the whole business of life, in this purest of countries, is carried on by lying, if words and actions conveying false information deserve this opprobrious name. Let us look to more solemn occasions. The law hardly does any thing but by means of a lie; witness the writs which give commencement to a suit; and witness, to go no farther, pleadings of almost all descriptions. Not only breaches of veracity, but breaches of oath, are committed with the utmost indifference. How common is it, for jurors on their oaths, to declare an article worth but a few shillings, which they know to be worth, perhaps, ten times as many pounds, only that they may not subject a criminal to a greater punishment than he deserves; how necessarily does the law requiring unanimity in juries, compel a part of the jury in almost all doubtful cases to perjure themselves? We need but allude to the daily use of fiscal oaths, and theological oaths, to be reminded of the perfect callousness with which false swearing is practised and regarded. Nay, remarkable as it must be esteemed, we on no occasion lie more grossly, and habitually, than in our devotions; in our addresses to God himself, at the very time that we are professing with our lips that we believe him omniscient, and acquainted with our innermost thoughts. Do we not hear people daily telling God in

their prayers that they renounce the pomps and vanities of the world, when we know their hearts are filled with nothing else? Does not every man who repeats the prayer, called the Lord's, tell the Deity, that he wishes "not to be led into temptation?" And do we not know many such men devoting all their thoughts to the accumulating of riches, or the acquisition of worldly grandeur, which the scripture tells them are the greatest of temptations; since it is easier for a camel to go through the eye of a needle than for a rich man to enter into the Kingdom of heaven?—Need we go on?—Surely not.

And yet have we men, who, after seeing to how great a degree the whole tissue of our lives is formed of lying, and after being themselves inured to it, profess so violent a hatred of the falsehood accidental to a vote rendered independent by secrecy, as to account the independence, and all the inestimable benefits which flow from it, less than an equivalent? We should have accounted this one of the most perfect of all possible specimens of Tartuffizing, if we did not know that there are valuable men, who have formed with the false information, which may occasionally be necessary to obtain the independence of which secrecy is the means such an association of ideas, as they do unhappily mistake for moral disapprobation.

But beside the proof we have given, that the wrong information incidental to the ballot belongs not to the class of cases in which the moral rule of veracity is concerned; beside the certainty of the rule, that the least of two evils is to be chosen; and the perfect proof by the practice of Englishmen, that in innumerable instances they regard the use of falsehood as little or no evil, while bad government is acknowledged to be the worst of all evils; beside all this, we have still to observe that the objection assumes what is not true. It assumes that every vote which would be suborned, if openly given, would be attended with mendacity if given secretly.

First observe, that if this were so, the cases, in respect of mendacity, would only be equal. Every suborned vote is by the supposition a mendacious vote. What ground then is there for any preference on the score of veracity; and what ground is there not for preference on the score of national good? This objection, drawn from the love of veracity, is thus clearly seen to be utterly worthless.

Such, however, is the admirable working of the ballot, that it would preclude the occasion for mendacity in many, in probably a great majority of instances, from the beginning; and in the end would utterly abolish it. If men never continue to do any thing in vain, men will not seek promises from others, in circumstances in which

the promise is of no use to them. Where there is no promising at all, there can be no false promising. The ballot, therefore, is really the means of delivering votes from mendacity. One of the arguments in favour of secret voting springs from the very source, from which this mistaken objection is drawn.

Suppose a man to go about, asking promises from electors who vote in secret. He obtains them, of course, from all the men, from whom he would have obtained a prostitute vote in the case of publicity. An act of mendacity is necessary in either case, whether the promise is kept or broken. But of two lies, equal to a man in other respects, he may pretty surely be expected to prefer that which favours his own inclinations. The promise, therefore, is to the man who exacts it no security for the attainment of his object. It is obviously the reverse, if the attempt to impose an odious chain be felt as an injury by the man who is sought to be degraded. Every man from whom a promise is exacted to vote in one way, has received a new motive to vote in the opposite way, by this badge of slavery nefariously fastened upon him. It is abundantly certain, that the exaction of promises,—in these circumstances more than useless,—would soon be abandoned, and voting would be as pure of falsehood as it would be of dependence.

Nor would this be the only moral effect of secret voting; it would have others of the greatest extent, and importance. This, undoubtedly, is one of the most interesting points of view in which the subject can be considered. Take away from the men of property the power of obtaining the suffrages of the people by improper means, and you may deem it certain that they will immediately apply themselves to the obtaining them by proper means.

It is impossible not to be delighted with the idea of the consequences which would result from such a change. Whereas, at present, the traffic which takes place between the parties who give and the parties who obtain votes, corrupts them both; the intercourse between them, in the other case which we have supposed, would operate most powerfully to their mutual improvement.

The evidence of this we think is incontestible. The moment it was seen that the people gave their suffrages only to those whom they regarded as best endowed with the qualities which fit men for the duties of legislation, the men of property would exert themselves to attain and to display those qualities. They would then have a motive for their attainment, of which at present they are nearly destitute. Stores of knowledge, habits of mental application, of self-denial, of preferring the public interest to the private interest, whenever there is incompatibility between them, are not easily acquired; and

never will be acquired (bating remarkable exceptions) by those who have not a strong motive to acquire them.

We think, that putting the elective suffrage on a proper footing would afford that motive to the men of property in England. Men of property love distinction; but the distinction of property, where it is not connected with political power, or strongly associated with the idea of it, is insignificant. The great desire of men of property, therefore, always will be for the distinction connected with public services. But, if they had an adequate motive for the acquisition, in a superior degree, of the high mental qualities, which fit men for the discharge of public duties, it cannot be doubted that they have great, and peculiar advantages, for the accomplishment of their purpose. Other men, even those who are not confined to mechanical drudgery, are under the necessity of employing the greater part of their lives, in earning the means either of subsistence or independence. The men who are born to a property which places them above such necessity, can employ the whole of their lives in acquiring the knowledge, the talents, and the virtues, which would entitle them to the confidence of their fellow citizens. With equal motive, and superior advantages, they would, of course, in general, have superior success. They would be the foremost men in the country, and so they would be esteemed.

Δεῖ, says Plato, (Πολιτ. Γ.) speaking after Phocyllides, ὅταν τῷ ἥδη βίος ἢ ἀρετὴν ἀσκεῖν. "A man has peculiar advantages for attaining the highest excellence of his nature, when he is above the necessity of labouring for the means of subsistence."

The man who is placed in these circumstances, has not only the whole of his time to bestow, in early life, upon the acquisitions which fit him for the business of legislation and government; he alone, and not the man without fortune, who is still engaged in other pursuits, can bestow his time and attention, undivided, upon the public services with which he is intrusted. Our opinion, therefore, is, that the business of government is properly the business of the rich; and that they will always obtain it, either by bad means, or good. Upon this every thing depends. If they obtain it by bad means, the government is bad. If they obtain it by good means, the government is sure to be good. The only good means of obtaining it are, the free suffrage of the people.

Radical Reformers are commonly stigmatized in the lump; and, as names of peculiar opprobrium among the suborners of votes, they are called Democrats, and Republicans. We see not why either of these names, unless misconstrued, should be dishonourable. For our parts, however, we are Aristocrats. We think it best, that government should be placed in the hands of the Ἀριστοί; not only

in the sense of the Greeks, who understood by that term the Βελτιστοι; but in that of the moderns, who understand by it only the Rich. We only desire that it be placed in the hands of the rich upon such terms as will make them the Αριστοι and Βελτιστοι. Whoever are the Αριστοι and Βελτιστοι, we desire to be governed by them; and, with the suffrage upon a proper footing, we have no doubt that they would be the Rich.

If the effect of placing the suffrage upon a proper footing would be thus salutary, with regard to the intellectual and moral qualities of the rich; let us inquire next what it would be in regard to the rest of the community.

We have seen that, while votes are liable to be suborned, and while the rich obtain their purpose with the people by corrupting them, they do corrupt them. The consequence is inevitable; and neither the insensibility to moral evil which habit produces, nor all the refinements of modern disguise, can hinder any fair observer from understanding the Tragi-comedy of which we are the spectators.

But, if the business of the rich is to corrupt the people, when they can obtain their purpose by corrupting them, it will no less certainly be their endeavour to improve them, if you render it impossible for them to obtain their purpose with the people by any other means than improving them.

Who will deny that this would be the consequence of placing the suffrage upon a proper foundation? When the people are under no inducement to choose representatives from any other consideration than that of their fitness, it becomes immediately the interest of the rich, that none but the fittest should be chosen. Whenever the benefits of misrule are taken out of the hands of the rich, the rich have then the strongest interest in good government. Good government, however, nothing but the good choice of the people can procure.

But the more wise and the more virtuous the people can be rendered, the goodness of their choice is rendered the more certain. It becomes, immediately, therefore, the interest of the rich, to employ their endeavours to raise the intellects and morals of the people to the highest pitch; that no artifice may be able to deceive, or interest to seduce them, either in regard to what is best to be done for their country, or the men who are fittest to promote it.

But, if the men of power and influence in the country, along with sufficient motives to take the utmost pains with their own intellects and morals, had the like motives to take pains with the intellects and morals of the people; to do whatever could be done for

rendering their early education perfect; to take the utmost care of their morals through life, by a correct use of their approbation and disapprobation, as well as their power of giving and withholding good; to watch over the instruction given to them; to take them out of the hands of those who have an interest in giving them wrong opinions, to use the press with skill and activity, for the producing all sorts of salutary impressions, and obviating every impression of a different kind; what delightful consequences would ensue? We should then have a community, through which wisdom and virtue would be universally diffused; and of which the different classes would be knit together by the ties of mutual benefaction. In those circumstances, the order and harmony of society would be perfect. The business of government would be carried on with the utmost simplicity, because purely for the good of all. Every individual would exert himself in his sphere to provide for his own wants, and have wherewithal to benefit others; and few men would be destitute of that prudence and energy which would place, and keep him, in that situation.

Nor in all this is there one Utopian idea. There is not a consequence here anticipated, which does not flow from the principles of human nature, as necessarily as the actual effects, so woefully different, which we now experience. All that is necessary is, so to alter the position of the leading classes with respect to the rest of the community, that they may have an interest in the wisdom and virtue both of themselves and others. It is not more extraordinary, than true, that this is to be accomplished, and all its admirable consequences may be insured, by placing the Suffrage for Representatives on a proper foundation.

The evidence of all this is so clear and irrefragable, that it ought to obtain attention. The time is coming when it will obtain all the attention which it deserves. At present we believe it has little chance.

[\[Back to Table of Contents\]](#)

## 5.

### **The London Review [1835-36]**

*The London Review* (London: Simpkin, Marshall, & Company, 1835). 2 vols. James Mill signed the articles "P.Q."

Volume 1: April-July 1835

- "State of the Nation," Apr. 1835, vol. I, no. 1, pp. 1-24.
- "The Ballot—A Dialogue," Apr. 1835, vol. I, no. 1, pp. 201-53.
- "The Church and its Reform," Jul. 1835, vol. I, no. 2, pp. 257-95.

Volume 2: July-January, 1835-6

- "Law Reform," Oct. 1835, vol. II, no. 3, pp. 1-51.
- "Aristocracy," Jan. 1836, vol. II, no. 4, pp. 283-306.
- "Whether Political Economy is Useful?," Jan. 1836, vol. II, no. 4, pp. 553-72.

James Mill died on 23 June, 1836. That year the *London Review* merged with its rival the *Westminster Review* to become the *London and Westminster Review*. His last essay "Theory and Practice (signed with his usual "P.Q.") appeared in the first issue of the merged journal in the issue of Apr. 1836, vol. XXV, pp. 223-34.



[\[Back to Table of Contents\]](#)

## **Art. I.**

### **THE STATE OF THE NATION.**

The use of placing before us a view of the present state of the country respects the future. We may derive from it two advantages: First, a more sure anticipation of the train of events, which time is about to bring forth; Secondly, a more distinct perception of the means which we may employ, for accelerating and improving the results of a beneficial kind,—for mitigating, or altogether preventing, the results of an opposite kind, which the mixed nature of the causes now in operation is tending to produce.

The most remarkable circumstance, in the state of our country at the present moment, is the strength of the spirit of reform. The evidence of this strength is very singular. A set of men, whose pride and vanity, whose boast and glory, it has been, throughout their lives, that they were the general enemies of reform, and who, of course, found their account in it, that is, found this profession in accord with the opinion of a sufficient section of the public to obtain emolument and honour by its means—have been compelled to profess themselves the general friends of reform: of course, because no sufficient section of the public mind remained in such a state, as to hold out either support or reward to those who professed themselves of a different sentiment.

This fact is decisive. The predominant section of the public, those with whom the preponderance of influence—intellect and property taken together—in forming public opinion, resides, are proved to be reformers. This is not denied by the new converts: they lay it as the ground of their conversion. They say, that no men, not bereft of their reason, can now hope to carry on the government of this country, in a spirit opposed to the spirit of reform;—they justify their change of policy by saying, that a clear and steady manifestation of public opinion renders that expedient in government, which otherwise would not have been expedient; and as nothing in government is good, to which the public mind is permanently opposed, anti-reform therefore is not good, in the present circumstances of this country.

We accept this apology, as a justification, so far. But, if all reform is bad, the public opinion, however strongly manifested, will not make it good. If public opinion call for changes, and all changes lead to a balance of evil, the public opinion may be too strong to be resisted; but every good man will lend his utmost endeavour to effect a

change in it, and in the mean time to make the innovations to which he gives way as insignificant as possible. But, on the other hand, if public opinion is right—and that question, as regards our own country, we shall presently search to the bottom—then the men who are only reformers by compulsion, and who submit to it as a necessary evil, are very unfit to have the guidance of public affairs;—that is, to have the power put into their hands of preventing, as far as possible, every increase of the public good.

To see the force of that evidence of the spirit of reform which we are now contemplating, it is necessary to consider it in its elements.

The Tory party, heretofore the proud boasters of anti-reform passions—men whose nurture, from the cradle upwards, whose conversation all their lives, and whose substantial interests, all tended to give them an abhorrence of reform, and of all the men who sought to promote it—have latterly changed their language, and their name. Instead of enemies of reform, which they boasted of as their distinction and glory, they now assure us that they are true reformers;—instead of Tories, a name synonymous with attachment to all the abuses by which the state is afflicted, and with all the infirmities of intellect by which old women are distinguished, they call themselves *Conservatives*—a name, the import of which we shall examine thoroughly by-and-by.

Counting upon a majority, in the late House of Commons, of persons imbued with the spirit of reform, this party tried an experiment upon the country, for which we thank them. The spirit manifested during the last general election is satisfactory in the highest degree: it has shown that the reforming mind is more widely diffused, and has taken a more firm hold of the most numerous class of the men who possess influence with their fellow-citizens, than otherwise we should have had ground for believing.

When we consider to what an extent the influence of all the property, held in large masses, was exerted, to procure the return of supporters to the present ministry—and when we further consider the advantages under which that influence was exerted—that, under the imperfections of the present law of election, (an important *item*, by-the-by, in the state of the country, and which must not long be permitted to remain as it is,) the power of intimidation, and the power of bribery, possessed by the owners of large property, have full scope to exert themselves, and were exerted to an extraordinary degree in the last election; and when we reflect on the result, that all this power was balanced, and more than balanced, by the combined influence of the men of small property,—we are led to the inevitable conclusion, that the middle

classes, which of necessity lead the inferior, are almost wholly gained by the spirit of reform, and that to such a degree as to ensure on their part the utmost vigour of action, and to create such a tide of public opinion as will be sure to carry along with it, and that speedily, all the more enlightened and generous among those by whom the property in large masses is possessed. The ascendancy of the spirit of reform is now out of danger, and even of dispute.

The next thing, upon which we have to reflect with wonder, is the shortness of the time in which the spirit of reform in this nation has grown to such a degree of strength. This is perhaps the circumstance of the present period on which the future historian will dwell with the greatest astonishment. How small a time is it to look back upon, since a sentiment tending to reform could not be uttered in genteel society;—when only men of the firmest nerves dared to appear as reformers;—when Sir Francis Burdett, with all his claims to indulgence, was actually expelled from aristocratic society, and all but hooted down in the House of Commons, and when aristocratical men and aristocratical women generally boasted of having cut his acquaintance;—when to be called a Benthamite was a mark of reproach, and men who courted aristocratical society affected to pass an acquaintance of that description in the street.

When we reflect upon the smallness of the interval—from the time when not only all the honours and emoluments of the state, and all the powers of government, were appropriated and secured to the sworn enemies of reform, but even when the spirit of anti-reform was so preponderant as to create a proscription in society against every man who allowed it to appear that his mind had a leaning that way—to the time when now the spirit of reform has grown to such a height that it has the ascendancy everywhere, except in the House of Lords, and the court of the King: when the King's ministers, though inveterate, thorough-bred enemies of reform, are obliged to profess that they will govern in the spirit of reform, and cannot govern otherwise;—and when even the ballot, that bugbear of the Aristocracy, can be advocated in good company without opprobrium; we are entitled to conclude that the interval will not be long before that ascendancy will manifest itself in some material results.

One of the things which most deserves our attention, in reflecting on this astonishing progress of the spirit of reform, is the little encouragement under which it has grown up to this power, in this wonderfully short space of time. It is indeed to be remarked, that it has grown up almost entirely in circles where the prospect of the honours and emoluments of the state had little effect, or even the

smiles and caresses of aristocratic society—all carefully reserved for people of another sort; but what one asks with some astonishment is, how did they come by the ideas? Reading is the principal source of information in those circles; and undoubtedly they must have profited by their reading. But how little reading, calculated to be useful to them, has been put in their way? The newspapers, on this subject, have hitherto been very unsteady and imperfect instructors. It is, indeed, but of yesterday that any newspaper of influence has dared firmly and plainly to advocate the principles of reform. A newspaper also is compelled rather to assume results, than explain them; and rather to enforce the topic of the day, than to insinuate a new idea into a mind which is only beginning to inquire.

The other periodical publications, which have flourished during the interval we speak of, were not even calculated to help forward the spirit of reform in the middle classes. They were addressed not to those who were beginning political reading, but to those who were hackneyed in it. They as little thought of teaching in the elementary method as the newspapers. In fact, their discussions were of the nature of newspaper discussions, and so much the worse, as they were more wordy. The principal among them also were addressed to the aristocratical classes, and either harangued perpetually against reform, or touched it as 'cats touch mustard.'

It does appear that the spirit of reform must have grown up in the circles of the middle order, chiefly from their own reflections; from observing, with their own good sense, the turn which was habitually given to things in parliament; how regularly every proposition which tended to the good of the Many was thrown out; how regularly every abusive institution which yielded emolument to the ruling Few was clung to and preserved. To this course of reflection we have no doubt that the exertions of Mr. Hume have rendered the most important service. The perseverance with which he showed up from day to day gross instances of the misapplication of the property of the people; the parallel perseverance with which the House of Commons protected the misapplications—in time produced a powerful conviction, that the House of Commons was not so constituted as to be an instrument for the good of the people. These were matters which men in their shops, and in their fields, even at their looms, and their anvils, could understand without much reading. And we do in our consciences believe, that Mr. Hume has done more to rouse the spirit of reform, and carry it to its present state of ascendancy, than any man living, or than any aggregate of men which we can name. Even the ill usage which he so long sustained in the House of Commons, and from all the parties which it then contained, is one of the memorable circumstances in the history of parliamentary reform, and adds to

the debt of gratitude which the nation owes to this its truest and most undaunted friend.

Having seen how rapid has been the growth of the spirit of reform, and how great the strength which it has now acquired, we have still to answer some other questions before we can fix its relative importance as an article in the present state of the country.

First of all, what is to be said of its permanency? May we prophecy that it is a casual fever of the public mind, destined to have its period, and then to die away? or must we look upon it as a permanent affection, which not only never can be eradicated, but of which the power must go on increasing?

That this is an important question every one will immediately see; and what the answer to it must depend upon will also be seen, as soon as it is mentioned. The permanence or fugacity of the spirit of reform must depend upon its tendency to produce good or evil. There is no need of apprehending that the public will ever grow tired of making additions to its good. This is an appetite which grows by what it feeds on. Whatever the amount of previous additions, that does not in the least abate the relish of something more, or take from its value. The last addition may be of as much importance as any of those which preceded it, and worthy of as eager a pursuit. But reverse the supposition; assume that this pursuit of good will always terminate, not merely in disappointment, but calamity—then we may conclude, with certainty, that it will not be of long duration.

This, then, is the question which awaits us,—Does the pursuit of reform tend to good, or to evil?

This is a question, the very terms of which appear to supply its answer.

The pursuit of anything means a tendency towards the attainment of it. The pursuit of good, therefore, is a tendency towards the attainment of it. The talk we usually hear, in reply to this observation, is from the purpose. This pursuit, they say, is liable to be ill-directed. True; men may mistake their way; but they more frequently find it, and arrive safe at the place they intended. And another thing,—when they find out a mistake they have once committed, they are seldom in any danger of committing it another time. Great errors were committed in the first voyage round the world, which now are with certainty avoided.

We think, therefore, it is a clear case, that the pursuit of political good—which is what we mean when we name the spirit of

reform—has a tendency towards the attainment of it, and that it only needs to be well directed to ensure that end. We thence conclude, and with an assurance approaching to certainty, that the men who, instead of giving directions for avoiding the mistakes liable to be committed by the people in the pursuit of political good, (which would be the certain course of honest men fearing those mistakes,) labour to beat down and destroy that pursuit; whose constant endeavour it is to defame it; to represent it as the purpose of none but the most wicked of men, of those whose desire it is to destroy all those securities which human beings have set up to defend them from the violence and injustice of one another, and thus to effect the ruin of all that is good for mankind—are men to whom the attainment of political good is unwelcome. That can arise from one cause only—that their interest is opposed to it. In other words, the people's good is their evil; therefore, they hate the people's good, and leave nothing undone to make the pursuit of it be thought odious—the horrid mother of everything which most strongly excites the terror of mankind.

To understand this unhappy position of a portion of our fellow-citizens, we must call to mind the division which philosophers have made of men placed in society. They are divided into two classes, *Ceux qui pillent*,—*et Ceux qui sont pillés*; and we must consider with some care what this division, the correctness of which has not been disputed, implies.

The first class, *Ceux qui pillent*, are the small number. They are the ruling Few. The second class, *Ceux qui sont pillés*, are the great number. They are the subject Many.

It is obvious that, to enable the Few to carry on their appropriate work, a complicated system of devices was required, otherwise they would not succeed; the Many, who are the stronger party, would not submit to the operation. The system they have contrived is a curious compound of force and fraud:—force in sufficient quantity to put down partial risings of the people, and, by the punishments inflicted, to strike terror into the rest; fraud, to make them believe that the results of the process were all for their good.

First, the Many were frightened with the danger of invasion and ravage, by foreign enemies; that so they might believe a large military force in the hands of the Few to be necessary for their protection; while it was ready to be employed in their coercion, and to silence their complaints of anything by which they might find themselves aggrieved.

Next, the use of all the circumstances calculated to dazzle the eyes, and work upon the imaginations of men, was artfully adopted by

the class of whom we speak. They dwelt in great and splendid houses; they covered themselves with robes of a peculiar kind; they made themselves be called by names, all importing respect, which other men were not permitted to use; they were constantly followed and surrounded by numbers of people, whose interest they made it to treat them with a submission and a reverence approaching adoration; even their followers, and the horses on which they rode, were adorned with trappings which were gazed upon with admiration by all those who considered them as things placed beyond their reach.

And this was not all, nor nearly so. There were not only dangers from human foes; there were invisible powers from whom good or evil might proceed to an inconceivable amount. If the opinion could be generated, that there were men who had an influence over the occurrence of this good or evil, so as to bring on the good, or avert the evil, it is obvious that an advantage was gained of prodigious importance; an instrument was found, the power of which over the wills and actions of men was irresistible.

*Ceux qui pillent* have in all ages understood well the importance of this instrument to the successful prosecution of their trade. Hence the Union of Church and State; and the huge applauses with which so useful a contrivance has been attended. Hence the complicated tissue of priestly formalities, artfully contrived to impose upon the senses and imaginations of men—the peculiar garb—the peculiar names—the peculiar gait and countenance of the performers—the enormous temples devoted to their ceremonies—the enormous revenues subservient to the temporal power and pleasures of the men who pretended to stand between their fellow-creatures and the evils to which they were perpetually exposed, by the will of Him whom they called their perfectly good and wise and benevolent God.

If, besides the power which the priestly class were thus enabled to exercise over the minds of adult men, they were also permitted to engross the business of education—that is, to create such habits of mind in the rising generation, as were subservient to their purposes, and to prevent the formation of all such habits as were opposed to them—the chains they had placed on the human mind would appear to have been complete: the prostration of the understanding and the will—the perpetual object of their wishes and endeavours down to the present hour—to have been secured for ever.

The alliance of the men, who wielded the priestly power, was, in these circumstances, a matter of great importance to those who wielded the political power; and the confederacy of the two was of

signal service to the general end of both—the maintenance of that old and valuable relation—the relation between Those *qui pillent*, and Those *qui sont pillés*.

There was another instrument—not, indeed, of so great, but of no mean potency. We allude to the lawyers. Men speedily discovered how much they were exposed to injury from one another, even in the state of social union, and found how greatly they were dependent on the protection which was afforded them against such injuries. They greatly valued that protection, and respected greatly the men who were its more immediate instruments. These men naturally thought of serving themselves by the advantageous situation in which they were placed. They wished to make the dependence upon them of the other members of the community as great as possible. This was to be done mainly by rendering the mode in which they yielded that protection mysterious and obscure. Obscurity, especially in the less instructed states of the human mind, is a powerful cause of that kind of reverence which is mixed with fear. Not body knows what may be in a thing which is obscurely seen. It is almost always swelled into something of vast dimensions and pregnant with good or evil according to the frame in which the imagination of the half-observer may be at the time. More than this: when law was obscure, nobody could obtain the benefit of it but by means of the lawyers, because by them alone was it understood. This created a state of profound dependence on the part of all the rest of the community. It proved, of course, to the lawyers, a fertile source both of riches and power. The alliance of the men of law with the men of the state and the men of the altar, became thence a matter of importance to the trade of all; and the union of Law and State has not been less real, though less talked about, than the union of Church and State. It is unfortunate that it never obtained a name, and therefore is more frequently overlooked.

A threefold cord is not easily broken. The doom of mankind might now have appeared to be sealed. The shackles on the mind secured the shackles on the body; and the division of mankind into *ceux qui pillent, et ceux qui sont pillés*, might have been thought to be established for ever.\*

There was, however, in the womb of time, a small event, which was destined to give a turn to the tide of human affairs. A German tradesman, not one of the high classes, not one of those *qui pillent*, but one of those *qui sont pillés*, invented a method of stamping written characters on paper, and, by that means, of multiplying the copies of a writing to any extent. At that moment the voice of Heaven went forth—*Let there be light!* and the voice was heard in



Erebus—in the deepest cells, and strongest holds of the friends of darkness.

Of this light the effects were visible, first, in the affairs of the church. The grossness of the priestly frauds and delusions had been not only observed, but remarked upon, sometimes with scorn, sometimes with indignation, by the prime spirits of the age, before the appearance of Luther—the most heroic of the sons of men, and the greatest earthly benefactor, beyond compare, of the species to which he belonged.

When the human mind had burst the shackles imposed upon it by one class of those who desired to hold it in bondage, and refused to take the word of priests for the standard of what was good and evil for human nature, it could not forbear examining the shackles of all other kinds with which it was loaded, and the use to which they were converted. The acts of those who wielded the powers of government began to be scanned, and to be tried by the test of their conduciveness to the weal or ill of those over whom, and in whose behalf, they were exercised.

That criticism, that examining, and testing, has been going on from that day to this. It has been going on, indeed, under the greatest disadvantages, and its progress has been slow. The advance has, notwithstanding, been unintermitted. The movement has been irresistibly, and unchangeably, forward; and latterly, as we have seen, it has been wonderfully accelerated.

The artifices by which it has been resisted have always been very similar. Such manifestations of it as could be punished were repressed by violence and cruelty. This expedient was at first extensively used. Still there were operations which could not be combated in this way. These were to be attacked by defamation.

The history of reform, from its first page to its last, is hardly anything but a repetition of the same imputations. Read the History, by Father Paul, of the Council of Trent, assembled for the express purpose of arresting the progress of the Reformation, and putting an end at once both to Luther and his doctrines. The reformation of religion was to produce exactly the same effects as the reformation of government is to produce at present. The people were altogether unfit to judge what was good for them in religion. If they were left to themselves to try, the consequences would be horrible. All sorts of monstrous doctrines would be propagated. Every man, or small number of men, would have a different creed, and society would be torn to pieces by the contentions of the different sects. Nor would this be all. From religion they would quickly pass to government. No form of government would content

them, and property and government would expire together in general confusion.

There is wonderful uniformity in human nature under all the appearances of diversity. They who had an interest in keeping bad things as they were, behaved in the same way then as they do now. They represented themselves as *Conservatives*, and those who desired removal of the bad things, *Destructives*. And conservative they were, but of what things?—the bad. The others were destructive, no doubt, but of those things only which it was good to destroy; that is, the causes of suffering and degradation to the most numerous portion of the species. This explanation, however, of the meaning of the two words they carefully avoided then as now. They designed, and they effected, fraud. Religion, Government, were the two generical terms. They left it to be understood, that when they called themselves *Conservatives*, they were labouring for the conservation of religion and government; that the men whom they called *Destructives* were labouring for the destruction of religion and government. Now it is certain that religion and government never were in any danger. Religion and government never had in the world any but friends.

What, then, was the object of those who imputed the destruction of religion and government to those who desired the reformation of them? We cannot be mistaken in the answer. They hated the Reformation, and hoped to be able to render it odious by misrepresenting it—by affirming of it that which was not true. They did their utmost to make it be believed, that reformation and destruction were synonymous terms—that they who desired to take from government whatever made it work ill for the people, and supply to it whatever would make it work well, laboured only for its destruction—that they who desired to strip religion of all the hurtful ingredients which the interest of priests had incorporated with it, or fastened upon it, and to reap the good of it pure from evil, laboured in like manner for the destruction of religion.

The wonder is—not that these artifices, supported as they were with all the factitious power and authority of the times, were long deplorably successful—but that even now there are men who have the audacity to make use of them. There are men—a class of them—even now, who think they have answered us, or try to make other men believe they have answered us, when we desire to make those changes in government and religion, which are necessary to prevent them from being instruments in the hands of *ceux qui pillent* and to make them instruments of good to *ceux qui sont pillés*, by calling us *Destructives*, and telling the public that we ought to be put down.

This is a species of arguing, which is never perseveringly applied in behalf of a good cause. The reason is sure. A good cause has always better means of defence. The good things which are in it can be shown. The ill things in that which is opposed to it can also be shown; and when this is done, all question is at an end.

He who, in opposition to a plan of improvement, has nothing to offer but a vague picture of distant consequences, of a horrible nature, proves only one thing, with whatever assurance, or even fury, he may vent his prophecies: that he has his reasons, whatever they may be, for hating the plan, and doing what he can to prevent the realization of it. The use of this expedient, therefore, is always to be taken as the sign of a bad cause. It is the 'hay on the horn,'—*hunc tu, Romane, caveto*.

There were formerly two sets of people who were glib in the use of this argument; the anti-reformers, and the half-and-half reformers. The former of the two classes is now extinct; they are incorporated with the half-and-half men. But in their junction they have not relinquished the old mode of warfare.

There is a class of reformers,—namely, all those who desire any changes which the class in question do not desire, some desiring more and some less,—whom they have been calling radicals; and endeavouring by that name to class with all that is most despicable in the community, till the name at last began to acquire respect; and then they changed it to that of destructives. Under that name, it is given out, that all those who desire any greater reforms, than those which are desired by the half-and-half men, are men who desire the destruction of religion and government, or who are stupid enough not to see that what they desire is the same thing; and then follows the endeavour to hunt them down by clamour and abuse.\*

The force of the weapon, however, is nearly spent. Those who desire to take but a crumb of reform and leave the rest are daily losing ground against those who desire to go on reforming, so long as there is anything to reform. Why should rational beings stop short in lessening the number of things which hurt them? Why should they cease adding to the number and efficiency of the things which do them good?

The enemies of reform,—we mean the enemies of all but the crumb,—may be assured, that the public now see far too clearly the reason of the case, to be stayed by the pretence, that seeking good they will catch evil. They ask themselves, and have gone too far ever to cease asking, 'Why should not we be as good judges of what is beneficial, what hurtful, as the men who never yet were found to

offer us any advice, except on matters which concern themselves.' Whensoever we, the portion of the community *qui sont pillés*, seek an atom more of protection to ourselves against those *qui pillent*, they are in an uproar; the evils, which are not only threatened, but certain, are the most horrible which can be presented to the imagination. On the other hand, whatever is done to take from our protection, and add to the facilities with which the trade of those *qui pillent* is carried on, is done with the utmost coolness. Never any forebodings of danger from that source.—The public have learned to suspect such advisers. They say, and they say with a witness,—'When we look at the body to which we belong, and the body to which they belong, not only is the greater wisdom with us, but there is no wisdom to be found anywhere else. Look at the body *qui pillent*; how small the number among them who are good for anything; to whom any other man would confide the management of his ordinary affairs; who have an understanding comparable to that of an ordinary tradesman!\*\_ And even among those who stand foremost in the class, there is not one that passes mediocrity. A wit among lords is, proverbially, only a lord among wits. On the other hand, all that is great and powerful in intellect,—all that excels in any of its walks,—all the men from whose minds anything signally beneficial has proceeded in former times, or can now be expected to proceed, have been, are, and ever will be found in the class to which we belong. Why then should we not trust to our own wisdom as much as to theirs.'

Of what use is it to point to the lowest class among us, and ask if they are fit to judge what is good or bad in political or ecclesiastical institutions? We point to the majority in the class who defame us, and ask in our turn, if they are qualified to judge what is or is not good in such matters, or any other matters of the smallest importance? If we are told, that we are not to look to the less wise, but the more wise in the class in question, because the less wise are governed by the more wise, we claim the benefit of the observation for ourselves. The less wise, in our class, are and ever have been governed by the more wise; and in our body the more wise are infinitely superior in wisdom to the wisest portion of theirs. Why then should we not follow our own reason, in preference to theirs, in matters which so deeply concern us? At the same time, we are far from being unwilling to discuss with them the questions between us. We indeed reject defamation as discussion, and content ourselves with exposing it. When the public is assured, by those who wish to discredit us and our cause, that our labours tend to the destruction of government and religion, we say that we intend the preservation of both; and we ask, if government is less government when it is rendered true to its ends, than when it is to a great degree perverted from them; if religion is less religion, when it is purged of the pollutions with which the

selfish interests of men have defiled it, than it is when mired and merged in these impurities? The question, then, between us is not as to our professed ends,—they are the same,—the preservation of government and religion, purged, both of them, of their abuses. We differ about two things: what are the abuses, and what the proper remedies for them. And these we allow to be fair subjects of discussion; provided always the discussion be fair. We grant, also, that they never ought to be decided without discussion, and that continued, till it has become obvious to the majority of disinterested and competent judges, that all the reason is on the one side, and only the renitency of custom, or self-interest, on the other.

As an instance of our differences of opinion about abuses, we may point to what we consider the master abuse, the want of sufficient power in the people to choose their representatives. We say, that the means exist, even under the Reform Act, of taking away the power of choice from the people, to the extent of a majority of the whole number. Our opponents say that this is no abuse, but an advantage. They have talked loudly about the Reform Act as a *final* measure. Sir Robert Peel has lately grounded his accession to it on his belief, a declaration which gives the measure of the man, that it was an arrangement for ever,—a new ‘original compact,’ of everlasting and indefeasible obligation.

We can state, in narrow compass, the reasons on which we consider any defalcation in the power of the people to choose their representatives, as a master evil.

We go upon the postulate, that the power, by which the class *qui pillent* succeed in carrying on their vocation, is an evil; and ought to be abated. This postulate, indeed, has been refused, and with cries of great indignation; but we have not time at present to examine them.

We assume, then, that this power ought to be taken away; and we say, that we know but one way of accomplishing our object, which is, to grant to the people the entire and complete choice of their representatives.

This has ever been the great problem of Government. The powers of Government are of necessity placed in some hands; they who are intrusted with them have infinite temptations to abuse them, and will never cease abusing them, if they are not prevented. How are they to be prevented? The people must appoint watchmen. But *quis custodiet ipsos custodes?* Who are to watch the watchmen?—The people themselves. There is no other resource; and without this

ultimate safeguard, the ruling Few will be for ever the scourge and oppression of the subject Many.

'All free governments must consist of a Senate and People. The People, as Harrington observes, would want wisdom without the Senate; the Senate without the People would want honesty.'—*Hume's Idea of a Perfect Commonwealth*.

The representatives are the watchmen of the people; and two things only are wanting to make the people very perfect watchmen of the representatives; First, the perfect power of choice, which implies the power of speedy removal; Secondly, the full benefit of the press, which gives them the necessary knowledge of the behaviour of the representative. So circumstanced, the representatives will have a paramount interest in consulting the interest of the people, and in resisting every exercise of power which would trench upon it. And we reformers, till we have brought the state of the representation to this state of perfection, will not cease to have a grievance, which our best exertions will be strenuously and incessantly employed to remove.

So much as to an instance of what we deem an abuse. Now for a specimen of our remedies. The power of taking away from the people the choice of their representatives is all derived from two sources,—the publicity of the vote—and the want of power to displace a representative whose conduct does not give satisfaction. We desire, therefore, two things—we desire secret voting, and we desire short parliaments.

We know the goodness of these remedies is disputed. As what will not be disputed by those who have an interest that the question should be determined in a different way from the right one? But by what is it disputed? Not by reason and argument, by examining and showing the impotence to good, the potency to evil, of the remedies we propose, refuting all that we can urge in their behalf;—not by this, but by the stale, hackneyed resource of a bad cause, defamation—the imputation of all the vague, general consequences, which men are accustomed to dread, the loss of morals, the loss of government, the loss of religion: consequences regularly imputed to every project of change by which the good of mankind is to be greatly promoted. However, the discussion of these remedies is on foot; and the enemies of them may rest assured that it never will cease, till the public mind is thoroughly enlightened on the subject; and then they well know what will be the result.

We should now go on, and point out the reforms which we think are wanted in the other great provinces of abuse—Law and Religion; but we have been led on so far in illustrating the spirit of reform,

that we have not space for these particular subjects, and must allot to them separate articles in future numbers of our publication.

After having shown how the community, as a whole, are divided into reformers and anti-reformers—for we account all those anti-reformers who cut off a slice of reform for us, and say, ‘There, content yourselves with this, for you will get no more’—we proceed now to the next grand item in the catalogue of things which compose the state of the nation,—the mode in which public men, the men wielding any portion of the powers of government, are distinguished and classed.

Among them there are now no anti-reformers. Those who formerly professed anti-reform, now profess moderate reform; and they who formerly professed moderate reform, profess it still. The grand division, then, has come to be two-fold—that of the men who profess *moderate* reform, and that of the men who profess *complete* reform, which their antagonists call *radical* reform: a very good name, which they who apply it in scorn are working into repute.

There is a distinction between the new Moderates, and the old: they both, indeed, cut us off slices of reform, and, like Lord Peter, with the slices of his brown loaf, damn us to the lowest pit of hell, if we are not contented with what they give us; but the old Moderates, we believe, are willing to cut us the larger slice, and for that reason we give them the preference.

At the same time we do not conceal from ourselves, that there is a stronger affinity between the two, than between any of them and the men who say that they, for their parts, consider reform to be then only at an end, when there is no removeable cause of evil which is not removed, and no attainable cause of good which is not attained.

We consider, that the House of Lords is divided between the new Moderates and the old, the new, in much the larger proportion; and that if there be anything like a complete reformer in the House, the proportion is too small to be of any weight.

The House of Commons, too, is, in far the greater part, composed of the new Moderates and the old, with a preponderance, we think, in favour of the new. Of the House of Commons, however, there is a portion who deserve the name of *Complete* Reformers. A few years back there was no such thing. If one individual or two betrayed any symptoms of that unnatural propensity, he was a marked man; the rest lolled out the tongue of scorn against him. Now, they are not a great proportion, but a considerable body, to which time is daily

making additions, and to which the future time will doubtless make them rapidly.

It is of immense importance how this little band conduct themselves. They are in a position in which the good they may render—not to their country only, but to mankind—is beyond all calculation; and little are they on a level with the high vocation to which they are called, if their minds are not fired with the contemplation of it, and filled with the sacred ambition which it is calculated to inspire.

Till a higher station in the great council of the nation is prepared for them, it is impossible for them to hope that the powers of government will be put in their hands—or, at least, that they could employ them successfully, for the furtherance of the benevolent objects they have in view. If any remarkable combination of circumstances, not without the bounds of possibility, should place the powers of government within their reach, the fate of them and their reforms would resemble precisely the fate of Turgot and Malesherbes. They would, after a few ineffectual struggles, be dismissed; and the restoration of their enemies would only put the realization of their plans of improvement farther off than before.

There is only one thing which we deprecate more than this, and that is, a partial union with either of the parties of the Moderates. The time is not quite come for that; but it is impossible to say how soon it may become the interest of either of them to seek an accession of strength, by admitting a portion of the complete reformers to the offices of state along with them.

We consider that this would be the death-blow to the influence of the complete reformers. Of course, the most soft-tempered and flexible of the party would alone be chosen for the association in question, who would not convert their friends the moderates, but be converted by them. The body of complete reformers would not only be weakened but broken up and discredited in the eyes of the nation.

If this important little phalanx understand their own position, they will take care to make clear what their purpose is with regard to place. Their business is to make it understood, beyond cavil or doubt, that they will not accept of place, and for what reason? that they are more powerful to aid the cause of reform as they are. They are sufficiently numerous, if they conduct themselves wisely, and with a single eye to their noble end, to be a great power in the public council of the nation. It will be the interest of every minister to have them for him, rather than against him; and if the only successful mode of courtship to them be the grant of reforms, they



may extort a succession of reforms from hands the most averse to the boon. Their advantages at the present moment are peculiarly great. The two parties of grudging reformers, the 'now's-enough' men, are nearly balanced; of course, the favour of those, who on every occasion can so easily turn the balance, is of the greater value, and the more will be willingly paid for it.

It is clear that the vocation of the class of philosophical reformers in parliament at present divides itself into two paths of exertion. The one is, to make it, as far as their weight can go, the interest of every ministry, be it what it may, to be the author of reforms. The second is, to be the champions of the philosophical principles of government. It is impossible to speak in exaggerated terms of the importance of this part of their high calling. There has been no example in parliament, up to this hour, of a man who has deemed himself worthy of this function, with the exception of the short period,—alas! how short,—in which the never-to-be-forgotten Ricardo lifted his head. His modest nature made him think only of that part of the subject which he had the most profoundly studied. But he had formed the idea of the function with perfect distinctness, and often said to the individual who now calls to memory, with acute sensibility, the irreparable loss which the world sustained by his untimely death, that his business in the House of Commons was to stand up for principle; to allow no renunciation of it to pass unnoticed, and no slighting talk about it to go unexposed; to watch the grounds on which measures of importance were laid, and to show on what a foundation of sand everything, not grounded on principle, was of necessity reared.

The absence of men in parliament who thought themselves worthy to stand up, as Ricardo appositely expressed it, for principle, has been so complete, that a fashion has been created against it. So far is it from being the custom in that place to measure anything by its accordance with principle, that the man is reckoned fine, who professes to hold it in derision or abhorrence. It has come to this pass, in that assembly, that the appeal to reason is discreditable,—the renunciation of it a thing to parade, and be vain of. The tone of the place,—not casual, not by fits and starts, but habitual, steady, is,—that the use of reason is to be discarded in the conduct of a nation's affairs. We believe it would be impossible to assemble an equal number of tolerably educated men, in any other part of the civilized world, among whom it would be fashionable to set reason at defiance, and to profess to act in contempt of her dictates.

This remarkable characteristic of the legislative council in England is a declaration, clear and not to be mistaken, of the interests which are there pursued. Truly was it said by Hobbes, that 'when

reason is against a man, a man will be against reason;’ and with equal truth and certainty may we reverse the proposition, and say, ‘whenever a body of men are found to be steadily and tenaciously against reason, we may safely conclude they have interests, to the gratification of which the exercise of reason would be fatal.’ We find the following apposite sentiment in an anonymous writer:—

‘All those who wish for arbitrary power over their fellow-creatures have an interest in preventing their acquiring habits of being governed by reason. Men who are in the habit of being governed by reason are not willing to be governed by any man in disconformity with reason. Hence the skill which has been employed in diverting men from the exercise of their reason. Forms, and ceremonies, and cant phrases, and subjection to all sorts of false belief, the weaker and more groundless the better, are equally favourable to the priests of all three classes; those who serve at the altar of state, those who serve at the altar of law, and those who serve at the altar of religion.’

The instruments which are chiefly made use of, in parliament, to cover the renunciation of reason, and render it somewhat less palpable, are a set of hack phrases, serving each of them as a wrapper for a little parcel of sophistry. Thus we have, ‘Not speculation, but practice,’—as much as to say, act like a beast, and not one of the best of beasts, a blind horse in a mill; ‘Wisdom of ancestors,’—as if ancientness of error were better than truth, or the everlasting repetition of evil converted it into good. Of late, the word ‘Institutions’ has been industriously employed to preclude the use of reason. ‘Institutions,’ in the talk of the anti-reformers, is made synonymous with government and religion; ‘change,’ is made synonymous with destruction. By force of this new nomenclature, therefore, he who desires to reform anything goes to the destruction of government and religion; as if government were no longer government when it is rendered good,—religion were no longer religion when it is rendered pure. What these people mean is, that government is then destroyed, when they are no longer permitted to abuse its powers, for their own aggrandizement, at the expense of the rest of the community; religion is then destroyed, when they cannot make use of it as an instrument for the accomplishment of the same design. In other words, the mischievous tendency which has been given to each by the perfidious artifices of men, is, in their sense, the essence of each. The essence of government, the essence of religion, is the mischief which can be done with them. Let mischief no longer be done with them, they no longer exist.

Such is a specimen of the artillery against which the true reformers have to contend. The resources of their enemies are poor, both in

quantity and quality, and soon would be exhausted. What havoc a few right-minded men might make in a few years of their masks and screens! How easily might the advocates of bad government be reduced to the miserable task of repeating exploded sophistry of the poorest kind, which then would not only not impose on anybody, but would degrade still lower even the abject creatures who could descend to the use of it.

The persevering advocacy in parliament of the principles on which good government depends, and exposure of the sophistries by which it is sought to discredit them, would be a source of instruction to the nation, of which it is impossible to exaggerate the importance. The house, however, we are told, would not bear to be thus schooled. We know, indeed, that there is a right mode, and a wrong, of doing anything, and we do not advocate the wrong mode. With all the defects of the House of Commons, as at present constituted, there is in it a certain portion of good taste, and of good feeling. If a man speaks with simplicity and in earnest, not for the sake of self-display, but evidently for the sake of what he deems a great object, and is able to bring sense and reason to bear upon his question, without violating the respect which every man owes to the feelings of those about him, he will meet with listeners, and he will meet with respect. Why should not this be done, at once, by the little band of true reformers? They are the most instructed men in parliament, some of them, at least, by many, many degrees. And practice would in time give them dexterity in the use of their weapons, the celestial panoply of reason, in the service of mankind.

Beside this general field, there are spots on which the true reformer should make a particular stand. The most important of these is property. Of this the true reformer should signalize himself as the champion. The danger to it is very considerable; and arises, not from the class of poor men, as the enemies of good government so industriously teach, but from the pre-eminently rich; who in all ages have desired to consider nothing as property but that which they themselves hold, everything held by others as held chiefly for their use—that is, with power in them to take to themselves, at any time, whatever portion of it they deem it convenient to take.

The security of property lies so deeply at the root of human happiness, especially of the poorer class, whose subsistence wholly depends upon the employment given to them by accumulated property, and who must perish when that is destroyed—that any infringement of the rights of property ought to be treated as the introduction of a devouring pestilence.

Upon this paramount consideration, it is consolatory to remember, that, of all the men in parliament, the little band of philosophical

reformers have distinguished themselves with most zeal and effect to defend the rights of the creditors of the state, and to counteract the desire, not obscurely signified, of the pre-eminently rich, to make this class of their fellow-citizens their prey.

Upon the same principle it is of vast importance that, in the changes which reason recommends, the true reformers should be careful to protect all existing interests. When any source of expense, for example, is to be cut off, the operation ought to be prospective. Any person, whom law or custom has entitled to consider that the emoluments which he had been receiving he was to receive for his life, is, in reality, the owner of a life estate, as much entitled to protection as any species of property whatsoever.

Reasoning on this principle, we were exceedingly disconcerted, last year, when some of the true reformers were seduced into the vulgar cry against the holders of crown pensions. That the power of granting those pensions has been grossly abused, there is no doubt; and perhaps it ought to be wholly taken away. At all events, security against that, as against every other abuse, ought to be provided. But what is all this to the existing holders of pensions? They considered themselves sure of them for life, on a course of practice amounting clearly to prescription. They had, therefore, a life estate. And the small life estate of Mrs. Arbuthnot, of which so unjust and indelicate a use was made, appeared in our eyes as sacred, as the prodigious one of the Archbishop of Canterbury; and, with respect to the holders, the lady not the least respectable character of the two.

The operation of particular taxes—for the general amount of them is a topic for many a mouth—is another object of particular attention to the philosophical reformers. Any tax which, in its operation, takes money out of the pockets of the people, to put it, not into the treasury of the state, but into the pockets of individuals, they should never cease to expose. Such a tax is spoliation, annual robbery, established by club-law; one of those institutions of ours, of which our *Conservatives* have erected themselves into the body-guards. Such is the tax on imported corn, which, so long as it exists, will so long stand an unanswerable, a trumpet-tongued, argument of the need of further parliamentary reform.

The abolition, also, of any tax, which must be replaced by some other tax, not less burdensome to the nation, while the operation of the removal will be to put money into the pockets of individuals which it takes out of the pockets of the people, making so far a clear addition to their burdens, is another instance of robbery, which ought to be luminously exposed, and strenuously resisted.

Such would be the repeal of the malt-tax, so clamorously called for by a class of men whose predominance in parliament has ever been, and continues to be, the grand obstruction to good legislation. No man doubts that if the malt-tax is taken off, other taxes to an equal amount must be laid on. How, then, are the landlords to find their advantage? By a rise in the price of bread; a necessary consequence of an increased demand for another product of the soil. The people, therefore, to please the landlords, would have to pay some other tax or taxes to the state in lieu of the malt-tax, and an additional tax, a tax on bread, to the landlords—to the men who already levy a tax on bread, and who would never rest satisfied so long as any other men have anything they can call their own. The poor farmers! is their cant; such a piece of naked hypocrisy, as it is wonderful even they have the impudence to put forth. The cause, and the sole cause, of any undue pressure, which may be sustained by the farmers, is the extortion of too much rent. If the farmer's rent is proportioned, as it ought to be, to the price of the produce he raises, it is equal to him if the price is high or low; or rather he has an interest in low prices, as in that case he pays less in wages, and has thereby higher profits of stock.

Beside those objects which make stated calls upon the attention of the real reformers, detached incidents which should call them up are of perpetual occurrence. We may present as a specimen what happened the other night.

In the House of Commons, Wednesday, 4th March, 1835, Mr. Wakley asked Sir Robert Peel, if the inhabitants of St. Margaret's parish were to have the choice of their rector. Sir Robert replied by a couple of sneers; first asking, 'If Mr. Wakley meant the choice to be by ballot?' next observing, that 'the inhabitants of St. Margaret's parish would not be put to the trouble of choosing their rector, the Crown intending to save them from it.' This is the true style of old Tory insult; and the House should mark it—the reformers, at least, should mark it; they may learn from it what will be the tone of the courteous baronet, if they allow him to settle himself in his saddle. 'If they do this in the green tree, what will they do in the dry?' Because a member of parliament asks a question relating to another subject, he is insulted by a disrespectful allusion to some opinion of his, which his insulter knows is distasteful to the crowd of those who hear him, and will echo the insult. The other expression, by which his Majesty's Prime Minister chose to proclaim his disrespect, at once to the author of the question, and the parishioners of St. Margaret's, must have been picked up in the purlieu of St. Giles's. 'Please to help me up with this burden,' says one. 'I won't give you the trouble,' says the other, with a grin, and passes on. The crown would not trouble the parishioners of St. Margaret's with the reception of a benefit! Not it, we will be bound

for it. 'The crown will not give the parishioners the trouble of choosing their rector,' says Sir Robert; and with ten times the glee would he say, if he durst, 'The crown will not trouble the people of England with the choice of their representatives.' One thing, however, there is which the crown will not seek to save the parishioners of St. Margaret's from the trouble of. It will not save them from the trouble of paying this man whom they are not to choose. Such troubles as these the crown never thinks of saving such folks as parishioners from. The more of that sort of trouble they submit to, the better pleased the crown. All that is pleasant in these sort of matters, the crown, that is, the folks who act for themselves in the name of the crown—for the crown suffers by all such doings—are eager to save parishioners and such like rabble from the trouble of; all that is burdensome they liberally and generously place upon their shoulders.

Among the objects which require the attention of reformers, Education stands in one of the highest places; though it is never to be forgotten, that the operation of the political machine is that which has the greatest effect in forming the minds of men. We are not able to go into that subject here, because it is closely connected with the means adopted for the teaching of religion, which we have destined for the subject of a future article. We confess we despair wholly of seeing any beneficent plan of state education carried into effect, so long as we have a clergy on its present footing. There might be a clergy so happily circumstanced as to have an interest in good education, and then we should obtain that inestimable advantage. The clergy of the Church of England are so unhappily circumstanced, as to have a decided interest against it; and till their position is altered, a good state-education is hopeless. We look with more expectation to the combinations of individuals; which will every day be more skilful and more energetic.

We point to colonies, as an object of attention to the genuine reformers, because the importance of the subject is seldom understood. We consider the English colonies as one grand cause of the oppression of the English people. It is not disputed, that of the distressing burdens they bear a great proportion is the work of the colonies: that a very small number of troops is required for the service of England and Scotland; that the army is rendered the most galling of our burdens, because misgovernment cannot be supported in Ireland but with the bayonet, and because every insignificant spot, called a colony, creates a pretext for a military establishment. It has been frequently said, but the evidence of it has not been sufficiently displayed and enforced, that no colony is other than hurtful to the mother country, which does not defray its own expenses. The proposition, indeed, is next to self-evident; for

what does a country get by a colony, for which it is obliged to pay, and from which it receives nothing?

Let us, however, attend a little to the pretexts, by which the interested endeavour to hide this loss and burden from our eyes. They say, we have the monopoly of their trade. And both theory, and experience, prove, that it is of no advantage. How many times more valuable the free trade of the United States, than the forced trade was of the North American colonies? They say, also, that we have sunk capital in the colonies. Sunk it, indeed! Then let us follow the approved maxim of common life, not to throw good money after bad.

The value of capital consists in the annual return received from it. Suppose the capital of a colony to yield ten per cent. profit. If the expense of military and civil government exceeds the aggregate of that profit, the loss of the colony, and the capital along with it, would be a gain. But, again, why should we, the people of England, pay enormous sums to protect the gains of the colonists? We protect our own; why do not they the same? This doctrine needs only to be well preached, to be very operative in time, and then we shall have relief from a heavy load. There is not an outlying spot of ground subject to the crown of England, which is not a drain upon the people of England, with one only exception, India, where the East India Company has stood in the way of ministerial misrule and extravagance.

P. Q.

[\[Back to Table of Contents\]](#)

## **Art. X.**

### **THE BALLOT.—A DIALOGUE.**

*Speakers:—a Farmer—a Schoolmaster—a Squire.\**

**FARMER.—**

You two are of opposite opinions, upon a subject in which I am interested. I wish to be in the right in my opinion; and you would do me the greatest favour if you would, each of you, state the reasons upon which his persuasion is grounded. When I have considered them together, I may, perhaps, discern which are the strongest.

**SQUIRE.—**

Let us know the subject about which you are perplexed.

**FAR.—**

The subject I mean is the ballot. You know I have recently had the power of voting for a member of parliament conferred upon me. But, as the tenant of another man, I am to such a degree dependent, that I must vote as he desires me.

**Sq.—**

Why so? Why not maintain the spirit of an Englishman, and vote as your conscience directs you?

**FAR.—**

It is easy, as I have often seen, for all of us to make light of another man's burdens. But, Sir, it is no small difference to such a man as me, whether he has the good, or the ill will of his landlord. In fact, the happiness or misery of his life may depend upon it. He may be forced from a spot on which he has planted himself, and from which he cannot be torn, without loss of property, and painful feelings, to any degree. Even if he is secured against removal, the state of a farmer, assured of all sorts of good offices from his landlord, and those about him, is very different from that of one assured of all sorts of ill offices from them.



**SQ.—**

But a high-minded man will vindicate his liberty for all that.

**SCHOOLMASTER.—**

You say right, Sir; and it is very desirable that there should be as many high-minded men as possible. That, however, is not the only question; and wise legislation takes care to embrace all the questions involved in the consideration of its measures. True, it is desirable that there should be high-minded men; but is it not desirable that your institutions should not be such as to punish men for their high-mindedness? Are such institutions calculated to encourage the growth of this desirable thing?

**SQ.—**

But I desire to know how you make it out that our institutions punish high-mindedness.

**SCH.—**

I think you will allow that the amount of evil just described to us by our friend the farmer, is no trifle.

**SQ.—**

Certainly not; and I deplore it as much as you do.

**SCH.—**

But a lot of evil attached to the doing of an act, is punishment for that act, is it not?

**SQ.—**

No doubt.

**SCH.—**

A lot of evil attached to the act of voting in a certain way is, therefore, punishment for that act?

**SQ.—**

It is.

**SCH.—**

The man who acts—that is, votes, in this particular way—in obedience, I mean, to his conscience, but disobedience to his landlord, performs the high-minded act you applaud?

**SQ.—**

He does.

**SCH.—**

And, when the lot of evil follows, he is punished for it?

**SQ.—**

Yes.

**SCH.—**

A line of acting, established by law, in a concern of the public, and for a public end, is an institution—is it not?

**SQ.—**

It is.

**SCH.—**

Here then is an institution which punishes the farmer, and the very large class of men placed in corresponding circumstances, for a high-minded act.

**SQ.—**

I cannot deny that it is so.

**SCH.—**

And you do not, I am sure, maintain that it is right?

**SQ.—**

Far from it; but still it may be the least of two evils; and submission to it on that account may still be a duty.

**SCH.—**

Is not this a supposition which may easily be made? And does it deserve any regard, till that greater evil is pointed out, and its consequence, upon the removal of the less evil, proved to be inevitable?

**SQ.—**

Certainly not.

**SCH.—**

It is required of you, therefore, if you would entitle your position to any regard, to do both things—to show us the consequent evil, and to show that the consequence is certain.

**SQ.—**

I do not think it will be difficult to comply with your conditions. In the first place, I think it can be shown that your plan for rescuing the high-minded voter from the punishment attached to his vote will be unavailing. I also think, if it were rendered availing, that the consequences of the remedy would be worse than the disease.

**FAR.—**

Ay, now you are coming to that which I am impatient to hear—whether I can be delivered from my thralldom? And if not, why?

**SCH.—**

Yes; you and I now wait for the reasons of the Squire; and, first, he has promised to inform us, why the ballot cannot afford you protection.

**SQ.—**

You will acknowledge that the efficacy of the ballot depends upon the secrecy.

**SCH.—**

True; because we consider the ballot a short name for secret voting.

**SQ.—**

But the ballot will be ineffectual for secrecy; because the same power which would compel the man, voting openly, to vote against his inclination, will compel him to tell how he has voted.

**SCH.—**

Oh, no; it may compel him to *say* how he has voted, not to tell. That is a very different thing; and whether he says, or tells, his compeller can never know.

**SQ.—**

Cannot he make him, in the very act of voting, show how he votes?

**SCH.—**

No; there is an effectual mode of preventing that.

**SQ.—**

How?

**SCH.—**

The voter may vote in a place where there are no witnesses, and in a way in which it can be known to no creature but himself how he has voted.

**SQ.—**

I do not understand your plan. Explain it more particularly.

**SCH.—**

May not the voter be admitted into a room, where he can be seen by nobody?

**SQ.—**

Certainly he may.

**SCH.—**

In that room there may be receptacles for the voting-balls or tickets intended for each of the candidates. Into which of these receptacles

the voter has put his balls or tickets is utterly unknown, except to himself.

**SQ.—**

That, it appears, I must admit; but the compulsion to tell how he has voted may still be exercised.

**SCH.—**

What you mean is, that the man who has power over him may ask him how he has voted, and will punish him if he do not say that he has voted as he bid him.

**SQ.—**

Yes, that is what I mean.

**SCH.—**

Let us suppose that he does so; and what then? The voter either tells him the truth, or he does not. What is he benefited? He knows no more how the man has voted, in consequence of what he has told him, than what the emperor of China dreamt last night.

**SQ.—**

But still he knows, if the man has not voted as he bid him, the man has lied.

**SCH.—**

And pray, Sir, who is the cause of that lie? to whom of course the criminality of it ought to be imputed. But this part of the question—the collateral effects of the ballot—we had better, I think, consider afterwards, when we have first determined whether it will, or will not, afford a remedy for the evil against which we desire to provide it: in short, whether it will protect the voter from that process we have just described, of compelling a voter to vote dishonestly.

**SQ.—**

True, Sir, if it is not a remedy which will answer its end, it is needless to discuss its other properties, since it will not be desired.

**SCH.—**

You have admitted, I think, that the act of voting may be rendered perfectly secret; and also that, though the voter may say he has voted as his master has ordered, his master is not, by that circumstance, one jot the nearer a knowledge of how he has voted. His vote is still a secret to his master—and so, unless there are other circumstances to reveal it, must it ever remain.

**Sq.—**

I find myself constrained to allow that.

**SCH.—**

And so will all fair controvertists. The question, then, is, are there other circumstances to reveal it?

**Sq.—**

Yes; there is an article just published in the 'Edinburgh Review,' and said to come from a high quarter, which affirms that there are undoubted means of discovery.

**SCH.—**

Well, Sir, what are they?

**Sq.—**

The Reviewer says, that the voter's general opinions are always known, from which his mode of voting will be inferred.

**SCH.—**

That is one circumstance: is there any other?

**Sq.—**

Let me think. It did appear to me, when I read the article, that there was a list of them; but I confess I cannot recollect another.

**SCH.—**

There is no other; though, as you say, the language used in the article implies that the assertion is well supported.

**SQ.—**

Do you mean to say, then, that I have been deceived by language either wholly or partially begging the question?

**SCH.—**

You compel me to smile. Do you not know that this is the masterpiece of the rhetorical art? This circumstance, however,—this something, which is, by its sole operation, to discover the vote of the dependent, must be examined; that we may, of our own knowledge, not from the assertion of the reviewer, judge what it can, and what it cannot, make known.

**SQ.—**

That I join with you in desiring.

**SCH.—**

Let us suppose the case of our friend, the Farmer here, and his landlord. The Farmer is a known reformer. His landlord is an enemy of reform. Let the candidates be two—one a reformer, another an enemy of all reform. How does the landlord proceed? He denounces vengeance against those of his tenants who do not vote for his friend; and he will, says the 'Edinburgh Review,' go upon the rule, that all his tenants who are reformers will vote against him.

**FAR.—**

But pray, gentlemen, consider a little in what condition I am to be placed by the operation of such a rule.

**SCH.—**

What is it you apprehend?

**FAR.—**

The consequence will be the same to me, whether I vote with my landlord, or against him: in either case he will conclude that I have voted against him. But if I shall be concluded to have voted agreeably to my own sentiments, whether I have done so or not, what you have justly called the punishment of my vote will fall upon me, do what I will. Of course I shall, in these circumstances, give the vote which pleases myself, and my landlord makes my opposition to him sure. I am punished, but my landlord is disappointed.

**SQ.—**

That consequence is very clear; and the writer in the 'Edinburgh Review' has anticipated the objection. He says, that such of their tenants as have sentiments they consider opposed to the vote they desire, the landlord will keep from voting at all.

**SCH.—**

I see that the writer in the 'Edinburgh Review' lays great stress upon the exercise of this forbidding power possessed by the landlords. It is necessary, therefore, to consider carefully both what it implies, and what it can accomplish. One thing which it implies deserves to be accurately noted: it is no less than the important point, which not a few have had the boldness to deny, that for the purpose of secrecy the ballot is perfectly efficient. It is only because the landlord cannot know how his tenant will vote, that he deprives himself of his vote, of course fearing that it will be given against him; for if he had the means of knowing the vote, the same force which enables him to keep his tenant from voting, would enable him to make him vote as he pleased.

**SQ.—**

I do not see how that can be disputed. There would be no motive for making a voter stay away, if you knew and could command his vote if he went.

**SCH.—**

We are then to consider this as a conceded and established point, that the motive to keep dependents from voting arises entirely from the perfect secrecy of the vote.

Another thing which this argument implies is, an assurance that the power which great men possess to prevent the exercise of free voting will be generally used. This only deserves remark, as an instance of the inconsistencies in which the gentlemen of counsel against the ballot are involved. When the purpose is, to deny that there is any occasion for the ballot, it is commonly assumed, that gentlemen will not use their powers of coercion, but generously indulge their dependents in voting as they please; and we are called upon somewhat imperiously to wait, before calling for the ballot, till we see what their behaviour is. When the occasion, however, comes to maintain the inefficacy of the ballot, let the need for it be what it may, we are then told, with the loudest voice, that every man who has the power will exert it, even to the utmost: no mention now of the propriety of waiting, to see whether men



grasping at political power will avail themselves of all their advantages for attaining it. Can the men who thus profess contradictory opinions upon the same subject—one opinion to-day, another to-morrow, as it suits their purposes—call upon us for belief in their sincerity?

**Sq.—**

I object to this inference; and I think that candour should have restrained you from expressing it. I allow the contradiction; but I can declare that till now I was not aware of it; and held both opinions in sincerity—both that it was doubtful whether the conduct of men of local influence would be such as to call for the ballot, and certain that they would exert themselves to defeat the ballot.

**Sch.—**

I am grateful for your rebuke, and feel its justice. I ought to have made more allowance for the oversights into which we are all apt to be led by the heat of controversy. You will, however, allow that those people who refute themselves—that is, who hold two opinions, the one of which destroys the other—are either somewhat careless in scanning their opinions, or not very capable of that most important intellectual process.

**Sq.—**

You now charge the deficiency to the proper account—to the intellectual, not to the moral part of the offender; but I think that you are still guilty of an overcharge; it being, in my opinion, not very difficult for a man even of good intellect to overlook a contradiction or two in a number of allegations upon a complicated subject.

**Sch.—**

You will allow, however, that to make this apology available, the party must not persevere in his self-contradiction. If he does, it not merely argues, it proves, a sad deficiency in him somewhere. But this is leading us from the question. We have to inquire what the power of a great man, or combination of great men, in forbidding their dependents to vote, can do for them? If it should appear that it must be altogether inefficient for the attainment of their ends, do you think that it will then be a good argument against the ballot?

**SQ.—**

Certainly not; but I go upon the supposition that it will be efficient; and then I think it a good argument.

**SCH.—**

First of all, does it not deserve some consideration, what appearance it will have to the public, and what conclusions it will suggest, if it shall be demonstrated, by notorious facts, that a great proportion of the Englishmen to whom the law gives the right of voting are debarred from the exercise of that right, because they hold such and such opinions? Is that a state of things which could continue to exist?

**SQ.—**

I do not think that it could.

**SCH.—**

Is it not, therefore, either puerile or unfair to produce, as an objection to the ballot, a state of things which cannot exist?

**SQ.—**

I see that the argument would be of very little avail, if you can show how the evil is to be remedied.

**SCH.—**

You have allowed that it is a state of things, the permanence of which is not to be supposed—that it would certainly be put an end to.

**SQ.—**

I think it would.

**SCH.—**

Whether it be put an end to by what you would call a remedy, or a disease, does not affect the argument. A state of things which cannot exist cannot be urged as an objection to the ballot.

**SQ.—**

Yes, if getting rid of it would only introduce a greater evil.

**SCH.—**

That greater evil, then, would be the real objection, and should alone be urged. What is this evil?

**SQ.—**

That is what we have now, I think, to inquire. For my part, I do not see my way out of the difficulty. The 'Edinburgh Review' seems to think that no enactment of the legislature will be sufficient to deprive great landlords of the power of preventing their tenants and tradesmen from voting.

**SCH.—**

You are willing, then, to go with me into a close inspection of the subject?

**SQ.—**

Most willing.

**SCH.—**

There is one mode of delivery from the irrational and unseemly spectacle of a power conferred by the will of the community, through its supreme organ, on a portion of the community, and that power taken away, that is, the law broken and frustrated, by the will of certain individuals: namely, by repealing the law, taking away that power, which the will of individuals, too powerful for the law, renders nominal.

**SQ.—**

Do you mean, that all that description of voters whom the landlords would withhold from voting should be deprived of their votes?

**SCH.—**

Yes.

**SQ.—**

And have you considered that this would be to select out of the most numerous class of voters—namely, the poorest class—all those who hold sentiments favourable to reform—that is, the far greater proportion—and to deprive them of the power of voting, on the sole ground of their holding reform sentiments? Why, that would be to

make a fundamental law of the state, for the express purpose of preventing reform for ever after.

**SCH.—**

It would be so.

**SQ.—**

And do you think that such a proposition would ever be listened to?

**SCH.—**

I do not; and therefore I think we may leave that proposition, as one sure not to be acted upon. But then, if we are to have these men with their votes, what are we to do for them? We see what the difficulty with them arises from: the source of it is, the power which certain men have over them. We must, then, work upon that power. Is there no means by which this power can be prevented from operating to the defeat of a fundamental end and purpose of the state?

**SQ.—**

The 'Edinburgh Review' seems to think not. Are you of a different opinion?

**SCH.—**

I am of opinion that the writer in the 'Edinburgh Review' did not very deliberately weigh the consequence of his opinion; which is only this, that the existence of large properties must be destroyed, and prohibited for ever.

**SQ.—**

How say you? That, a consequence of the reviewer's opinion?

**SCH.—**

You cannot doubt it. The votes of these men are, by the supposition, necessary to good government. Such is the opinion of the legislature, and of the community, who gave them their votes. The power of the landlords destroys this essential condition of good government. Good government and the power of the landlords cannot exist together, if the opinion of the reviewer is true. What the community have then to determine is, which is best for them,

that they should have good government without great landlords, or bad government with them.

**SQ.—**

That is not a question which we can suppose they will be long in determining. But what would you do in that case?

**SCH.—**

The proper course is easy to be seen. As their power arises from the greatness of their properties, all great properties must be broken down into small ones; distributed, if you will, to the next of kin of the original owners.

**SQ.—**

I am staggered with this objection, and astonished that the writer in the 'Edinburgh Review' did not see what his doctrine would lead to. It is no light matter to hold up, from such a quarter, a representation, from which it may be legitimately inferred, that the existence of large properties in a certain number of hands is utterly incompatible with the existence of good government. Let us, however, see whether he has not a defence. We remember that he is arguing against the ballot; and may he not say, that though you prove such and such consequences will flow from your endeavours to protect the ballot, such consequences cannot be pleaded against him because he wishes not to have the ballot?

**SCH.—**

It is only necessary to call to recollection the course of the preceding argument, to see how untenable is that plea.

**SQ.—**

Let us observe.

**SCH.—**

From the very proper terms in which the reviewer spoke, in the early part of the review, of the success with which the votes of individuals had been interfered with, both by reward and intimidation—both by money in hand and loss in prospect, it is clearly his opinion, that such interference (I mean to any considerable extent) is incompatible with good government. The same, undoubtedly, is the sole basis on which, in reason, the late reform can be defended; the object of which was by Lord Grey

declared, in a pointed and admirably-chosen expression, to be representation—not nomination: meaning, by nomination, command of votes, either by bribery or intimidation. This, to be sure, is a ground which an opponent of the reform bill may reject; but it can never be renounced by any of its supporters, least of all by the 'Edinburgh Review.' The next point of admission on the part of the reviewer is, that the great proprietors have the power, and will have the will, to exercise both bribery and intimidation: so far, we agree with him. He says, it is not in the power of legislation to prevent them. By way of parenthesis, we should then ask him, what was the use of last year's reform? But to pass that, we meet him here, and we say that the ballot would prevent them. This he denies, and skilfully states a train of reasons, such as they are, to show us we are deluded. Now, then, let us observe the upshot of our opposite reasonings. About the cause of the evil we are both agreed: it is the power—that is, the great properties—of the landlords. We say that the ballot will prevent the noxious exercise of this power; the reviewer denies that it will. But an efficient barrier against the introduction of good government must be removed. What follows I need not desire you to say. The question clearly is—ballot, or the destruction of large properties. If the ballot is sufficient to protect voting, as I believe it is, leave property to its natural course of accumulation or dispersion; if the ballot is not sufficient, the power of commanding votes must be taken away. For it is useless to mince the matter: good government we will not consent to be without. If the opposers of the ballot prove to us that with the existence of large estates we cannot have good government—in other words, pure representation—why then large estates must be abolished; the alternative is clear.

**SQ.—**

The impression made upon me by your reasoning is complex, and somewhat difficult to describe. I cannot easily reconcile myself to your conclusion; and yet if it were proved to the community that they cannot have the benefit of genuine representation, that is, cannot have good government, while the property of the country is placed in great masses in particular hands, nobody can overlook the consequence. The community will assuredly come to the resolution of breaking up these masses, and making all properties small. Nor can anybody deny that they will have reason for such a proceeding. But still are you not alarmed at the idea of such a state of things?

**SCH.—**

I know not what great evils I should apprehend from it. The moment of any considerable change is always ticklish. But I do not

see why a community, in which there are a great many small properties, and none very large, should not be a very happy community. Many things might be said in praise of such a state of society, if it were now the object to recommend it. At present, however, I have no such design, because I think the ballot an antidote against the noxious exercise of the power of the rich; and if so, I desire not to meddle with their property. When it ceases to be hurtful, it ceases to be obnoxious to me.

**SQ.—**

But how are you to get over the objection, that voters may be forbidden to vote?

**SCH.—**

That must be examined. The objection is given in broad, general terms, which afford no distinct ideas, and only leave behind them an impression that there is something of importance under them. Impressions of this sort are always a legitimate object of distrust, till the causes of them are minutely examined. Let us put before ourselves the circumstances, the combination of which, we are told, will defeat the ballot.

**FAR.—**

That part of the inquiry comes home to me. I am eager to learn what protection can be afforded to the men of my class.

**SCH.—**

I wish to simplify the state of the question as much as possible. I shall suppose, therefore, that the distinction is solely that of reformer, and no reformer: the landlords forbidding the reformers to vote, and compelling the anti-reformers to do so. If they can do this, anti-reform candidates will alone be chosen.

We must bear in mind that the objection we are endeavouring to obviate supposes, that the majority of the farmers composing this or that constituency are reformers. If the majority were anti-reformers, the anti-reforming candidate would be chosen without the intimidation process of the landlords.

Now then, let us observe the natural working of this state of things. The landlords, says the objection, order the majority of their tenants to abstain from voting.

First of all, how are they to select their men? How do they know who are the reformers, who the anti-reformers? The answer must be, by their talk. The men who are known to hold anti-reform talk will be sent; those who hold the language of reformers will be kept away.

Talk then is the criterion; but talk is fallacious. The men who are the least likely to hold themselves bound by any promise to a landlord which they can break with impunity are precisely the men who are most likely to deceive him by holding language which he may hear of, though it be not the language of their thoughts. He may, upon this evidence, be sending men to the poll, the majority of whom will vote against him. That this is a probable result, is proved by this fact, that when there is a majority of farmers warm in a particular opinion, it is always a very large majority; as a body they think according to one another; those among them who stand by themselves in an opinion are always a small number.

So much for the success of the anti-reform expedient with those who are sent to the poll. In the meantime, what are the thoughts of those who are forbidden to poll? They know by being forbidden that they are marked men in the minds of their landlords. They are also men who have little regarded this circumstance, since it has not hindered them from speaking their minds. Are they not men, therefore, who may go a step further, and ask themselves what other danger they are to undergo, if they disobey their landlord and vote in spite of his prohibition? Remember that they are the majority. There is no danger that the landlords will turn off the majority of their tenants. A general resolution, then, among the reforming tenants, to disregard the interdiction, would leave the landlords without a resource. The landlords are now in a situation in which the loss of a single tenant is no trifle; that of a great number a calamity. The landlords have already proceeded so far in misconduct to their tenants, that they have deterred the resort of capital to their land. Can they forbear to see how much it is their interest to encourage, to induce, men of property, and men of intellect, to become their tenants? But can they hope to have such men for tenants, if they are not to be as independent and free, in their thoughts, words, and actions, as their landlords themselves? To have a servile, mean-spirited tenantry, they must have a starving, poverty-stricken tenantry, and not half a rent. Nothing is more obviously the interest of the owners of the land, than to have an opulent tenantry. But a tenantry, independent in their circumstances, will also be independent in mind, and hold in scorn a landlord who should presume to interfere with their votes.



**FAR.—**

You have delighted me by this last exposition. I see that we have not much to fear from the expedient of the landlords forbidding us to vote.

**Sq.—**

I do think that this objection is answered. Not only is the state of things which it implies so revolting, that no man can suppose it would be tolerated; but if it were tolerated, we thus see that the landlords would be the sufferers. Still it appears to me that the question is not decided; the remaining arguments of the reviewer render the utility of the ballot more than doubtful.

**SCH.—**

You remember that we are still considering the ballot with regard to one part of its effects, its efficacy, or inefficacy, to protect the voter from punishment for an honest vote. If it produces ill effects of any other sort to counterbalance this effect, this is to be another inquiry. Therefore, we had better not as yet use the word utility in the discussion, as it may lead our thoughts to the result of both inquiries, when we ought to be thinking only of one.

**Sq.—**

Agreed. The next of the reviewer's objections to the efficacy of the ballot, is, if I remember, drawn from the hourly returns made under the present system of polling. The men who vote within a certain hour, are so many. Their names are all known, and not so many as not to afford good ground of conjecturing who has voted one way and who another.

**SCH.—**

This is one of the modes, in which, according to the reviewer, the ballot will be defeated; and it is surprising that he should have committed so great an oversight. The hourly returns are an incident of open voting, and would be thoroughly excluded from secret voting. The balloting boxes would remain securely locked till the end of the poll, and the final return, that is the only one, would tell nothing but the numbers.

**SQ.—**

The reviewer, however, urges, and I think with reason, that the man of power would possess effectual means of intimidation, even if secrecy were fully secured by the ballot.

**FAR.—**

Indeed! how does he make that appear?

**SQ.—**

He says, that he would select certain victims, inflicting a blow on one farmer which would strike terror into all the rest.

**SCH.—**

Let us take the facts as he would have us understand them. Let us suppose the anti-reforming landlords defeated; and that each of them has made his number of victims; that they have struck all the terror they can, and that a new election arrives. In what manner will each voter reason with himself? If the election goes against my landlord, says the man, some one in ten or twenty of us will be turned out. That to me would be a great calamity. How am I to conduct myself? Go, and vote for my landlord? That will not save me; because he may still suppose that I have voted against him. Shall I make great displays of zeal for his cause? He may still suppose that these are only a colour to disguise my opposition. I have no better chance if I vote for him than against him; then why should I not vote as I please? And after all, it is ten to one, or twenty to one, if any harm comes to me.—Is not this a very natural course of reasoning? And does not the reviewer, in his zeal to make out a case, invert a known law of human nature?

**SQ.—**

To what law do you allude?

**SCH.—**

That by which we over-rate the chances of good fortune; under-rate those of evil. Instead of seeing that every man, under the operation of this law, would believe, to a degree far beyond the actual probabilities of the case, that he would not be the victim, but escape safe, he would have us believe the contrary, that every man would look upon himself as the victim: as if it were the fact that every soldier, on going into a battle, believed that he was one of the men to fall: as if the direct contrary were not perfectly ascertained;

and that the bravery of the mass of all armies depends upon that common illusion. Trust me, Sir, the selection of victims would not answer the intimidator's purpose; and, accordingly, the reviewer, as if he saw that it would not, concludes, at last, that it would only operate with the voter as a motive to abstain from voting. But I am not much afraid of those who abstain from voting. The man who has courage to disregard the bidding of his landlord, will not be long without the courage to disregard his forbidding.

**SQ.—**

You dispose, Sir, of the objections of the reviewer, so easily, that I cannot but think there is more in them than your mode of showing them up permits to appear; though I do not find myself prepared to say what it is.

**SCH.—**

I perfectly understand the state of your mind. You are under the influence of habit, which all at once is never overcome. Your habit has been to suppose that there was something strong in those objections, without seeking to know distinctly what it was: and when it comes unexpectedly to be shown to you, that there is nothing strong in them, you cannot resist the reasoning, but the habit remains, and still produces a hankering to believe, what yet you have seen ought not to be believed.

**SQ.—**

This certainly does look like a description of what I feel.

**SCH.—**

In considering the effects which would be produced by any device of the great proprietors to reap the benefits of intimidation under the ballot, one of them is never to be forgotten: the situation in which it would place the intimidators among their fellow-countrymen. Suppose the owners of large properties to be guilty of some signal act of oppression (it must be severe to produce its effect) upon a proportion, say a tenth, or even a twentieth of their tenants, selected by caprice, and without evidence even of the honourable act of which they are condemned; would not the indignation of the community be excited? Would not such men be regarded as the sworn enemies of their fellow-citizens? Could men the object of such feelings, in such a country as this, be long suffered to hold the power of which they make so offensive a use?

**SQ.—**

I think, indeed, it is a state of things which would not last. But there is still an allegation more of the reviewer, to show that intimidation would exist in spite of the ballot. He says, that the ballot could only be effectual in a country where all the people were for it. If not, the people who despise secrecy would make an ostentatious parade of their mode of voting, and would thus reveal the secret of those who wish their votes to be concealed.

**SCH.—**

I think that this is the same objection, only in a new shape, which we have had before, and have disposed of. We began with supposing that there would be people who would declare beforehand their resolution of voting in a particular way; and would say afterwards that they had so voted. But we showed how these declarations of theirs could be rendered void, incapable absolutely of giving information, and of no more effect than so many inarticulate sounds. The reviewer supposes that these declarations would be accompanied with gaudy shews; with ribbons, and colours, and marrow-bones and cleavers. But what is all this to the purpose? Is it anything but profession still? and a noisy, or glaring profession, is just as likely to be false as a quieter one.

I think we have now gone through the reviewer's budget of devices, by which the man of large property will, he thinks, in spite of the ballot, command votes by intimidation: and I think we have ascertained that they are impotent every one; that the ballot may be looked to, not only as a great security, but as a security to this purpose wanting little of perfection. The reviewer, however thinks, that not only great men, but little men, may intimidate; and it is fit we should consider what we have to apprehend from that source likewise.

**SQ.—**

I remember what you allude to. He says, that in towns (he confines the operation of this infirmity of the ballot to towns) combinations of the people, as by political unions, may be able to operate irresistibly on the fears of electors.

**SCH.—**

How can that be if the voting is secret? Combinations only threaten evil to those who vote against them; but when voting is secret, they do not know who votes for, or who votes against them.

**SQ.—**

The reviewer supposes that they will judge by the result.

**SCH.—**

Be it so. But what does the result teach them? Only that such a number voted on the one side, such a number on the other.

**SQ.—**

But what if they are exasperated with the result, and desire to take vengeance?

**SCH.—**

Vague anticipations of evil from a source which offers specific good, never weigh much with any reasonable men. Let us inquire what this decree of vengeance is to do. It is not to be supposed that the combinations in question act like madmen, and run a-muck at electors indiscriminately. Their vengeance will point only at those who have opposed them. But who has opposed them? That is buried in impenetrable darkness. Next it is to be supposed that these combiners are under the coercion of the law; and that even the individuals at whom their vengeance is pointed are safe from all violence: the combiners will only divert their custom from them. But why withdraw custom from one man more than another, when you cannot know that any man rather than another has voted contrary to your wish?

**SQ.—**

It appears then to be your opinion that the ballot would be a security against intimidation?

**SCH.—**

If you have nothing further to advance against that conclusion. For I think we have sufficiently shown, that the causes which, according to you and the writer in the 'Edinburgh Review,' would obstruct the salutary operation of the ballot, are all of them inefficient; in fact, powerless to that mischievous end. Secrecy of voting, in the first place, which you said was not to be effected, has appeared to be the easiest thing in the world; secrecy so perfect, that not any declaration of the voter himself can by possibility disclose it. Next, the knowledge of an elector's general opinions, we have seen, affords no effective means to the landlord. His order to stay away will assuredly be disregarded, because he has no

means of punishing the breach of it; and if his vengeance after defeat strikes at a few victims, the intimidation is inadequate, and the disrepute extreme; the loss of political consequence greater than the increase of it which he aims at, and aims in vain. As for the approximation to a knowledge of the votes by the hourly returns, we take away the hourly returns; and the vengeance of clubs and combinations of the most numerous class of the people, is clearly and most indisputably precluded by the secrecy. I think, therefore, we may affirm with assurance, that the power of intimidation is taken away by the ballot, and that the independence of voters would be secured by it.

**SQ.—**

I am obliged to confess that the resources of the intimidator, under the operation of the ballot, appear, from what you have said, to be very weak in comparison with what I have been accustomed to suppose, and with what they are given out to be by the writer in the 'Edinburgh Review;' who, I suppose, has written under that same hankering, which you ascribed to me, a hankering to believe—as he has been in the habit of believing—that the means of eluding the ballot are strong.

**SCH.—**

I have no doubt of it. But then he is a man who has the tutelary habit in such perfection, if the same who is commonly alluded to, I mean the habit of obeying the stronger evidence when it is found to bear even upon a fostered opinion, that he will soon get the better of the hankering.

**SQ.—**

The good effects of the ballot, that is, honest voting, may be nullified by two means, either by intimidation, or bribery: the latter we have not yet considered. But I see the writer in the 'Edinburgh Review' lays great stress upon it in proof of his first position, that the ballot is an institution feeble, or rather impotent, to the production of good.

**SCH.—**

He does lay stress upon it, but in the way of rhetoric rather than argument. What he says is in truth an argument, not against the ballot, but against small constituencies, which his argument proves ought not to exist. In that conclusion I agree with him; if an imperfection of this kind is found in the constituency created by the Reform Bill, it must be, and that speedily, amended. There is no

doubt that you may have a constituency so small as to destroy the influence of the ballot; but it is obvious, on the slightest reflection, that all the means alleged by the reviewer of gaining anything by bribery under the ballot, confine themselves to small constituencies, and can have no operation in large ones.

First, bribing voters to stay away, is only resorted to at the end of a hard contest, when it is known that a few votes more or less will decide the question; and when it is worth a man's while to bribe highly. But take the state of things which ought to be made to exist,—a large constituency, and, from the beginning to the end, absolute ignorance of the state of the poll; who, in that case, can tell whether bribing one hundred or two hundred will be of any use? And who will throw away his money for such uncertainty? The absurdity of the supposition is enough.

The next allegation is, that the bribe may depend upon success. A sum of money may be promised to the electors if such a man is returned.

It is almost too obvious to need being remarked, that this expedient would be successful only with a small constituency. A candidate may be supposed to offer a sum which would be an object to each of two hundred or three hundred men, 10*l.* a man, perhaps; but who could offer what would be efficient among five thousand? Why 2*l.* per man would be 10,000*l.* And then, which is a sufficient answer to this allegation, how would an act of such publicity lie concealed, and go unpunished?

But, if it thus appears, as to me it does incontrovertibly, that there is nothing in the allegations which are brought to controvert the efficacy of the ballot in securing freedom of voting, we may consider the first question as decided, and may affirm that the ballot is calculated to produce all the good effects which its advocates expect from it.

**Sq.—**

Be it so, at least for the present; for I am not prepared to dispute your conclusions. But another inquiry remains,—namely, what are the ill effects which it produces?

**Sch.—**

True; and the writer in the 'Edinburgh Review' has very justly observed, that the ultimate decision for or against the ballot, as an institution, must turn upon the balance of its good and evil effects. The ballot implies a power on the part of the voter to protect

himself by saying one thing and doing another, and the use of this power as often as necessary. In this, as far as I can perceive, is included the whole of the evil which the writer in the 'Edinburgh Review' ascribes to the ballot; for he expressly rejects the arguments which have been vented by the petty advocates, telling us that speaking out is a good thing, not speaking out is a bad thing; that speaking out is English, not speaking out is un-English; and other childishness of the like sort.

**Sq.—**

It would have been unworthy of the writer not to see that such allegations prove nothing, that speaking out, and not speaking out, are good or evil, as the case may be. But the deterioration of the moral character produced by a habit of lying, is an evil of such magnitude, that I cannot easily form the idea of any consequent good which would be an equivalent for it.

**Sch.—**

The balance, as you and I have already agreed, should be accurately struck. But for this purpose is it not true, that the items on both sides of the account should be accurately examined?

**Sq.—**

To that there is no man but must assent.

**Sch.—**

What I complain of in the mode of proceeding of those who range themselves as enemies of the ballot is, that they have always evaded this examination. And this has struck me as a proof either of their rashness in taking upon them to settle an account which they have not examined; or the poverty of thought which they brought to the decision, if they were not aware that the examination was necessary.

**Sq.—**

But what do you mean by saying that they have evaded the examination? Does not the article in the 'Edinburgh Review' before us, present an appalling catalogue of the consequences of the mendacity produced by the ballot?



**SCH.—**

It does; but does an appalling catalogue come up to your idea of an examined catalogue? And if it does, what do you say to the other side of the account? The balance is ascertained by comparison of the two. It is very true that the writer in the 'Edinburgh Review' began by an endeavour to show that the ballot would leave the voter as much liable as before to vote under compulsion. Had his argument to that effect been conclusive, the controversy was at an end. If the ballot could do no good, the smallest portion of evil on the other side would turn the balance against it. But we have seen that to this end his argument totally failed. At least, though I am not perfectly sure that you rely on the new conviction which you found you could not resist, you could find nothing in reason with which to oppose it.

**Sq.—**

That I must confess.

**SCH.—**

It is, therefore, incumbent upon you to take into account all the good which may appear to be the consequence of voting free from compulsion.

**Sq.—**

Suppose we do so; will not your complaint against the opposers of the ballot then be limited to this omission?

**SCH.—**

If it were, it would still be a very heavy complaint. What sort of judges can they be deemed who leave entirely out of their consideration the evidence on one side of the case?

**Sq.—**

When viewed in that light it does seem a serious charge.

**SCH.—**

And this is by no means the whole of the charge which I bring against them. They behave as ill with regard to their own as their adversaries' side of the account.

**SQ.—**

How do you mean?

**SCH.—**

They give us rhetoric instead of computation.

**SQ.—**

You must speak plainer.

**SCH.—**

Observe what they do, and then say if it is not so.

**SQ.—**

I am attentive.

**SCH.—**

To form a just estimate of the immorality really belonging to the protective lie of the ballot, it is necessary to submit the act to a minute examination; to ascertain its properties with exactness, and determine what consequences these properties imply. Have the lie-abhorrrers done this? Instead of it, they have given us a flashy picture, every feature distorted, nothing seen distinctly, and all covered over with a thick varnish of glaring colours. The object has been, not to do any thing for the understanding, but to make up a phantom hideous enough for the imagination. This might be all very well for a debating club, for a contest of rhetoricians, a game at oratory, or for a set of partisans who want not to enlighten but mislead. Legislators whose object is truth and the public good should proceed in a different manner.

**SQ.—**

Your complaint is too much in generals; I wish you to present the particulars of it.

**SCH.—**

I confess it is very inconsistent in me, complaining of others for their generals, to keep to them improperly myself. But I wished, not to be tedious; and therefore that my exposition should not be more minute than the necessity of the case seemed to require. Perhaps this further development will satisfy you.

**SQ.—**

I am desirous to hear it.

**SCH.—**

I have already said enough, or nearly so, to determine what a man imbued truly with the spirit of legislation would do. He would examine deliberately that case of mendacity the possibility of which the ballot supposes, and he would fix its proper place in the scale of demerit; that done, he would consider and ascertain what are the ill consequences inseparable from such an act, and would fix their respective places in the same scale; the only mode of proceeding by which an accurate statement of the amount of actual evil could be given.

**SQ.—**

I now understand more distinctly the operations you would have performed.

**SCH.—**

Instead of this, what have our objectors done? Their business has been to select the most hideous images connected with mendacity in its worst forms, to put as many of them as possible into a great aggregate, presenting no distinct ideas to the understanding, but a horrible image to the imagination, the more horrible because obscure; like Milton's devil, which shape had none, distinguishable in member, joint, or limb; and could be called neither substance nor shadow, for each seemed either.

**SQ.—**

I willingly allow that this is not a mode of proceeding by which legislators should lay the foundation of great measures. Whether you are right in laying the charge so heavily upon the oppugners of the ballot in the legislature, I have not the particulars of their conduct so fully in my recollection as to be able to say. But that is a question the determination of which does not press. The point of importance is to ascertain, by strict investigation, what the evil accruing from this source really amounts to. This, I fear, that my friends of the no-ballot cry have left undone. But that only renders me so much the more impatient to have this great service to the cause of truth and good government rendered by you.

**SCH.—**

Do not say rendered by me; for how can you expect from me what those great men have left in despair?—I say despair, because I cannot find any other apology so honourable to them. However, if you consent to join with me in the inquiry, we can enter upon it, and may at any rate proceed so far—possibly far enough to find the means of a certain degree of satisfaction to ourselves.

**Sq.—**

Agreed.

**SCH.—**

I presume we may go upon the assumption that there are lies—if, to please the men of the no-ballot cry, we must call every expression which corresponds not with the matter of fact by that opprobrious name—of all degrees of criminality, from the very highest to the lowest; some of no criminality at all; some absolutely meritorious.

**Sq.—**

I doubt whether I can go along with you to the full extent of this proposition. I see very well that there are degrees of criminality in lies; that a lie, for example, by a witness in a court of justice, intended to take away the reputation, life, or fortune of an innocent man, is a much more atrocious crime than to make your servant exclude your visitor by a lie at your door. But I am not willing to allow that there are any innocent lies; for I do not call any thing a lie which is not meant to deceive. And whatever is done by a lie had better surely be done without it.

**SCH.—**

If it can. But what if it cannot? Will you venture to say that there is nothing—there can be nothing—which had better be obtained than not, if it cannot be obtained unless a lie be told for it?

**Sq.—**

I cannot say that; because a number of cases immediately occur to me in which the attaining of certain ends by lying is accounted perfectly laudable; the stratagems of war, for example; the deceptions often usefully employed by medical men; those practised, when necessary, towards madmen; or even those by which violators of the laws are obstructed in the pursuit of their wicked designs.

**SCH.—**

You need not limit yourself to those instances. You can produce many more. Is it not reckoned perfectly honourable in a lawyer to do everything he can for his client; to use very gross acts of deception, not only by perverting facts, by making those appear to be no facts which really are, if by false glosses, and confusing the witnesses, it is in his power to do so, but making use, without scruple, of evidence which he himself knows to be false, making out, as proved, matters of fact, which never, he knows, had existence. Observe what the law itself and the judges do. The very instruments which they proceed upon and demand as the foundation of their acts, writs, bills, pleadings, are all full of notorious and ridiculous lies. They go further than that. They make no scruple to extort lies, aggravated by the violation of an oath. Though it is perfectly certain that twelve men cannot always agree upon a particular point, they compel every jury to declare, upon oath, that they have agreed. Though the value of a property stolen may be well known to be many pounds, they direct jurymen to declare, upon their oaths, that it is of another and far inferior value. And that without any blame imputed to either party.

**SQ.—**

That is so; but it is necessary to inquire into the meaning of all this. It is all done for the attainment of an important end.

**SCH.—**

It professes to be so; and it is under the belief that it is so, that it passes without condemnation. But here we come to the difficulty which you said arrested your progress. Why is any thing we do done with a lie?

**SQ.—**

I see to what my own admissions have drawn me. I am no longer at liberty to say that a lie should not be told for the attainment of good.

**SCH.—**

Provided it cannot be attained without the lie; and provided it is a good which deserves to be purchased at such a price; for it is never to be forgotten that the rule of sincerity is of so much importance in human life, that a violation of it is always an undesirable means. And the levity with which it is set aside in modern manners is no slight imputation on the morality of our times. To such a degree is

the observation of truth hold unnecessary, that a great part of the business of ordinary life is performed by the violation of it, not as a necessary, but a convenient, means. There cannot be a more striking example than the established expedient for declining to admit a visitor, by telling a lie at the door. How much of what is called good manners is grounded upon simulation, both by words and deportment indicating matters of fact which have no existence? The very terms of salutation and valediction, in particular the epistolary, are commonly gross violations of the truth. The common apology is, that they injure nobody; and on that ground it will readily be admitted that they deserve no very severe condemnation. Yet if they do no good, they are an evil, though small, still uncompensated.

**SQ.—**

But this doctrine of yours leads to a conclusion which I shudder to think of,—that truth, in itself, is not more estimable than falsehood, that each is valuable in proportion to the end it effects.

**SCH.—**

Do not say *my* doctrine; for I have done nothing more than lay before you the common practice and common sentiments of the world. I object to the terms of your conclusion, because they are equivocal.

**SQ.—**

How equivocal?

**SCH.—**

I think I can satisfy you by a few words. What is it that makes truth valuable to us?

**SQ.—**

The good it is the cause of.

**SCH.—**

What is it that procures approbation of certain deviations from it?

**SQ.—**

The good they are the cause of.

**SCH.—**

It is thus admitted by you that, in themselves, and without regard to their effects, speaking truly and falsely are equally matters of indifference. In this sense, therefore, the conclusion you draw from the received morality is true; but there is another sense in which it is very far from being true. Take speaking truly and speaking falsely in conjunction with their effects, and the difference is unspeakable. The good effects of speaking truly are constant and universal; the good effects of false speaking are occasional only, and, in comparative amount, a trifle. The general rule, therefore, is, that truth is to be observed. But for the very reason for which it is to be observed,—namely, the good which it produces, it is to be abstained from when it would produce not good, but evil. Depend upon it, Sir, whenever you find a man affecting a zeal for truth beyond this mark, it is not morality which is the spring within him.

**Sq.—**

The moral grounds which you have laid down do, indeed, seem to be incontrovertible.

**SCH.—**

And it was of importance to lay them correctly, because all the plausibility bestowed upon the 'no-mendacity' part of the argument against the ballot is derived from keeping the true moral grounds of the question out of view; and in place thereof, thrusting a quantity of false morality in our faces. The question appears to me to be now brought within a very narrow compass. We have only to inquire whether the good to be obtained by the deviation from the line of truth which the ballot may occasion, can be obtained by any other means; and whether the good is so small that the deviation is too great a price to pay for it. Is this inquiry worth entering upon, or is it not?

**Sq.—**

What is worth entering upon, if this be not? I do entreat you to proceed. I never was more deeply interested in anything.

**FAR.—**

I am so deeply interested, that my tongue has been tied. I have not had a faculty but attention alive. It is of infinite importance to men in such circumstances as mine, to feel that, in protecting themselves against their oppressor, they do nothing of which they

need to be ashamed. This will keep the pride of virtue alive in their breasts.

**SCH.—**

The first inquiry, then, we have to undertake is, whether the end to be obtained by the lie of the ballot, can be obtained without it.

**Sq.—**

Can it, or can it not?

**SCH.—**

There is one very obvious way—namely, that the possessors of the compulsory power should cease asking promises before, or confessions after, the vote. If they could be either prevailed upon, or compelled to abstain from this exercise of their power, the object would be gained, free voting would take place, and not a lie would be told.

**Sq.—**

That is clear.

**SCH.—**

It is also clear, that if they act the other way, they, and they only, are the cause of all the lying which takes place. The guilt of it, therefore, belongs to them.

**Sq.—**

The great guilt undoubtedly belongs to them. Whether there is not a separate guilt of him who allows the lie to be extorted from him, we have yet to see. But this abstinence of the landlords, which would save the lying, is it a thing to be expected of them, or not?

**SCH.—**

The writer in the 'Edinburgh Review' goes openly and stoutly on the ground, that they can neither be counselled nor compelled; that they have objects of their own to gain by exerting the power which their fortunes give them; that they are men governed by selfish and ungenerous purposes; and that all the blessings of good government opened to the hopes of their countrymen have no charm for their eyes, nor anything but the profits of misrule, which, by defeating the ballot, they hope still to secure. The author in the



'Edinburgh Review' is not sparing in his condemnation of this conduct. But he affirms it will take place.

**Sq.—**

Is he, or is he not, right in that opinion?

**SCH.—**

First, as to persuasion, I must confess I see no equivalent which can be held out to them for the profits of misrule, which they might secure by defeating the ballot; and such an equivalent, I am afraid, is the only medium of persuasion, from which any great effect could be expected.

**FAR.—**

You must allow me to come out with an observation here, though it is hardly in point to this part of your inquiry. But I have been wondering within myself, since you began to speak of the certainty with which the no-ballot men conclude that the landlords would exert their power to secure to themselves nomination if the ballot were obtained, what they could possibly mean by calling upon us to believe that these very men would not think of securing to themselves nomination, if voting were open; as if the same thing which would be to them an object of uncontrollable desire, if voting were secret, would be to them no object of desire at all, if voting were open; and, thereupon, exhorting, or rather commanding us, not to desire the ballot till we should see whether the conduct of the landlords would render it necessary or not. They could not foresee what the landlords would do with their power when they had not the ballot to obstruct them. They foresee perfectly what they will do with it, if the ballot stands in their way. This is a mystery in their conduct, which I wish you would explain.

**SCH.—**

It is not necessary to conclude them altogether dishonest in the maintenance of these contradictions; nor altogether foolish. Self-interest is a great confuser of ideas, especially in the minds of those whose habits of thinking have been formed under all the perverting influences which arise from the possession of power. Evidence is no evidence with such men, when it goes against their desires. No proposition is fit for proof, but that which they wish to be true. But though I have no equivalent for those who might hope still to secure nomination by extorting promises from persons voting secretly, I may conclude thus far with certainty—that they will not continue to extort promises, after experience has proved to

them that it is of no use. Now, if the vote can be rendered perfectly secret, as I think I have proved that it can—and if, as I think I have also proved, the means either of intimidation or bribery, with the ballot, and a constituency sufficiently large, are too insignificant to be of any avail, it is not doubtful that the promises exacted by landlords will be utterly useless; that asking them will, therefore, be soon relinquished, and become utterly discreditable. The evil of lying, therefore, will be short-lived; the benefits of free voting will have no end.

**SQ.—**

If I do not misrecollect, the writer in the 'Edinburgh Review' has anticipated this remark of yours, and refuted it.

**SCH.—**

I thank you for reminding me of that passage in the article. We should have it before us.

**SQ.—**

I can turn to it immediately.

**SCH.—**

Do so, and read it.

**SQ.—**

It is this:—

'If the ballot had been coeval with our elective system, the case, we readily admit, would have been different. Our feelings and our habits would have been fitted to it, and have grown up in harmony with it—always supposing that it had continued to be a really secret method of voting. To ask a vote, still more to ask a question as to how a vote had been given, would no more have entered into any man's mind, than it now does to overlook a person when he is writing, or to open letters directed to another. But we are considering what protection the ballot, now first introduced, will give to men whose habits are already formed, and cannot be changed—at least during the few years that they would bear such an experiment to be tried.'

—*Edin. Rev.* No. CXII. p. 555.

**SCH.—**

I claim this as an affirmation of my opinion. It says that, after a time, secrecy would extinguish the very thought of asking a promise or confession.

**Sq.—**

The Reviewer only says, that if the ballot had been coeval with our elective system, it would had these effects.

**SCH.—**

Surely you do not suspect the Reviewer of putting forth so untenable a proposition as this—that the effect of secrecy, as part of the elective system, would be good, if it began with the system, but bad if it begin at any other time. What is there in the commencement of an elective system, which should give an effect to secrecy different from the effect it would have at any other point of its duration? No sooner is the proposition distinctly announced, than its futility is seen. The motive to influence votes are of the same kind at the beginning as at any subsequent point of an elective system. If a man has an object to gain by forcing a vote, will he be less disposed to serve himself at the commencement, than during the currency of a voting system?

**Sq.—**

That would certainly be too much to expect; but is there not weight in what the Reviewer says about the habits we have now acquired, and should have to overcome?

**SCH.—**

Let us not talk of those habits vaguely and obscurely. What are the habits we have now, and should not have at the commencement of an elective system? I know but of one—that of commanding the open voter to vote as we please. As to the demanding a promise from the secret voter, that can be no habit when secret voting begins. What is the habit here which is to be overcome? The habit of commanding open votes is gone, when open voting has ceased.

**Sq.—**

Let us not keep to a construction of the mere words of the Reviewer; let us make a liberal interpretation of his sense. I think he must be understood to mean that the habit of commanding open votes would be followed by a propensity to command secret ones.

**SCH.—**

If we do, I think his argument will not be a strong one. Pray, how did the habit of commanding open votes begin?

**SQ.—**

You mean me to say, I suppose—and, in truth, I see not what else I can say—that it began, because he who had the power to command, had also the will.

**SCH.—**

That is to say, he obeyed the dictates of his interest. But why look out for any new habit, to account for a man's obeying those dictates? Is not that the master-habit? But what if voting had been secret from the beginning? Would not the same interest which made men seek a command over open voting, make them seek it also over secret?

**SQ.—**

Undoubtedly it would.

**SCH.—**

And is there anything in the mere point of commencement that should make the feeling of interest less cogent than afterwards?

**SQ.—**

I do not see that there is.

**SCH.—**

Then the desire of the man, who had the same interest to serve, in commanding secret votes, would not be less strong to command them at the commencement of a voting system, than at any subsequent stage of it.

**SQ.—**

I know not why it should be so.

**SCH.—**

But, at the commencement, the Reviewer says, that desire would have died away; and, again, he says it would not die away at the

subsequent stage. But why would it have died away at the first stage? Solely because ineffectual. It will be equally ineffectual at the subsequent stage. Will not the same effect proceed from the same cause? No, says the Reviewer. Why? Because men have acquired the habit of commanding open votes. What reasoning! Because men have continued to do a thing by which they promoted their interests, they will be sure to go on doing another thing, by which they do not promote their interests.

**Sq.—**

I do not, indeed, see how the one of these propositions follows from the other.

**Sch.—**

And if it does not, we are at liberty to conclude, that the landlords of the present day, when they find promises of no use to them, will cease exacting them as well now, as they would a thousand years ago.

**Sq.—**

I think it is vain to contend against that conclusion.

**Sch.—**

The last sentence of the paragraph you have read is, to me, somewhat obscure. The writer desires us to observe, that he is 'considering what protection the ballot, now first introduced, will give to men whose habits are already formed, and cannot be changed—at least during the few years that they would bear such an experiment to be tried.' What is it that you understand by these words?

**Sq.—**

I understand what I think is the obvious meaning of them; that the habits men now have, are adverse to the efficacy of secret voting, and would make them abolish the practice sooner than change their habits.

**Sch.—**

Your comment is not much clearer than your text. We must look at the words a little more closely. The men whose habits the Reviewer here speaks of are evidently the voters—the men needing protection against the vote-compellers. But it is altogether out of

my power to conceive what habit they can have adverse to the efficacy of secret voting. What we desire is, that they may vote as they please. Is the Reviewer so ill read in human nature, as to imagine there can be a habit, which men cannot get over, of acting contrary to their will? Men may act contrary to what they desire, under a dread of evil. But will the Reviewer tell us that the landlords of the present day have more power over the occupants of their land, than the landlords 'coeval with our elective system?'

**SQ.—**

What, then, is it you conclude?

**SCH.—**

That the Reviewer, by these words, has not strengthened his argument. He here supposes a habit adverse to the efficiency of secret voting, in the voters, when there is no such habit; and he allows that the secret voters, if voting had always been secret, would have defeated their masters at the beginning, but would be defeated by them now; that is, when their dependence upon their masters is incomparably less, and their intelligence much greater.

**SQ.—**

The words, when thus examined, do appear to have been inconsiderately spoken.

**SCH.—**

We may as well, since we are upon this passage, not omit the concluding clause of it—where the writer intimates that the voters would not tolerate secret voting more than a few years. What motive should the voters have to seek the abolition of secret voting?

**SQ.—**

He doubtless alludes to the oppression which he had above supposed the voters would be liable to, under the suspicion of having voted contrary to orders.

**SCH.—**

Which oppression we have already shown to be impracticable, and not an object of dread. These reasons are wholly without force; and, therefore, leave the conclusion clear and unembarrassed—that the ballot will accomplish its object, and enable the voter, however

dependent in his circumstances, to vote as he pleases, without any terror of consequences.

**SQ.—**

I am not able to oppose these conclusions, and must consider them with such care as will either enable me to refute them, or show me the necessity of assenting to them. But I seem to have lost the thread of our discourse, and must endeavour to resume it. We had remarked that the Reviewer made two assertions—one, that the landlords could not be persuaded; another, that they could not be prohibited, from endeavouring to command secret votes. You had allowed that they could not be persuaded; but proceeded to show that the endeavour would be ineffectual; and that, being without a motive, it would, therefore, cease: and you have shown, with, at least, much appearance of reason, that the arguments of the Reviewer against that conclusion, are without force. It remains, however, for you to show, that it is not impossible to prohibit the selfish endeavours of the landlord.

**SCH.—**

If I have established the conclusions at which we have now arrived, I think the argument is at an end. Where would be the utility of prohibiting men from a practice, which you know they will not use? And what better security against a practice, than the knowledge, that nobody will have any motive to it? Upon these grounds the utility of the ballot is already demonstrated. However, I think it best to go through all the pleas, and shall, therefore, invite you to suppose that the arguments we have just produced, to show that the compeller of votes will be frustrated, and that he will not long endeavour, when he finds he must always endeavour in vain, are yet unknown to us; that he has, in short, a power of evil, which, not being able to persuade him to relinquish, we desire to take from him. The question is, have we the means? The Reviewer says not. It is our business to inquire. Is not that your meaning?.

**SQ.—**

It is.

**SCH.—**

When a man, or set of men, have a power which they make a bad use of, there are two modes of dealing with them—either to restrain them from the bad use, or to take away the power. The Reviewer has considered only the first mode of remedy, and has passed over the last, as if it did not exist. This is a great error in

reasoning. What he has endeavoured is, to prove that no penalties, which could be applied by the legislature to the use made of their power by the owners of large estates in coercing secret voters by punishing those whom they might suspect of voting contrary to their wishes, would be effectual.

If this were true, it would only be an argument for the abolition of large estates. The greatest enemy in the land to the existence of large estates is this Reviewer. There is a power in the hands of those landlords which is used to evil purposes. This use must be prevented. It cannot be prevented, says the Reviewer, by restraining the power; but it can, we say, by taking away the power; and this, if the Reviewer is right, is the only remedy. *Quod erat demonstrandum*. A formula which in this place, I think, we may apply without a joke. Do you concur with me?

**Sq.—**

Your conclusions come upon me so rapidly, that, though I have seen no flaw in the reasoning, I fear to admit them. If the Reviewer is right in affirming, that the owners of large estates can by no means be hindered from making a bad use of their power, I cannot refuse your conclusion, that it is an argument against the existence of large estates; but I recoil from the idea of a law to break up large estates.

**Sch.—**

Not surely, if good government is placed on the one side, and large estates on the other. You do not, I imagine, prefer for your country large estates to good government. Society was not made for large estates, but for the community. If large estates can be reconciled with the good of the community, leave them to themselves; if they cannot, the consequence is inevitable: they ought to be abolished; nor is there any use in lamenting the catastrophe, which will assuredly come, whether we like it or not. This is the ultimate and sure remedy, if there is no other to be found.

**Sq.—**

You think the ballot will prevent the bad exercise of the power of large estates, and therefore you have no hostility to them; but as I wish every hypothesis to be sifted, let us wave for a moment your argument on this subject, and suppose that the ballot will need aid against the machinations of the landlords, do you think that the Reviewer, when he says that the evil use of the power cannot be prevented, is right?



**SCH.—**

I think he is far from right; I think that many expedients might be employed, without going the length of dividing large estates, which would reduce the mischievous exercise of the power they confer within very narrow limits.

The expedient of direct penalty—the only one which seems to have been in the contemplation of the Reviewer—would, perhaps, be feeble, as he says, from the difficulty of bringing evidence; but, nevertheless, a penalty, and a very heavy one, ought to be applied, which might be paid, in whole or in part, for his evidence, to the voter whose promise or confession had been demanded; and by which compensation might be made to those who suffer injury by an honest vote. It is not an argument against such a law, that there would be difficulties in the execution of it. The main thing wanting would be appropriate tribunals; and their only difficulty would be in determining the value of the evidence received. Suppose a man swears that his landlord had endeavoured to suborn his vote, it would often be difficult to determine whether the landlord should be fined upon such evidence. If a man, however, so swears, and can show by probable circumstances that he has suffered injury from his landlord through suspicion of his vote, there would be no difficulty at all; and in this way the penalty would operate strongly as a safeguard to the voter.

It might be rendered open to any candidate to call upon any landlord to make oath that he had neither intimidated nor bribed. I think that public feeling would operate strongly in sanction of the purity of such an oath. It would not be a custom-house oath, or a clergyman's oath; about which the public are indifferent. An oath on this subject, known to be foul, would leave a stain behind it. Even a penalty, therefore would not be so useless as the Reviewer endeavours to prove; and he entirely overlooks the more efficient checks.

**SQ.—**

I am impatient to hear what would be more efficient checks.

**SCH.—**

The means of coercion which a landlord possesses may be mostly summed up, I think, under three heads:—1. The power of dispossessing; 2. The power of pressing for arrears of rent; 3. The power of withholding indulgences. In regard to the first two, I think you will not deny that the power of oppression in the hands of the landlord may be reduced.

**SQ.—**

Perhaps not, when you have shown how it is to be done; at present I do not see.

**SCH.—**

To begin with the power of dispossessing, that is limited by every lease. Why not make leases adequate to the protection of the voter?

**SQ.—**

I see that a lease is protection against dispossession during its currency; but what happens when it expires?

**SCH.—**

Would pure voting, and all the blessings of good government consequent upon it, be in your opinion too dearly purchased, if there were no other means, by declaring all leases perpetual?

**SQ.—**

Certainly not; but it would be a great infringement of property.

**SCH.—**

It is not even liable to that objection; it would be a measure in strict conformity with the principle on which all property rests: that no man shall use that which he calls his own in a way to injure other people. If leases cannot be subject to renewal without such injury, leases must be made perpetual.

**SQ.—**

I know not how to combat your conclusions; but they do not please me.

**SCH.—**

I shall please you better, perhaps, by saying that I do not think perpetuity of leases necessary to prevent the injury which might be made to attend the renewal of them; though I should approve the perpetuity, if I thought the injury could not otherwise be prevented.

**SQ.—**

How then is the injury to be prevented, if the leases are to be renewed?

**SCH.—**

If the terms of the renewal are left to the landlord, the injury will take place. The terms, therefore, must not be left to the landlord, but committed, along with the entire question of renewal, to an appropriate tribunal, by which an equitable arrangement could easily be made.

**SQ.—**

I think, indeed, this might be done, without any great infringement of the principle of property; because an equitable tribunal would weigh the landlord's reasonable objection to any man as a tenant, and would estimate correctly the rent which he ought to receive.

**SCH.—**

I think, then, we are agreed, that this part of the landlord's power to do mischief might easily be taken away. We may, therefore, proceed to the next.

**SQ.—**

That, I remember, is the pressing for arrears.

**SCH.—**

It is well known that landlords have provided for themselves a power over this class of debtors such as is granted to creditors of no other class: I mean, distraint—a power which stands on no ground of reason, and ought to be abolished. This would greatly lessen their power over a tenant suspected for his political opinions, as they could only enforce a debt through the operation of law. But still the power would be too great, and must be further abridged. The same tribunal which determines whether a lease shall be renewed, and on what terms, should have the power of determining what time a tenant in arrear should have for making payment.

**SQ.—**

These are great restrictions on the power of using a man's property.

**SCH.—**

That is not the question; but whether they are greater than is necessary to prevent him from using that property in a manner injurious to others? for that is the law under which all property is held. Besides, I do not give these as the best expedients: they are such as have suggested themselves to me at the moment; others, which are preferable, are perhaps to be found.

**Sq.—**

You have then shown how two of the landlord's modes of coercing a tenant may be taken away. How do you dispose of the third—that of withholding indulgences?

**SCH.—**

Farther than by the restrictions we have already considered, on the renewal of leases, and raising of rents, and pressing for payment of arrears, I do not see that it would be necessary to interfere. If besides secure possession, at a reasonable rent, with moderation in pressing for arrears, a landlord is beneficent in other respects to his tenants, his conduct will have its effect upon their minds—will naturally incline them to oblige him. This, however, is not coercion; this is an influence which I have no wish to diminish.

**Sq.—**

There is, however, one contingency still which would afford coercive power: I mean the occasional necessity for remissions of rent.

**SCH.—**

These necessities, I think, arise from bad laws; and I have not mentioned them, because, when the corn-laws are abolished, those fluctuations of price, which the necessities in question arise from, will be prevented. When they do exist, the question of remission is obviously a question for the tribunals we have been speaking of; and thus, you see, that, even waving, as you wished, the conclusion we had come to, that the landlords would not persevere in asking promises or misusing their power over those tenants whose votes they suspected, the means of taking away the power of abuse are not difficult; and that, according to either supposition, the objections to the ballot are overthrown.

**FAR.—**

You have now determined so many points, in a way, I must say, very pleasing to me, that my poor head is a little bewildered. I want to have them all at once before me, that I may survey them together, and see to what they amount.

**SQ.—**

I will endeavour to perform this service, both for you and for myself; feeling not less than you the necessity of combining the propositions we have established, and comparing them with the questions which the controversy involves.

First, then, we considered the objections made to the efficacy of the ballot;—that it could not produce secrecy;—that it could not prevent the obtaining of votes by intimidation;—that it could not prevent the obtaining of votes by certain kinds of bribery. These objections were all shown to be futile: that the ballot could produce secrecy; that it could prevent the obtaining of votes by intimidation; and prevent the obtaining them by bribery. From this we proceeded to the next branch of objection, the evils ascribed to the ballot. We found that they might be considered as all summed up in the word lie; and entering upon the moral question, we soon perceived, not only that lies were of all degrees of criminality, from the highest to the lowest, but that there were lies even moral and obligatory; that the occasions, however, of good obtained by deviations from truth were so few, compared with those obtained by adherence to it, that the deviation was an undesirable means, and should only be admitted when the good could not otherwise be obtained. Can the good we look to from the ballot be obtained without it? was then the question. Yes, if landlords can either be persuaded, or compelled, to abstain from the impure exercise of their power. The 'Edinburgh Review' says they cannot. We then entered upon an inquiry, which has led us to an affirmative conclusion upon both branches of the inquiry: we found that landlords would soon be persuaded, if not by other people, at least by their own experience, that asking promises was a useless and discreditable labour:—we next found, that their powers of intimidation might be so effectually taken away, that a dependent would risk but little in refusing to tell in what manner he intended to vote, and that the landlord might be made to risk a great deal by attempting to force him. It appears to me, therefore, that we have arrived at this most acceptable conclusion—that we may, by the natural course of things, have all the benefit of the ballot without the evil of the lie; and at all events, may secure that result by a very obvious and simple piece of legislation.

**FAR.—**

This being so, the inquiry is undoubtedly at an end; for what more can we desire to have, than proof that the ballot may be made really to produce the good effects which its friends expect from it, and without any of the ill effects which are imputed to it by its opposers?

**SQ.—**

I do not see that anything more is necessary, if our conclusions are really sound. But however strong the chain of reasoning by which we have arrived at them, and by which I have found my assent to them compelled, I still feel that my reliance on them is imperfect.

**SCH.—**

We have already adverted to the state of mind you are in—not an unnatural one, nor of rare occurrence; your old belief is contending with your new convictions; what you want, is to be familiarized with your own convictions. A conviction becomes a practical principle only by being made familiar; and many people continue through life acting contrary to their convictions, because they have never been at home with them, and have therefore continued under the influence of some contrary notion, because an old acquaintance. This is one of the shapes in which mental weakness displays itself; stronger minds easily incorporate the new conviction, and master the bias of merely habitual belief.

**SQ.—**

A fair warning to me.

**SCH.—**

You need not take it so, unless you please. I would rather consider you as an example of those who master, than of those who are mastered by, the mere habit of a belief.

**SQ.—**

But have we really then brought the inquiry to a close?

**SCH.—**

Logically speaking, or, for the satisfaction of reason, I think we have; but, rhetorically speaking, or, for the purpose of popular persuasion, something perhaps is still wanting. The rhetorician in

the 'Edinburgh Review'—a master in that commanding art—has handled, with much appearance of persuasion, a topic which we have not yet considered. Going upon his own hypothesis, he runs out in a display of consequences of a very odious character, and then concludes that the ballot, even if it produced all the good we contend for, would still be the cause of a balance of evil. It is true we have refuted his hypothesis, and his consequences, therefore, are consequences of nothing. Still I think we ought to consider them; because there are many people to whose old habits of thinking they will prove very consonant. Even upon his own hypothesis we can show that his consequences do not hold.

**SQ.—**

That will be an important addition to our argument.

**SCH.—**

The Reviewer affirms, that landlords will continue to extort promises, and will receive lies; that this habit of lying will taint the character of the voters; and that this is not all; for the voters, to protect themselves from the vengeance of their landlords, must continue to speak sentiments in accordance with the promise they have made and broken; that is, to profess sentiments different from those which they hold—to pass, in short, a life of lying. A very formidable train of evils, doubtless; but a state of things the possible existence of which, even to the mind of a theorist—and here the Reviewer is a rank theorist—ought to have appeared doubtful. There have been seen states of things in which a handful of men in a nation have been compelled for ages to profess sentiments which they abhorred;—the poor Jews, for example, in Spain and Portugal,—to whom, however, on that account, nobody ever imputed moral depravity; but a state of things, in which a mere handful of men in a nation compelled a great and influential portion of the whole to continue professing sentiments which they abhorred, never yet was seen in the world, and we may safely pronounce never will.

First of all, what are we to think of a Reviewer, even of the rhetorical class, who, discussing a question, which he informs us turns upon a comparison of evils, leaves his argument lop-sided; that is, gives us an overcharged catalogue of evils on the one side, but wholly omits those on the other?

**SQ.—**

What is it you mean? For I do not willingly admit this charge.

**SCH.—**

Observe, that I mark it only as a charge of inadvertence, not of design. But it is a proof how easily the fairest minds are betrayed into controversial injustice, and how much it imports us all to be on our guard against it. For do you not think, that he ought to have given us a catalogue, as fairly made out, of the evils from which the ballot would deliver us, as of those which it would bring along with it? And has he done any such thing?

**SQ.—**

I must say that he has not; and I see the necessity we are under of doing it for him.

**SCH.—**

I cannot help remarking upon one part of the conduct of the men who signalize themselves by their zeal against the ballot—and that is, the wonderful horror they have of a lie, when it accompanies the ballot; and the want, at least, of all sign of any horror of the lie which attends open voting.

The comparison of these two lies is, in this question, a matter of cardinal importance. If they were lies of the same degree in the scale of moral depravity, the evil, as far as they go, would be equal on both sides. If there is the greatest possible difference between them in this respect, the balance of evil rests with the more criminal of the lies.

**SQ.—**

Explain to us what you mean by the lie on the side of open voting?

**SCH.—**

It appears to me surprising, that it should need explanation to you, or to any body; and yet I imagine the fact is very generally overlooked. Such is the effect of evil custom, and so little is ill looked for in a practice which has long been unconsidered. You will allow that, in undertaking a trust, there is an engagement to discharge it honestly—a promise, in short, solemn and binding in proportion to the importance of the trust.

**SQ.—**

Undoubtedly, I allow that.



**SCH.—**

What do you think of the trust of choosing a member of parliament? Is it not important exactly in proportion to the importance of having a good parliament?

**Sq.—**

Yes, I must certainly allow that; because a parliament can be good, only as the members of it are good.

**SCH.—**

And I suppose you will allow that the goodness of a member depends upon two things—his having intelligence to see what is good for his country; and his having no prevailing motive to betray it.

**Sq.—**

Certainly.

**SCH.—**

I know you have reflected enough upon this most important of all subjects, to have determined in your own mind the reason why an oligarchy, or combination of a small number of the richest men of a community, is necessarily a bad government; and a government genuinely representative is necessarily a good government.

**Sq.—**

I think I understand the reason of that. An oligarchy is necessarily a bad government, because its members have the means, and hence the temptation, to benefit themselves at the expense of the community. A representative government is a good government, because its members have not the means of benefiting themselves at the expense of the community, and are therefore left to the influence of the motive which all men have, to seek the good of the community of which they are a part.

**SCH.—**

We shall also agree, I imagine, that an oligarchy does not change its nature, by a mere change of its outward forms. I mean, that whether the members of it act directly in their own persons, or by means of instruments, so long as the acts of the government are

dictated by their wills, and by their interests, the case is nearly the same; bad government is necessitated.

**SQ.—**

That I am far from denying, and as far from denying what I see you are coming to—that a House of Commons, chosen by the members of an oligarchy, is merely an oligarchy acting by its instruments, and as certainly producing bad government as if they acted in their own persons.

**SCH.—**

Now, then, we have got pretty close to the matters of fact which we are interested in understanding. When a voter, voting openly, yields to the intimidation of his landlord, he lends his vote to the production of the oligarchical power, while his covenant with his country is, to use it exclusively for the purpose of good government. This is not a simple lie. It is a lie with the strongest circumstances of aggravation. It is a breach, not of an ordinary promise, but of a promise on which good and evil, to an incalculable extent, depend. Have you anything similar to say of the lie which may be forced upon the secret voter?

**SQ.—**

The evil of the lie which is committed by the secret voter, is the evil of a deviation from truth—which, however, not only taints the character, but produces more or less of a tendency to disregard truth.

**SCH.—**

The Reviewer produces two cases of evil, springing from the mendacity of the ballot; and that is the first of them. The second is, the course of mendacity, which terror of his landlord makes the voter continue, to cover the breach of his promise. The first of these is what we have first to consider. As you have now put his position—which, as far as I remember, you have done correctly—this evil consists of three particulars: the deviation from truth; the taint of the character; and the greater readiness to lie. Now the two last of these, I imagine, are one and the same thing. By tainting the character, I suppose is meant, making the character worse, that is, making it more disposed to the commission of crime. Taint, in any other moral sense, I do not understand.

**SQ.—**

I do not suppose the Reviewer meant it in any other sense; and I agree with you, that the last two items in the enumeration must be considered the same.

**SCH.—**

The whole charge, then, consists of the simple evil of lying, and the tendency which one lie may have to produce other lies.

**SQ.—**

Agreed.

**SCH.—**

But it has been found, that there is a lie on each side of the account—a lie with the open vote; and a lie with the secret vote. As far, then, as the two items of the reviewer go, the simple evil of lying, and the tendency of a lie to produce more lies, the cases are equal; and there is no reason, on this score, to dislike secret, any more than open voting. The prodigious preference given to open voting, therefore, must come from something else than reason.

**SQ.—**

As far as this point is concerned, I grant it you.

**SCH.—**

Such are the two lies in themselves. We have next to compare them in their circumstances. For we have already seen, that in point of morality, the difference between one lie and another is prodigious; and that the circumstances make all the difference. Thus, the lie by which a wicked son takes away the life of his father is not, in itself, a greater deviation from truth, than the lie by which a general deceives an enemy, and saves his country.

**SQ.—**

I not only agree to this, but am satisfied, from what you have said, that it is an important article in the science of morals, too often obscured by vague and sentimental terms.

**SCH.—**

I think, then, after what has already been explained, we may proceed, in a summary way, to our conclusion. The open voter, who votes under intimidation, having promised to his country to vote for the man he thinks best, and having broken his promise by voting for the man he thinks worst, is the cause, along with others, of establishing an oligarchy, and perpetuating all the consequences of misrule—that is, a combination of all the worst evils, both physical and moral, incident to human beings, upon all the millions who constitute the body of the community. This is not exaggeration. Though these evils may not anywhere be seen in full aggregation, and though there may be counteracting causes, in some places of more, in some places of less, efficacy, that does not alter the natural tendency of the horrid cause, nor imply any abatement of its effects, further than as other causes obstruct its operations. In the case of the open voting, therefore, we have the lie, in conjunction with all the unspeakable evils of misgovernment. In the case of the secret voting, we have the lie, in conjunction with all the unspeakable blessings of good government. I will not ask you which of these two lies is most to be deprecated. But I will ask you, and ask all the world, whence comes it we have so many personages expressing the utmost horror at the lie attended with the good consequences, but without a word to say against the lie attended with the evil consequences?

**Sq.—**

The contrast, as thus presented, is most striking. I know not how far habit, to which we have so often had recourse for a solution of moral difficulties, will account for this strange phenomenon.

**SCH.—**

I think it accounts for it in a great degree. But the phenomenon thus accounted for is a most remarkable exhibition of the mode in which the moral sentiments of the ruling class—I mean their habits of moral judging—become depraved under the operation of a system of government habitually pursuing the good of the few at the expense of the many.

**Sq.—**

But still you allow, that the lie is so much of a drawback from the good of the ballot.

**SCH.—**

I do not think that this much concerns our argument. In most deliberations for public good, we have to content ourselves with a compromise. Seldom any arrangement produces pure advantage. That is the best, which produces equal good with the least evil. But we must look a little more narrowly at the lie which produces the good, and see what the common reason of mankind has taught them to think it. By the supposition, the good is not to be obtained without it. For, if it be, the lie should be condemned. The lie of the ballot, then, does for us two things—it saves us from all the evils of bad government; and it bestows upon us all the blessings of good government. You will tell us—for you are well acquainted with this branch of science—what the moralists of all ages have determined, as to the character of a lie of this description.

**Sq.—**

I must own, without reserve, that they have all determined it to be a moral act.

**SCH.—**

But you will allow, that a moral act cannot taint the character—cannot create a propensity to immoral acts.

**Sq.—**

To say so, would, I think, be a contradiction.

**SCH.—**

The Reviewer's imputations, therefore, on the lie of the ballot are groundless. He said, it was in itself a bad act; and that it produced a bad tendency. We have seen that it is, in itself, not a bad act, and that it cannot produce a bad tendency. We might, therefore, proceed to his second list of evils—those subsequent lies with which he says the lie of the ballot must be followed up. But, as the point is of great importance, I wish to hear the grounds upon which moralists go, in determining, that when a deviation from truth is found to be the only means of warding off an evil, or obtaining a good, it loses its culpable character, and becomes a moral act.

**Sq.—**

I need not go to any remote source for the illustration of this point, when I find an approved one at my hand. In Dr. Paley's chapter on

'Promises,' he has a section entitled, '*In what cases promises are not binding.*' Among other cases, he says:—

'Promises are not binding, where the performance is *unlawful*; as where an assassin promises his employer to despatch his rival or his enemy: a servant to betray his master: a pimp to procure a mistress: or a friend to give his assistance in a scheme of seduction. The parties in these cases are not obliged to perform what the promise requires, because they were under a *prior* obligation to the contrary. From which prior obligation, what is there to discharge them? Their promise—their own act and deed. But an obligation from which a man can discharge himself by his own act is no obligation at all. The guilt, therefore, of such promises lies in the making, not in the breaking them; and if, in the interval betwixt the promise and the performance, a man so far recovers his reflection, as to repent of his engagements, he *ought* to break through them.'

He adduces another case, and says, 'Promises are not binding where they contradict a former promise.' He adds, 'because the performance is then unlawful; which resolves the case into the last.' In the chapter on 'Service,' he says:—

'A servant is not bound to obey the unlawful commands of his master—to minister, for instance, to his unlawful pleasures, or to assist him by unlawful practices in his profession: as, in smuggling, or by adulterating the article in which he deals. For the servant is bound by nothing but his own promise; and the obligation of a promise extends not to things unlawful.'

Paley has a chapter on 'Lies,' Here he lays it down, that 'there are falsehoods which are not lies; that is, which are not criminal.' He then gives an enumeration of the kinds of falsehoods which are not lies, nor criminal; and in particular mentions these:—'Where the person to whom you speak has no right to know the truth; as, when you tell a falsehood to a madman, for his own advantage; to a robber, to conceal your property; to an assassin, to defeat or divert him from his purpose.'

**SCH.—**

This is enough, and a few words will suffice to show the application of the doctrine of Paley to the case of the ballot. First of all, Paley says, that 'promises are not binding where the performance is unlawful.' Surely nothing can be more unlawful than promises to rich men to combine in bringing all the evils of misrule upon the community to which men belong. If there be wickedness in promises, this is wickedness which cannot be surpassed. Paley says

next, that 'promises are not binding where they contradict a former promise.' The voter's original promise to his country was, that he would vote for him whom he thought the fittest man. A subsequent promise to vote for him whom he does not think the fittest man contradicts the former as flatly as it is possible for one promise to contradict another. Paley says, further, that 'a falsehood is not a lie, that is, not criminal, where the person to whom you speak has no right to know the truth.' And what right has the man of wealth to know how the poor man, his dependent, votes; when the law has given the poor man the privilege of secret voting, on purpose that his rich master should not know, and who, therefore, cannot take measures for knowing, without a violation of the law; a violation which ought to be punished? The illustrations of Paley import that a falsehood is not a lie, whenever it is told to defeat a person, who has intentions leading to evil, in carrying them into effect. As no intentions can lead to greater evil than those of the man who would establish oligarchy, no falsehood can be more remote from the imputation of criminality than that which defeats him in such a design.

**SQ.—**

Paley says, the guilt of such promises lies in the making, not in the breaking them, but he does not exempt them from guilt.

**SCH.—**

A promise, however, given under terror, can produce no habit of promising without terror. In the breach of the promise there is morality, not immorality; and in the promise there is no tendency to a habit. What becomes then of the vehement fears of the reviewer, about the evil habits which the falsehood of the ballot must engender? It is thus proved to be exempt from all such tendency?

**SQ.—**

Still, would it not be better that the secret voter should refuse to promise?

**SCH.—**

Yes; and I can mention to you what would be better even than refusing the promise; that it should not be asked. If there be guilt in making the promise, there must be tenfold guilt in extorting it. The promise is given by a trembling dependent, to save himself and family from some of the worst of evils. It is extorted by the master to procure to himself certain advantages, which are to be secured by bringing evils without number upon the great body of the

community to which he belongs. The giving the promise is so far innocent, that it injures nobody; and it is given under a motive which few men can be expected to have the power to resist. The extorting tends to incredible evil; and arises purely from that sort of motive, which the law, under penalty of death, requires all men to resist, the desire of getting what does not belong to them. What, if we cannot hope that the extorting will not go on? What also, if we cannot hope but that men in dependence will not act like men out of dependence? What is the consequence? Only this; that we must deal with things as they are, not as if they were what we wish them. If we cannot get good voting without a promise which is broken without injury to any body, and without the smallest tendency to produce bad habits, we must be contented to get good voting upon these terms, and be glad that they are no worse.

**Sq.—**

I think you have so fully exposed the attempt to discredit the ballot, on account of the broken promise, that we may now proceed to the remaining allegation of the reviewer,—that the breach of promise must be followed by a life of lying.

**SCH.—**

There is one thing, before we proceed to that topic, which I think it may be well to notice. It may be said by others, though it has not been said by the reviewer, that a lie not only creates a tendency to tell more lies, but an entire relaxation of principle, and a greater readiness to yield to every temptation to crime; as we consider that the moral character of a woman who has lost her honour is not partially but entirely gone.

**Sq.—**

Well, what have you to reply to this objection?

**SCH.—**

First, that it proceeds upon a very shallow view of human nature. What is it that makes a breach of chastity in the one sex be thought so complete a subversion of the moral character; and to have not even a tendency that way in the other? Whenever the objector has solved this question, he has made out an answer to himself.

**Sq.—**

I am anxious to know how it is solved by you.



**SCH.—**

The solution is too obvious to be missed by any body. In the one sex the breach is regarded as one thing, in the other as another thing. When a man commits a breach of chastity, he knows it will not be thought by the world, nor is it thought by himself, that he has done anything seriously wrong. The woman both herself thinks, and believes that others will think, that she has committed a great crime. This it is which degrades, which impairs the moral character—the inward thought of having violated an obligation. There can be no doubt, that in every instance in which a man violates a known obligation, he weakens his habit of obedience to obligations. But this has no operation in the case of the ballot; for, in voting as he thinks best, notwithstanding his promise, he knows that he is not violating, but fulfilling his most sacred obligation. On the other hand, the moral contamination we have spoken of would assuredly adhere to the keeping of the promise; when he would act under a sense of violating his most sacred obligations, and would thence be the better prepared for every species of crime. And now for the reviewer's life of lies.

**Sq.—**

Ay, do satisfy me on that point; and then I shall hardly have a scruple remaining.

**SCH.—**

The objection supposes a general opposition of sentiments between landlords and tenants. A few instances would be unimportant. It supposes that the landlords would generally receive promises from their tenants to vote for anti-reform candidates, and would vote for reformers; that the landlord would watch them afterwards, and take vengeance on those who should utter the sentiments of a reformer, as being those who had voted in opposition to his wishes.

**Sq.—**

Yes, this is the real import of the objection.

**SCH.—**

My answer to this is twofold: 1. That the landlords could not exercise the oppression—of the will to which the reviewer supposes them to be in full possession. 2. That the power of such oppression, if they had it, must necessarily be taken away from them; and that it might easily be so.

**SQ.—**

If you make good these two positions, assuredly you will remove the objection.

**SCH.—**

First, I am to show that the supposition of the oppression is absurd. We have inquired what are the landlord's means of oppression; and we have found that they are two: the power of turning tenants out of their farms; and that of pressing them for arrears of rent. But we may defy the most ingenious orator to produce a proposition which will excel in absurdity that in which it is asserted, that the landlords of a country will choose to beggar themselves, to go without income; for that must be the consequence of turning off their tenants.

**SQ.—**

Do you not here exaggerate? The argument does not suppose all their tenants, but some only.

**SCH.—**

As many as are necessary to the end?

**SQ.—**

Yes, certainly.

**SCH.—**

That is all. For where would be the use of turning off a few and leaving the rest; when the void must be filled up by men of the same stamp; and when the next time they will all vote as they did before?

**SQ.—**

The supposition is that they will not; because the example made of a certain number will strike terror into the rest.

**SCH.—**

This is not the least absurd part of this tissue of suppositions. Suppose a certain number of men were taken up at a venture, one in every thousand, for example, of those that pass at Charing-Cross,

and were hanged for the prevention of thieving; would not such a practice be truly operative in the prevention of theft?

**Sq.—**

This would have no effect in preventing theft; because the thief would see that his chance of the punishment would not be increased by his thieving; but that he was just as likely to be hanged if he kept from stealing, as if he did not. It is not, however, in your style, to resort to such a medium of refutation. This is not argument. It does not even come up to rhetoric.

**Sch.—**

What is the fault of it? Your objection, I suspect, arises not from its not being argument; but from its being an argument which strikes harder than you were prepared for. What can be more in point to prove an absurdity, than to produce a parallel case, the absurdity of which all the world must acknowledge?

**Sq.—**

What I object to the case is, that it is not parallel.

**Sch.—**

And I affirm that it is exactly parallel. The men are taken up at Charing-Cross without its being known whether they are thieves or not thieves. The tenants are turned out without its being known whether they have broken their promises or not; for that the secrecy of the ballot renders impossible to be known. The man who is to vote knows he runs the same chance of being punished if he keeps his promise, as if he breaks it. The two cases, therefore, I affirm again, are exactly parallel. And the dread of such punishment affords no motive whatever to regard the promise.

**Sq.—**

You must allow this difference at least; that of the men taken up at Charing-Cross nothing is known. Of the tenants, this at least is known, that they speak such and such sentiments.

**Sch.—**

True. But do you observe what this comes to? To this; that the men are punished for holding such and such sentiments. This is a new hypothesis; but which I am willing to examine, if you have leisure to hear me.

**SQ.—**

I am well inclined to hear you.

**SCH.—**

I say that this supposition is, if possible, still more absurd than the former. For I beg you to say, whether you can conceive anything more contrary to credibility, than that the great body of a people should be held in such terror, by a small number of the men of the same community, as to be made to profess opinions all their lives which they hold in abhorrence. The supposition implies a passiveness and servility, such as the most degraded state of our nature has never exemplified. In the present state of Europe, the attempt could not be made without the ruin of the attempters. This would be to set up a war, not between property and the want of it, but between a few great properties on the one hand, and an overwhelming superiority of property, in moderate portions, in many hands, and all the rest of the community along with it, on the other; a war, the event of which would not be one week in deciding. Surely the circumstances involved in this supposition the reviewer cannot have considered for one moment.

**SQ.—**

It does seem a little wild, I must confess; and will not serve as an engine to batter down the common-sense advantages of the ballot.

**SCH.—**

To show the impossibility of it still farther, let us consider once more what are the means possessed by the men of large property of effecting so strange a coercion. We have seen that they are but two—the power of dismissing tenants, and the power of pressing them for arrears of rent. We have also seen, what is too evident not to be immediately recognized, that to realize the supposition of the Reviewer, landlords must ruin themselves. Now we may be satisfied, that if landlords cannot defeat the ballot but by ruining themselves, it is pretty safe.

**SQ.—**

I do not question that; but show me a little more distinctly how they are to ruin themselves.

**SCH.—**

You allow that their income depends upon their tenants; and according to the supposition of the Reviewer, they will deprive themselves of tenants.

**Sq.—**

I do not remember where the Reviewer says so.

**SCH.—**

That shows you have not read what he says attentively. He says they must turn out all those of their tenants who do not invariably speak oligarchical sentiments. Three-fourths, at the least, must be supposed to hold sentiments directly the reverse; and the Reviewer tells us, that men of that class cannot go on for any length of time successfully counterfeiting sentiments they do not hold. Three-fourths of them, therefore, will fall under the rule of condemnation: that implies, that three-fourths of all the land of the country are thrown out of cultivation, and that the great landlords of the country deprive themselves of three-fourths of their income. They render themselves, therefore, men of small incomes, and ruin their influence by endeavouring to make it exorbitant.

**Sq.—**

But the supposition of the Reviewer is, that the landlords will not need to turn out all their anti-oligarchical tenants; that a few of them turned out, for the sake of example, will make all the rest vote as they are required to vote.

**SCH.—**

And we have already proved the absurdity of that supposition, by showing its similarity to the plan of preventing theft, by hanging every thousandth man at a venture. That a man should be hindered from voting as he pleases, by fear of an evil, which it is twenty to one he will never feel, and of which he does not lessen his chance one atom by voting according to his conscience and his wishes, is a supposition at the very summit of extravagance. To press for arrears of rent, as means of coercion, would fail for the same reasons—as might be shown by similar explanations. But as they are abundantly obvious, and I would not be tedious, wo may omit them, unless you think otherwise.

**SQ.—**

I agree with you.

**SCH.—**

It is only necessary then to add—and this also we have already proved—that if the landlord's power of turning his tenants out, and harassing them for arrears, were not incapable of destroying the securities for good government, which we expect in the ballot, but as potent to destroy them, as the argument of the Reviewer supposes, we have another remedy. It is the easiest thing in the world to take away those powers—either by forbidding the existence of large properties, or by taking away the arbitrary power of landlords over tenants, by giving the question of the renewal and terms of leases, as well as of the exaction of arrears, to the decision of an equitable tribunal.

**SQ.—**

These last conclusions of yours I do not find myself more able to resist than those which preceded them; and I believe, according to your doctrine of the necessity of being familiarized with the conclusions which have satisfied one's reason in order to convert them into practical principles, that I want nothing more, to be a practical friend of the ballot, than to have incorporated the reasons for it with the rest of my habitual associations.

**SCH.—**

Having shown, as I think, effectually, that the arguments of the Reviewer, by which he undertakes to prove that the ballot is impotent for good, but potent for evil, are untenable, it seems to me that we have cause for the highest exultation.

**SQ.—**

What is it you mean? Not mere triumph over a controversial opponent?

**SCH.—**

Something very different; I mean the assurance of exemption to the human race from the train of evils which would have been their inevitable lot had the arguments of the Reviewer been found to be just. Admit his conclusions; and it follows, that good government is an impossibility; mankind are born to be the spoil and prey of a

small number of their wretched fellow-creatures, whom their position renders of necessity the most worthless of their species.

**Sq.—**

The train of consequences you thus adumbrate I see too faintly to be able to trace them; I therefore wish you would point them out somewhat more distinctly.

**SCH.—**

I shall only have to repeat what I have already said, that, according to the Reviewer, a small number of rich men command a majority of the votes of poor men, and that for this there is no remedy; that the promise held out by the ballot is illusive, besides which it is accompanied with peculiar and overbalancing evils. This, I say, is an argument against the representative system, and if the argument were good, a conclusive one; for it would prove that the representative system leads necessarily to oligarchical power, the very worst of all the bad shapes of power, and enables it to act with more security under the mask of representation. Most assuredly, if a majority of the persons sent to serve in parliament must be sent by a few rich men to do as they are bidden, that is, to rule the country for their masters, it would be much better that the masters should rule it directly, without the farce of representation, and all the lying and hypocrisy which attends it. The extent of misrule is not abridged by that scheme of deceit, it is enlarged. The remarkable thing is, that the Reviewer goes on establishing this doctrine with an air of gaiety, and of something even more exulting than self-satisfaction. Yet the prospect, we should think, is such as to strike a damp into any heart which is not made of stone. Admirably was the nature of oligarchical morality understood by Plato, when he made the oligarchical advocate lay it down seriously that moral good is that which is good for the strong man, moral evil that which is not good for him. Habit so conciliates us to this doctrine, that even a man like the Reviewer, who has not an oligarchical wish in his mind, is not startled when he arrives by a train of reasoning at this monstrous conclusion.

**Sq.—**

If it be true that his argument would prove the impossibility of good government,—and I confess I see not how it can be obtained, if not through the representative system, which his argument sets aside,—I must pronounce his apathy wonderful.

**SCH.—**

As we contemplate the case now, setting the real circumstances before us, it would seem impossible that any thing, having the senses and feelings of a human being, should not be melted at the thought of all the miseries with which misgovernment overwhelms the mass of mankind, all fixed on them irremovably from generation to generation to the end of time. But it is not so wonderful that men who contemplate the case in another point of view; who are familiar with the delights of those on whose account these miseries are produced; whose thoughts have been accustomed to run in the same channels, to think with approbation of what brings delight to them, with disapprobation of that which brings uneasiness; while the pains and pleasures of all the rest of mankind, still more the great causes of their pains and pleasures, are too little thought of to weigh in their minds as objects of much comparative regard, should have their sensibilities little affected by the general idea of misgovernment; and should not feel greatly shocked when brought, by a train of their own reasoning, to the terrific conclusion that such is the inevitable lot of mankind.

**FAR.—**

This apology may do for them so far as it accounts for what I have often observed; a disposition to protect and uphold the poor, in men who were zealots for institutions that would crush them. But surely men enslaved by habits of such partial and insufficient observing and thinking, men whose conclusions may be founded, without their knowing it, upon ideas which embrace but a fraction of the subject on which they presume to decide, are little to be trusted as rulers of nations,—far unfit to judge, in the last resort, of what is good and evil for mankind. And now I think we have provided an answer to all the objections of the no-ballot men. At least I, for my part, cannot think of another.

**SCH.—**

There is, however, yet another which goes upon a very different ground from that which the Reviewer has taken in the greater part of this article; not upon the ground of the ballot's not being efficient, but on that of its being too efficient. And it is curious enough that there are even two sets of arguers upon this single ground: one set complaining that the ballot will destroy the influence of property; the other that it will destroy the influence of poverty.



**FAR.—**

That is an admirable ground which supports contradictory conclusions.

**SCH.—**

I hope you have observed that something like this characterizes most of the allegations against the ballot: one set of them is pretty regularly a negation of another; and yet its adversaries seldom scruple to urge them both. The Reviewer, however, does not associate himself with those who complain that the ballot would destroy the influence of property. He would be ashamed to advocate that only influence of property which the ballot would destroy. He declares that he reprobates that influence. But he says the ballot would do great mischief by precluding the influence of poverty. This, at any rate, has an air of generosity, this is the tone of a protector.

**FAR.—**

But how is it that the ballot can prevent the influence of poverty? Or what influence is poverty possessed of?

**SCH.—**

I had no doubt this allegation would surprise you. And no wonder. The theory, however, of the allegation is this. The greater portion of the people are not allowed the privilege of voting. If those who possess the privilege (people of some property) vote in secret, that other portion of the people (those of no property) have no influence on their voting. And this is an evil of which they have a right to complain.

**FAR.—**

I doubt whether I understand this doctrine; because it looks to me like an argument not against the ballot, but for universal suffrage.

**SCH.—**

Do you not think the Farmer sees into this subject with clearer eyes than some of his betters?

**SQ.—**

His observation makes me ruminare. I will not venture to say it is wrong.

**SCH.—**

If you consider it a moment longer, you will find it is right. We may go to the bottom of the subject at once; which for the most part, I think, is better than scratching the surface.

**FAR.—**

Only take me along with you.

**SCH.—**

The sole ground and justification, in reason, of taking a part, and not the whole, of the population for the basis of a representative system is, that a part may be taken, much less than the whole, but yet sufficiently extensive to be thoroughly identified in interest with the whole. The inference is, that the general interest is thus secured. The security of the general interest is that which is sought for by good government; and in that is included the interest of the non-voting, as well as that of the voting part of the community. The share of the non-voting part in the general interest, that is, in the blessings of good government, is, by the supposition, perfectly ensured to them without their exerting any influence on the voting. By the supposition, therefore, they cannot possibly exert any influence counter to the natural tendency, but for evil; and if the ballot protects the voting part from such influence, it is a necessary instrument of good.

**FAR.—**

The arguments of those who are against the ballot do turn out, upon your shewing, to be very poor things; they are just nothing at all.

**SCH.—**

A mistaken argument naturally appears so, whenever it is opened up, and seen with its disguise taken off. Your suspicion that the argument against the ballot—ascribing benefit to the influence of the non-voting over the voting part of the population—was an argument in favour of universal suffrage, you see, is perfectly just. If that influence could be of any use, it must be because the voters would not make the best choice without it. But if the non-voters can induce others to make a fitter choice, it must be because they are fitter to choose themselves. This conclusion, I think, is inevitable.

**SQ.—**

I cannot dissent from it, and therefore I do think that this argument, if it does any thing, goes to prove the superior fitness of universal suffrage.

**SCH.—**

The argument, it is evident, goes upon the assumption, that the constituency is defective, and that it needs external influence to keep it right. But a constituency can be defective in only two ways, either by not wishing to make the best choice, or by not knowing the best. It cannot have a will not to make the best choice, but by having a sinister interest, that is, an interest opposed to the general interest. It cannot mistake the best choice, but for want of intellect. The argument, therefore, implies, either that a constituency short of the entire population cannot have the will to make a good choice of representatives, or that the entire population is fitter, in point of intellect, to make a good choice than any section of it; at least than that section which we at present take in this country.

**FAR.—**

Certainly nothing can be more clearly proved than the inconsistency of those who maintain the goodness of our present constituency, and yet say that it needs to be kept right by the influence of those who make no part of it.

**SCH.—**

The extreme inconsiderateness with which the arguments against the ballot show that they have been brought forward, is not one of the least remarkable things attending them. To tell us in one and the same breath that we have two sets of men in this country, one set who are the fit and proper men to make the choice of representatives, the other altogether unfit; but that the unfit men ought to have the power of influencing, that is, altering, the choice of the fit men, is a monster in the way of deduction, at which one stares with astonishment.

**SQ.—**

You should have added, of altering *by intimidation*; for that is the necessary supposition; and that an argument should land in such an absurdity, and the arguer not perceive it, does certainly imply a want of consideration which is nearly incredible.

## **Note, By The Editor Of The Dialogue.**

This talk about the responsibility of the elector has been recently renewed, and with such bragging assurance, that the futility of it may require to be a little more minutely set forth. The 'Times' newspaper of 21st January, 1835, publishes a speech of Lord John Russell; and in its leading article remarks that Lord John had settled the question of the ballot by 'one neat observation,' or words nearly the same with these; and the 'neat observation' lauded by the 'Times' is, that the ballot relieves the voter from responsibility.

The heads which lend themselves easily to the delusion of names are not the small class. Responsibility here does the business of Lord John. He has got the name, and the thing, he imagines, goes along with the name, as the substance with the shadow.

Lord John would be puzzled if he were called upon to tell what he means when he talks of the responsibility of the *people*. The electors are the people, if your representative system is not a mockery. They are a portion of the people such, that in their political interests the interests of all the rest are included; that, when their interests are pursued, the interests of all the rest are pursued; when their interests are sacrificed, the interests of the rest are sacrificed. The electors, therefore, and the rest of the people, are the same in point of interest, or your pretended representative system is radically vicious, and calls for a radical reform.

What responsibility does Lord John think applicable to a man in the management of his own affairs? When Lord John appoints a housekeeper and a butler to look after his interests in the kitchen and cellar, does he need any other responsibility than his own responsibility to himself, that is, his own sense of his own interest? can there be any other security so good for his making the best choice he is capable of making?

What does he imagine is done by the people in choosing their representatives? Do they not make choice of agents to look after their interests in the business of legislation, just as Lord John chooses agents to look after his interests in the business of the kitchen? and can they need, or can there be, any other responsibility for their choice, than what Lord John is under in choosing his servants, the knowledge that a good choice will be good for them, a bad choice will be bad for them?

Lord John must not think it impertinent, after the way he has talked, if we ask him a plain question,—if he knows what is meant

by responsibility? Lord John knows many people, and admires some, who are very ready in the use of the word, but know the meaning of it no more than what name it goes by in the language of Brobdignag.

What is it we do to a man when we make him responsible for any act of his? Do we not contrive some means or other of making it contrary to his interest not to perform it as we desire he should? that is, in other words, of making it his interest to do it?

Responsibility means always this one thing, an interest created to a man by external agency to do something which we wish done and which he would not have a sufficient motive to do without the operation of that agency. When he has that motive, responsibility is a word without a meaning. Where would be the use of saying a man is responsible for eating when he is hungry, for resting when he is tired? When it is made a man's interest to do so and so, whether by the hand of nature, or the hand of art, the object is gained. But where nature does the business without art, the latter is useless and absurd.

Lord John, however, and the 'Times' newspaper, scorn this mode of reasoning. They say that art ought to be added to nature in securing the good choice of representatives. And how is it they think the art is to operate?

By the supposition, nature has secured, by making it the interest of the voter, the best choice he is capable of making. But, say the two heads of Lord John and the 'Times,' we must have something more, we must have publicity, which makes the voter responsible. But this responsibility must either operate in the same direction with the voter's own previous interest, and then it is not wanted; or it must act in opposition to it, and then it is pernicious.

Having thus seen, that the responsibility of the voter, which Lord John and the 'Times' newspaper are so anxious to provide for us, would, on the most favourable supposition, be altogether useless, let us entreat them to consider (for it appears they have not yet done so) the price they would have us pay for this mock security, this insignificant instrument, this gewgaw of theirs.

To obtain it we expose the voters to the force of all the influence which wealth possesses on poverty, that is to say, we place the votes of the great majority of the voters at the disposal of the rich, who thus become the absolute masters of the country, and constitute an oligarchical government with all its abominations.

The publicity certain persons are so eager for, produces, therefore, two responsibilities. It makes the voters responsible, they say, to

the non-voters, and it makes them responsible, as we say, and they must confess, to the class of men whose riches give them a power of good or evil to a great extent over their poorer neighbours.

Who sees not that the responsibility of the poor man to the poor class of men is as nothing; his responsibility to the class of rich men is commanding? For the *name*, then, of responsibility, without a grain of the reality, operating in the right direction, these patriotic enemies of the ballot desire us to constitute a responsibility, operating in the wrong direction, with a force which is irresistible. Such is the bargain they recommend to us, and that with a zeal which, considering the nature of the bargain, is enough to startle us.

The zeal with which they recommend such a bargain is the more remarkable, that they themselves declare and proclaim the utter worthlessness of that responsibility for which they would have us to pay so fatal a price. Is it not they who affirm with assurance, that if voting were secret, the farmers would keep away from polling at the bidding of their landlords, that this coercion would be complete? And what does that declare with the voice of a trumpet? What but this, that the motive created by the power of good or evil in the hands of the poor multitude is as nothing; the motive created by the same power in the hands of the rich few is irresistible. Can there be a stronger argument for the ballot than this? can there be a more pointed satire on the pretence that the knowledge by the people whether a man did or did not vote according to his conscience would be a security to us for honest voting? The farmer who stays away makes proclamation of the fact. He says to all those around him, the opinion you may hold of my conduct is of small importance to me compared with what I have to hope and fear at the hands of my landlord. My responsibility to you is something in name; my responsibility to him is something in terrible reality.

The tendency of all the arguments against the ballot being to bestow unlimited power on the small class of rich men in the state, or to persuade us that their hold of it cannot by any means be prevented, gives rise to serious reflections. Is it that the enemies of the ballot see not these obvious consequences? or, that seeing them, they have no aversion to them? Some of them are not like the 'Quarterly Review' men, and the other enemies of the Reform Bill. The consequences of that Bill *they* speak of with an abhorrence which amounts to frenzy, the furious language of madmen. It shows what interest they had in the consequences of the unreformed state of things. Wherever there are abuses, there are men to profit by them; and whenever profit is taken away by the reform of such abuses, there will be men to curse the reform, the men who have

produced it, and all those whose train of thinking awakens the dread of more such reforms.

## **POSTSCRIPT.**

Since our Article on the political state of the country was sent to press, the experiment which, when that Article was written, was but in an early stage of its progress, has been completed. By the result of that experiment, it is ascertained, first, that even with all the defects still inherent in our representative system, the crown and the aristocracy can no longer force upon the nation a ministry against its will; and, secondly, that the nation will not endure a conservative ministry. The time, indeed, is not come for a ministry of thorough Reformers; and the Tories, as little as the Whigs, now profess themselves thorough anti-reformers. Tories may grant reforms; and Whigs, as the people well know, will often refuse them, or pare them down into insignificance. But there is this difference between the two parties: the Whigs at least profess to *love* reform; the spirit of examination and change which is abroad is no subject of lamentation to them; they declare themselves gratified by it, and take credit to themselves for having helped to produce it. The Tories, on the contrary, look upon that spirit with avowed suspicion, most of them with absolute terror; they make no pretence of sympathizing with it; and whatever concessions they are willing to make to it are made avowedly to necessity.

By such persons the nation has now declared, in a manner not to be misunderstood, and which has carried conviction to the minds even of those to whom such a fact is least palatable, that it will not be governed. It will not have for ministers men who confess that their hearts are not in the cause of reform—who lay claim to support, not for what they will, but for what they will not, do, to forward the amendment of our institutions. Men who would govern this country from henceforward must not be men who thought our institutions perfect five years ago, and who declare that their opinions have not changed. They must either have the sincere belief, or the decent pretence of a belief, that those institutions were and are imperfect—that there are changes, which are not merely necessary evils which the people unthinkingly demand, but a good in themselves.

This is a lesson, not without its value to those who still needed it. In all other respects, the prospects of the nation appear to us, after this change, exactly as they appeared three months ago. The progress of reform appears to us certain; and we know full well that it will be slow. Any ministry which can be formed out of the scanty and inefficient materials afforded by the present houses of parliament will leave much to be desired—much to be

criticised—much to be pardoned. We do not call upon the thorough Reformers to declare enmity against them, or to seek their downfall, because their measures will be half-measures, often not more than quarter-measures; nor even because they will join with the Tories in crying down all complete reforms, and will fight the battle of half-reform with anti-reform artillery. This the thorough Reformers are prepared for, and we believe they will disregard it. But we do implore them not to implicate themselves in the responsibility of a half-reform policy. They may support a ministry, where it deserves support, with far greater effect out of office; and they will retain the inestimable advantage of being at liberty to advocate what, as members of a cabinet, they would not have it in their power to carry into effect. Let them not allow themselves to be circumvented by the time-serving doctrine, that it is imprudent to propose anything which has no chance of immediate success. All great things which have ever been accomplished in the world, since Opinion became the ruler of it, have been accomplished by attempting things which for years, or generations, or ages after the first attempt, had not the remotest chance of success. Whoever, as a statesman, acts upon any other maxim, aims not at the glory of himself exercising any influence over the fortunes of his country or of mankind, and aspires only to register decrees, in the framing of which he voluntarily declares himself unworthy to have any voice.

If the ambition of the thorough Reformers be not limited to this paltry object, they will penetrate themselves with the conviction, that it is for others to consider what can be carried through the House of Commons; but that *they* are there to stand up for what is good in itself, let who will be minister, and however small a portion of the House may go along with them.

From the ministry we neither expect nor demand all this; nor has the time yet come when so manly a course would be consistent with their remaining a ministry. But there is one thing which is not too much to require of them. We cannot expect that they will propose measures which are in advance of the House of Commons; but, unless they would be utterly contemptible, let them not, this time, confine themselves to such as they trust will be agreeable to the House of Lords. That this was the principle, the systematic principle, of Earl Grey's ministry, we have the public testimony of Lord John Russell, in a speech to his constituents in Devonshire; and Lord Melbourne's answer to the Derby address was in the same spirit. If the new ministers act upon a similar principle; if, as often as they believe that the House of Lords would throw out a measure of improvement, they mutilate it, or refuse absolutely to introduce it, and perhaps even assail it when introduced by others; if they again place themselves as a barrier between the Lords and public odium, and, to shield the real culprits, take upon themselves



the responsibility of withholding from the nation its just demands,—their administration will assuredly not last one twelvemonth. Recent events are proof more than sufficient, if proof had been wanting, that it is impossible to please the Tories and the people both. The people will not have the Tories, even on a promise to act like Whigs; and ridiculous indeed would the expectation be, that they would tolerate Whigs who should again make it their avowed principle to act like Tories.

A.

[\[Back to Table of Contents\]](#)

## Art. I.

### THE CHURCH, AND ITS REFORM.

IN the article on the State of the Nation, in the first number of this publication, it was said—‘We should now go on, and point out the reforms, which we think are needed, in the other great provinces of abuse, Law and Religion; but we have been led on so far, illustrating the spirit of reform, that we have not space for these particular subjects, and must allot to them separate articles, in the future numbers of our publication.’

This promise, in what regards the institution appropriated to religion, we shall now endeavour to fulfil. ‘Bacon says, “If St. John were to write an Epistle to the Church of England, as he did to that of Asia, it would surely contain the clause, *I have a few things against thee!*” I am not quite of his opinion. I am afraid the clause would be, *I have not a few things against thee.*’ These are the words of Dr. Jortin—(See his *Tracts*, vol. i. p. 350.)

‘In England we certainly want a reform, both in the civil and ecclesiastical part of our constitution. Men’s minds, however, I think are not yet generally prepared for admitting its necessity. A reformer of Luther’s temper and talents would, in five years, persuade the people to compel the Parliament to abolish tithes, to extinguish pluralities, to enforce residence, to confine episcopacy to the overseeing of dioceses, to expunge the Athanasian Creed from our Liturgy, to free Dissenters from Test Acts, and the ministers of the establishment from subscription to human articles of faith. These and other matters, respecting the church, ought to be done,’ &c.

Thus Watson, Bishop of Llandaff, delivered his sentiments, in a letter to the Duke of Grafton, in the year 1791.\*

One of the most remarkable of the sentiments here expressed is the belief of the power, which a single advocate of reform, of the proper stamp, might exert on the public mind in England, and through the public mind on the House of Commons, and through the House of Commons on all that is faulty in our public institutions. ‘A reformer of Luther’s temper and talents would, in five years’ (in 1791, be it observed, when the minds of men were ill-prepared) ‘persuade the people to compel the Parliament,’ &c. The great characteristics of Luther were courage, activity, and perseverance; for in intellectual endowments he was equalled by

many of his contemporaries; and by some, Melancthon and Erasmus, for example, surpassed. We mention this, and request attention to it, as a matter of encouragement to those whose minds are elevated and blessed with the love of reform. It requires, they may see, but the *will* in any individual of a class, which now is numerous, to be the author of blessings, analogous to those achieved by him who, among mortals, was the greatest benefactor of the human race.

Among the reforms which five years of proper exertion might bring about, in the ecclesiastical part of our institutions, the Bishop enumerates the abolition of tithes, the extinction of pluralities, the compulsion of residence, the confinement of episcopacy (meaning, literally, overlooking or superintending) to the appropriate function which the name denotes; besides these, erasing the Athanasian Creed from the Liturgy, abolishing the Test Acts, and subscription to Articles of Faith.

Forty-four years have passed over our heads, and, of all this, how much has been done? We have abolished the Test Acts! And yet the people are accused of being too impatient for reform; as indicating, by their impatience, a desire to destroy religion—aye, and government along with it.—And so they would be if they were only to complain of a single bad thing once in a hundred years.

The Bishop is far from intending here a systematic view of the bad things in our ecclesiastical machinery. He mentions a parcel of particulars, by way of exemplification, and ends by saying, 'these, and *other matters*,' &c. We know that he laid great stress on one thing which is here not mentioned at all; reducing the emoluments of the overpaid priests of all descriptions, and giving something more to the class whom the clergy think sufficiently paid with a beggarly pittance.

The time is come, when a service of unspeakable importance would be rendered to the community, by a full and detailed exposition of the good which *might* be done by a well-ordered and well-conducted clergy; of the want of good in any shape derivable from our present ecclesiastical corporation, while it is the perennial source of evil to an incredible amount. It is obvious, that such a work as we contemplate is not compatible with the space which could be allotted to it in this publication, or the time which could be bestowed on one of its articles. But we shall enter into some details, to give a clearer view of what we recommend to others, and earnestly desire to see accomplished.

We shall begin with some illustrations of the proposition, that the present ecclesiastical establishment in England is a perfect nullity

in respect to good, but an active and powerful agent in the production of evil.

It is one of the most remarkable of all the instances which can be adduced of the power of delusion, when well supported by artifice and power—that, up to this hour, an institute, truly characterized by the terms we have just applied to it, should be still looked upon as a fabric, venerable for the benefits which it confers upon the people, at whose charge it is upheld.

It has not the look, the colour, not even one of the outward marks, of an institution intended for good.

The world, at least the Protestant world, needs no information respecting the abuses of the Romish church. That ecclesiastical establishment had been reared up into a system, most artfully contrived for rendering men the degraded instruments and tools of priests; for preventing the growth of all intellect, and all morality; for occupying the human mind with superstition; and attaching the very idea of duty to nothing but the repetition of ceremonies, for the glorification of priests.

At the time of the great revolt from the domination of the Romish priesthood, while other countries broke down and struck off, some more, some less, but all a great part of the machinery, by which the Romish church had become the curse of human nature, the English clergy embraced that machinery very nearly as it stood, have clung to it ever since with the most eager attachment, praised it to the skies, and done whatever they could in the way of persecution against all who condemned it.

Look at the facts, and see how distinctly they support this representation.

Did not our church-makers retain the same order of priests? archbishops, bishops, deans, prebendaries, rectors, vicars, curates; with the same monstrous inequality of pay?

Did they not retain the very same course of clerical service—nay, the very same book of formularies, doing little more than translate the Mass-book into the English Liturgy?

Renouncing allegiance to a foreign head was the principal part of the change which took place in England, and the abolition of the religious houses, to satisfy the rapacity of the king and the nobles. But the employment and duties of the clergy remained as before, with some little alteration. The Church of England parson has less to do than the Romish priest; and being allowed to involve himself

in the cares of a family, has a mind less devoted to the concerns of his place.

If the Romish establishment was not framed for the production of good, but was an exquisitely-fashioned instrument for the production of evil, is it not certain that the English establishment, which consists of the same integrant parts, must very closely resemble it in its tendencies?

Let us look at this subject a little more closely. Can any thing be a greater outrage upon the sense of propriety; a more profligate example of the contempt of public good; than to see a concatenation of priests, paid, in proportions, ranging from the height of princely revenues, down to less than the pay of a common footman; without even a pretence that the duties of the most miserably rewarded portion are less onerous or less important than those of the set who are paid with so immoral and disgraceful a prodigality?

The next thing which solicits the attention of all rational men, is the work which the English clergy are called upon to perform for this pay; exhibiting, in their extreme, the opposite vices of extravagance, and deficiency.

We undertake to maintain the two following propositions: First, that the only services which are obligatory upon the Church of England clergy, and regularly performed, are ceremonies, from which no advantage can be derived. Secondly, that the services they might render, in raising the moral and intellectual character of the people, are not obligatory, but left wholly to their option, to do, or not to do; that they are performed always most imperfectly, and in general not at all. Let us go to the particulars.

The services obligatory on the Church of England clergymen are, the Sunday service, performing the ceremony of baptism, that of marriage, and that of the burial of the dead.

To estimate the value of them, let us see wherein they consist.

*The Sunday service.* That consists almost wholly in the repetition of certain formularies; read out of a book called the Book of Common Prayer. On this part of the duty (the work is actually called *duty*) of the Church of England priest, the following observations are inevitable.

1. The repetition of forms of words has a tendency to become a merely mechanical operation, in which the mind has little concern.

To whatever extent the repetition of religious formularies becomes mechanical, it is converted into an unmeaning ceremony.

2. The formularies themselves are of the nature of mere ceremonies. They consist of creeds; of short sentences called collects, which are commonly words of Scripture thrown into the form of ejaculations, or petitions to God; prayers, especially the Lord's Prayer; and extracts from the Bible. It is needless to mention the Communion Service, because, excepting the purely mechanical part, handing what is to be eaten and drank, it consists of the same things.

It is necessary to bestow a short examination on each of those particulars.

Of the repetition of creeds, the best thing which can be said is, that it is purely ceremonial. If it is not ceremonial, it is far worse: it is a forced declaration of belief—in other words, an instrument for generating the worst habit which can be implanted in the human breast—the habit of saying the thing which is not—the habit of affirming as a matter of fact, that which is not a matter of fact—the habit of affirming that a man is conscious of a state of mind, when he is not conscious of it.\* This is to poison morality in the very fountain of life. The fine feeling of moral obligation is gone in a mind wherein the habit of insincerity is engendered: nay, more—every man who is possessed of that fatal habit possesses an instrument for the perpetration of every other crime. Mendacity is the pander to the breach of every obligation.

The collects, which are short sentences—mostly words of scripture, thrown into the form of ejaculation or petition—we may take along with the prayers; and of the whole lot together we may affirm, that if it is not ceremonial, and without meaning, it is a great deal worse.

The most important, by far, of all the religious sentiments is—the distinct, and steady, and perpetually operative conception of what is implied in the words, Almighty Being of perfect wisdom and goodness. Without this, there is no religion. Superstition there may be, in perfection. Priestism is its nature; it is a contrivance of priests, and always manufactured for their ends. When deluded people are made to think ill of the Divine Being, they are in the hands of the priests, and can be made to do whatever the cunning of the order prescribes to them.

The tendency of the Church of England prayers is to give a wrong notion of the Divine attributes; and instead of the idea of a Being of perfect wisdom and goodness, to present the idea of a being very

imperfect in both. To speak of them in the most general way, we may observe, that perpetually to be asking God for things which we want, believing that this is a way to obtain them, implies the belief that God is imperfect both in wisdom and goodness. Telling God unceasingly of our wants, implies that he needs to be told of them—otherwise it is an unmeaning ceremony. Asking Him continually to do things for us, implies our belief that otherwise he would not do them for us; in other words, our belief, either that God will not do what is right, if he be not begged and entreated to do so—or that, by being begged and entreated, he can be induced to do what is wrong.

In like manner, in regard to praise, which is the other element of what is called prayer: first, what use can there be in our telling the Divine Being, that he has such and such qualities; as if he was like to mistake his own qualities, by some imperfection in his knowledge, which we supply? next, what a mean and gross conception of the Divine nature is implied in supposing that, like the meanest of men, God is delighted in listening to his own praises! Surely, practices which have this tendency, if they are considered as having any meaning at all, it is much better to consider as having no meaning—that is, as being mere ceremonies.

The Divine Author of our religion every where indicates his opinion, that praying is nothing but a ceremony: he particularly marks praying, as one among the abuses of that sect among his countrymen, who carried their religious pretensions the highest, and whom he considered it his duty to reprobate as the most worthless class of men in the nation.

It is matter worthy of particular remark, that Jesus nowhere lays stress on prayer as a duty: he rarely speaks of it otherwise than incidentally. With that condescension to the weakness and prejudices of his countrymen, which is every where observable in his conduct, he does not reprobate a practice, to which he knew they had the attachment of an invincible habit; but by placing it among the vices of the Pharisees, he indicated with tolerable clearness what he thought of it.

It would seem, if we take his own words and example for authority, not the interested interpretation of priests—that he actually forbade the use of prayer in public worship. Let us observe how he gave warning against the abuse of this ceremony, in the sermon on the mount, and how clearly and incontrovertibly he characterized it as a ceremony, and nothing else: 'And when thou prayest, thou shalt not be as the hypocrites are: for they love to pray standing in the synagogue' (that is, in public worship) 'and in the corners of the streets, that they may be seen of men. Verily, I say unto you, they

have their reward. But thou, when thou prayest, enter into thy closet; and when thou hast shut the door, pray to thy Father which is in secret, and thy Father which seeth in secret shall reward thee openly.'

Nothing can be clearer than this: all prayer is reprobated but secret prayer, and even that is not recommended. The words always are, '*when* ye pray'—that is, if ever ye do pray, do it in secret, the whole turn of the expression being permissive only, not injunctive. It is remarkable, with respect to this limitation of prayer to secret prayer only, that Jesus himself never makes a prayer on any public occasion; and as often as he is represented in the Gospels as praying, which is very rarely, he withdraws even from his disciples, and does it in absolute solitude. Jesus goes on—'But when ye pray, use not vain repetitions, as the heathens do; for they think that they shall be heard for their much speaking. Be not ye, therefore, like unto them: for your Father knoweth what things ye have need of, before ye ask him.'

This last expression is of peculiar force and significance: Be not ye like those who think they will be heard for their much speaking; since speaking at all is of no use; 'your Father knoweth what things ye have need of, before ye ask him.' Can there be a more distinct declaration, that prayer is a ceremony only, and not very easy to be kept from being a hurtful ceremony?

Jesus subjoins to this declaration of the ceremonial nature of prayer these words—'After this manner, therefore, pray ye;' and then comes the formulary called the Lord's Prayer, evidently intended as a pattern to prevent the excesses into which the ceremony was apt to run. And the words of the pattern itself, taken in combination with the words spoken immediately before—'Your heavenly Father knoweth,' &c.—afford sufficient evidence, when they are minutely examined, of the character in which its Divine Author meant it should be used.

But, as it is too evident to need any illustration that the idea of the Divine Being, as a being of perfect wisdom and goodness, so steadily and luminously fixed in the mind, as to be a principle of action, is the very essence of religion, and the sole source of all the good impressions we derive from it, it is not less evident, that every idea instilled into us, which implies imperfection in the Divine Being, is a perversion of the religious principle, and so far as it goes, converts it into a principle of evil. Because, exactly in so far as men set up for the object of their worship a being who falls short of perfect wisdom and goodness, so far they manufacture to themselves a motive for the practice of what is contrary to wisdom and goodness. Yet it is self-evident, that to offer petitions to the



Divine Being, with the idea that they will have any effect—that every thing, being already ordered for the best, will not proceed in the same way exactly as if no such petition had been made, is to suppose the petitioner either wiser or better than his Maker—either knowing better what is fit to be done, or more in earnest about the doing of it.

If these observations about the ceremonial nature of prayer be admitted, there is not occasion to say much about the rest of the Sunday service. Where is the use of a priest to read a chapter of the Bible, which every head of a family does to those who live in his house? Besides, the Church of England always reads the same chapters, thereby inevitably converting the operation into a ceremony. Are these the only chapters in the Bible which deserve to be read? If not, why read them only, casting a slur upon the rest? Again, when any thing has been read sufficiently often to have fixed the purport of it indelibly in the mind, what is the use of more repetition? It is evidently ceremonial only. With regard to the Communion service, we think it is, among protestants, considered as a ceremony. Mr. Bentham has endeavoured to show that it was never intended, either by Jesus or his disciples, to be permanent, even as a ceremony, and that it is peculiarly ill-fitted for that purpose; and we have never met with any thing like an answer to his observations, which well deserve the attention of all rational and honest-minded Christians.

And now we come to the Sermon, the only part of the Sunday performance, which is not essentially ceremonial; but which may, by misperformance, become not only ceremonial, like the rest, but positively and greatly mischievous.

A celebrated wit of the last age, known by the familiar name of George Selwyn, had gone one day to church, and was asked when he returned, by some one in the family to which he was on a visit, of what sort the sermon had been? 'Oh,' said he, 'like other sermons; palavering God Almighty; and bullragging the devil.' This was said, of course, satirically; and it must be added, considering the subject, that it was said profanely. But, nevertheless, it must be confessed, that it describes with great point the character of at least one grand class of Church of England Sermons, which consist of terms of praise heaped unceasingly on the Divinity—terms of condemnation heaped as unceasingly on the Personification of Evil: as if there could be supposed to be an individual in a Christian congregation not already prepared to bestow laudatory epithets upon God, opprobrious epithets on the devil, as far as his power of language would permit him to go. As no congregation, therefore, could possibly be the better for hearing such a sermon, it is necessary to consider it as a mere ceremony.

Another grand class of Church of England sermons consists of what, to borrow (as we may here do without profaneness) the language of George Selwyn, we may call palavering the Church of England, and bullragging the Dissenters; ascribing good qualities without end to Church-of-Englandism—evil qualities, in equal proportion, to Dissenter-ism. This is not merely ceremonial, certainly; but we may safely pronounce it worse—something so bad, that hardly anything equal to it in atrocity can be conceived. It is making religion, which ought to be a principle of love among human beings, a principle of hatred; and that hatred turning upon what? The great line of distinction between moral good and evil? That by which He who is perfection is mainly distinguished from the Prince of Darkness? No, no! But upon some difference of opinion in matters of little importance, or some diversity in the use of ceremonies. Is not this to vilify, or rather to explode morality? setting above it such frivolous things, as sameness of belief in dubious matters, or sameness of performance in matters of ceremony? Is not this to renounce the good of mankind as the grand principle of action, the main point of obedience to the will of God—making the service of God a pretence for hostility to a large portion of his creatures? Is this a morality, fit to be promulgated by a man, miserably, or exorbitantly paid, in every parish in the kingdom? We restrain by punishment, and we do well, the publication of indecent books and prints, calculated to inflame the passions of the inexperienced and unwary. But these publications are innocent, compared with the sermons read to congregations, or printed for the public, to which we now allude.

The extent to which the exercise of this malignant principle is carried cannot, perhaps, be more clearly shown than by calling to mind that celebrated Charge to the clergy of London, by the then Right Reverend the Bishop of London, the present Most Reverend the Archbishop of Canterbury, to which Mr. Bentham makes such pointed allusion. 'The prostration of the understanding and the will,' there spoken of as one of the *desiderata*, one of the objects of desire, and of endeavour, to the Church of England, Mr. Bentham has commented on with his usual fulness and usual effect. And all that is necessary for us, in regard to that generous purpose, is, to refer our readers to the treat prepared for them in his comment.\* Another expression in the said Charge—is that to which we desire to direct the reader's attention in this place. We borrow the expression from Mr. Bentham, other means of reference not being at hand, but with perfect confidence, knowing, as we do, what his care of accuracy in such particulars was. 'In the Charge,' says Mr. Bentham, 'we shall see Non-Church-of-Englandists marked out as "*enemies*" and men of "*guilt.*" '—Why, in the name of all that is good, should Church of England men treat as 'enemies' all men who cannot subscribe the Thirty-Nine Articles, or join in the

performance of their ceremonies? Is not this to make religion the curse of human nature—the permanent fountain of discord—the extinguisher of love and of peace? Not to subscribe the Thirty-nine Articles, and not to join in certain ceremonies is ‘guilt!’ This is to make the Church-of-Englandman the general enemy of his species. Sermons, which propagate this idea, propagate a feeling of hatred, a disposition of hostility, towards all men but those of their own particular sect. Is not this to renounce the religion of Jesus, which is a religion of peace? Is not this Antichrist? Is not this to deny the Lord that bought them?—to crucify him in the house of his friends? Assuredly sermons of this cast had better not be delivered.

Another class of sermons are the controversial: those which undertake to settle points of dogmatic divinity. We believe that all rational men are united in opinion, that such discourses, addressed to ordinary congregations, can be of no use, and have a strong tendency to be hurtful. They have a direct tendency to attach undue importance to uniformity of belief on points on which it is not necessary. They have also a direct tendency to lower men’s ideas of the Divine character—representing the Almighty as favouring those who adhere to one side in the controversy, hostile to those who adhere to the other. This is to suborn belief; to create in those who yield to such teaching a habit of forcing a belief; that is, of dealing dishonestly with their own convictions. To hold out rewards for believing one way, punishment for believing another way, is to hold out inducements to resist the force of evidence, on the one side, and lend to it a weight which does not belong to it, on the other. This is a mode of attaching belief to any opinions, however unfounded; and as soon as a man is thoroughly broken in to this mental habit, not only is the power of sound judgment destroyed within him, but the moral character does not escape uninjured. The man in whose breast this habit is created, never sees anything in an opinion, but whether it is agreeable to his interest or not. Whether it is founded on evidence or not, he has been trained to neglect. Truth or falsehood in matters of opinion is no longer with him the first consideration.

This is nearly the most immoral state of mind which can have existence in a human being. No other cause of criminal actions is of equal potency with this. A man in this state of mind has an opinion ready to justify him in any profitable course of villany in which he can engage. How great a proportion of Church of England teaching, in pulpits, in schools, and in universities, has this tendency, and no other, is a subject of immense importance, and to which we must recur on future occasions. Oh, for a Pascal! Oh, for a new set of Provincial Letters!

We shall pass by the other subdivisions of sermons, and come to the moral. Though a man of the proper stamp, residing among his fellow parishioners, would have other and still more effectual means of making the impressions on their minds which lead to good conduct, we do not dispute that a discourse of the proper kind, delivered to them when assembled on the day of rest, would have happy effects. In the first place, it would establish in their minds pure ideas of the moral character of God; and would root out of them every notion which implies imperfection in the Divine Mind. This is a matter of infinite importance, though neglected, or rather trampled upon by Church of England religion; for exactly in proportion as the model which men set up for imitation is perfect or imperfect, will be the performance which takes place in consequence. It is unavailing, it is poor childishness, to call the Almighty benevolent, when you ascribe to him lines of action which are entirely the reverse. It is vain to call him wise, when you represent him as moved by considerations which have weight with only the weakest of men.

We have already seen something of the extent to which the religion of the Church of England tends to imprint the notion of imperfection, both of the moral and intellectual kind, in the character of the Deity. But there is one particular to which we have hardly as yet adverted, which deserves the deepest attention. We mean the notions propagated about punishments after death.

No wise and good man ever thinks of punishment but as an undesirable means to a desirable end; and therefore to be applied in the smallest quantity possible. To ascribe to the Divine Being the use of punishments in atrocious excess; not applying it according to the rules of the most perfect benevolence, which is its character in the hand of a virtuous man, but in the spirit of revenge, and to vindicate his dignity, is to ascribe to him, not the character of a civilized man, but of an atrocious savage. Nor is the excess of future punishments the only point of importance. The uselessness of them also deserves the utmost regard in tracing the ways in which priests, for their own ends, have perverted men's notions of the Divine character. Punishment is employed by virtuous men for the prevention of hurtful actions. But what is the use of punishment when the time of action is gone by, and when the doom of the wretched victim is fixed for ever? It is said that the apprehension of these punishments is a restraint on men during their lives. But to make this allegation is only another mode of ascribing imperfection, both intellectual and moral, to the Supreme Being.

It is a certain and undisputed principle, that proximity of punishment is necessary to its efficiency; that if a punishment is distant, and hence the conception of it faint, it loses proportionally

of its force. As it is the great rule of benevolence to be sparing in the use of punishment—that is, to employ it in the smallest possible quantity which will answer the end—it is the constant aim of benevolence to make it as proximate as possible—that is, to make the smallest possible quantity suffice. What would be thought of a legislator, who should ordain, that the punishment of murder and theft should not take place till twenty years, or so, after the commission of the crime; and that, for the distance of the time, compensation should be made in the severity of the punishment? Is not this the atrocity into which those theologians sink, who tell us that the punishments of hell are intended for the prevention of evil in the present life? That this theory is not derived from the Scripture, but is the pure forgery of priests, might be inferred with certainty *à priori*, and could also be easily proved by particular evidence. But the authority of Bishop Butler will be sufficient for us on the present occasion. He has given it as his opinion, an opinion which has never been accused as unscriptural, that the change from the present to the future life will not, in all probability, be greater, than the change from the state which precedes, to that which follows the birth; that the individual will pass into the future life with all the dispositions and habits which he had acquired in his previous course, producing misery to him if they are bad, happiness if they are good; but with this advantage, that the circumstances in which he will be placed will have an irresistible tendency to correct bad habits, and encourage good ones, whence, in time, it will be brought about, that none but good habits will exist, and happiness will be universal.

Next to the propagation of correct notions regarding the character of the Supreme Being, as the perfection of wisdom and goodness, with warnings against all such notions as imply imperfection in the Divine nature, the object of discourses, calculated to be of real utility to the majority of those who compose congregations, would be, to make, and as deeply as possible, all the impressions which lead to good conduct; to give strength and constancy to the kindly and generous feelings; to stimulate the desire of doing good, by showing the value of it, and the amount of good which even a very poor man may effect, in the course of his life, if he seizes the many little occasions which he will find put in his way; to make understood and felt the value of a good name; how much of the happiness of each individual depends upon the good-will of those among whom he lives; and that the sure way of obtaining it is to show by his acts his good-will to them. Such discourses would put the people on their guard against the misleading affections; would make them understand how much is lost by giving way to them; and with what a preponderance of good, even to ourselves, they are supplanted by those which lead us to rejoice in being the instruments of happiness to others. Above all things, such

discourses would make parents clearly understand, and acutely feel, the power they have over the happiness or misery of their children, during the whole course of their lives. On the mode of creating in their children the habits on which their happiness depends, such discourses would enter into the most minute detail. They would carefully warn parents against every display of feeling or passion, every thing in word, or in action, having a tendency to produce an undesirable impression on the tender mind; and would give them an habitual conviction, and, as it were, a sense, of the importance of making none but the right impressions.

It is not necessary to go farther in illustrating what sermons of the useful class would be. It is only necessary to recollect what the moral class of Church of England sermons are. Other people may have been more fortunate than we; but though we have heard a good many of that class, we never heard one which we thought good for anything. They may be characterized as a parcel of vapid commonplaces, delivered in vague and vapouring phrases, having not even a tendency to give men more precise ideas of the good they may do, or to kindle within them a more strong and steady desire of performing it. We have often asked ourselves, after hearing such a sermon, whether any human being could by possibility have received one useful impression from it; whether any one could have gone away after hearing it a better man than when he came; in the least degree more alive to the motives to good conduct, more capable of resisting the motives to bad? Never, in a single instance, do we remember having been able to make an answer in the affirmative. For a confirmation of the opinion we have thus formed of Church of England sermonizing, we appeal to the printed specimens of them, some of which are by men of considerable ability, skilful advocates of a cause, acute and eloquent controvertists, but all of them defective, or rather utterly worthless, in moral teaching.

We have now probably said enough to show how entirely of the ceremonial kind, and ceremonial with more or less of a hurtful tendency, the whole of the Sunday services obligatory on the Church of England clergyman are.

All that remains is the ceremony of baptism, the ceremony of marriage, and the ceremony of burying the dead. These services are so much regarded in the light of ceremonies, that they commonly go by that name.

The Church of England indeed pretends, that baptism washes away original sin; one of those cherished opinions by which it ascribes weakness, both intellectual and moral, to the Supreme Being. In this opinion it is reprobated by other churches, as retaining one of

the errors of the Romish Church. For the rest, it cannot be pretended that it is other than ceremonial. To the infant, who knows nothing about the matter, it would be ridiculous to suppose that any good is done. And what can it be pretended is the good which it does to any other body? For a full exposure of the Church of England proceedings in respect to baptism, we refer to what is said by Mr. Bentham in his Examination of Church of England Catechism, pp. 47 to 59, where the reader will find both instruction and amusement.

About marriage it is not necessary to say much. It is in its essence a civil contract; and few rational men think that the religious ceremony is of any importance. It is very certain that nobody regards it as any security for the better performance of the duties which the contract implies.

The burial service consists in reading certain portions of Scripture and certain prayers. But to whom can this performance be considered as being of any use? Not certainly to the dead man; and certainly not to any of the living, excepting those who are present. And who are they? Hardly any body; some half-dozen of the dead man's nearest connexions being excepted. If the ceremony were believed to be of any use to those who witness the performance of it, means ought to have been employed to bring the people together for that purpose. No such means have ever been thought of. What does that declare? One of two things. Either that the Church of England clergy are utterly indifferent to the good which the witnessing of it is calculated to produce; or that they do not believe it is calculated to do any good at all.

We have thus examined in some detail the duties which are exacted of the Church of England clergy, and the only duties which they can be really considered as performing. The duties, the enforcement of which is left to conscience, to the desire of doing good, in the breast of the individual, are for the most part neglected, and never otherwise than ill-performed. We are far from denying that there are good men among the working clergy of the Church of England, notwithstanding the obstruction to goodness which their situation creates; men who reside among their parishioners, go about among them, and take pains to do them good. But these are the small number; and they never act systematically and upon a well-digested plan. They are left, unguided, to follow their own impulses; and often a great part of their well-meant endeavours is thrown away. They receive no instruction in the art of doing good. This is no part of Church of England education. Yet it is an art towards the perfection of which instruction is of first-rate importance. Few men are aware of the whole extent of their means in that respect; and still fewer judge accurately in what

applications of their means they will prove the most productive. It follows, as a necessary consequence, that the amount of good which a well-intentioned man produces is often very short of what, if better directed, he would have been able to effect.

Thus employed, and thus paid, is it any wonder that the Church of England clergy should have lost their influence among a people improving, now at last improving rapidly, in knowledge and intelligence? And when a clergy have lost their influence, what is the use of them? The evidence of their total loss of influence is very striking, when it is fairly looked at and considered. The first fact is the notorious one, that one-half of the population have renounced them as utterly unfit to be their religious guides, and have chosen others of their own. This fact speaks inferences far beyond the numerical proportions. The Dissenters afford evidence of their being in earnest about their religion. The Established Church is the natural sink of all those who are indifferent about it, and belong to a church for the sake of the name, as long as there is any thing to be got by it. To this number may be added all those whose lives are too scandalous to let them be admitted into any other Christian society. Now, if we say that not more than every other man in a community is in earnest about religion, we shall not perhaps be considered as making a very unreasonable supposition. But if this be anything like an approximation to the fact, the members of the Church of England are almost wholly men who adhere to it either for the sake of the name, or for the good things which they owe to it, with a small proportion indeed of those in whose adherence to it regard for religion has any thing to do. The Church of England therefore exists in no other character than that of a state engine; a ready and ever-willing instrument in the hands of those who desire to monopolize the powers of government—that is, to hold them for the purpose of abusing them.

It is useful to mark, among the proofs that the Church of England exists for no good purpose, that those of the common people who brutalize themselves with intoxicating liquors belong almost wholly to the Church of England sect. A Dissenter is rarely a notorious drunkard, with whatever other sins he may be tainted. The costermongers are never Dissenters. It would be important to put means in operation to show what proportion of the people convicted of crime are Churchmen, and what Dissenters. Our conjecture would be, that nine in ten at least are of the Church of England. It would be easy to ascertain what proportion of parish paupers are Church of England men, and what Dissenters. And that, too, would be no insignificant article of evidence.

Though such, however, is the light in which the Church of England, in its present state, must appear to every intelligent and honest



inquirer, we know what a clamor will be raised against us for expressing our opinion, by all those who derive their profit from what is evil in things as they are; who are therefore attached to the evil, and bitterly hostile to all who seek to expose it. With the reasonable and the sincere, we need no other protection than the evidence we adduce. With others, it may have some effect, to show them what eminent men before us have said of the clergy, and of the inevitable effect of the position in which they are placed, by a viciously constructed establishment.

Dr. Middleton, one of the greatest men whom the Church of England ever produced, has spoken of one of the most deplorable of the effects of their position, their hostility to the interests of truth, in the following terms:—

‘Every man’s experience will furnish instances of the wretched fruits of this zeal, in the bigoted, vicious, and ignorant part, both of the clergy and the laity; who, puffed up with the pride of an imaginary orthodoxy, and detesting all free inquiry, as dangerous to their case, and sure to expose their ignorance, take pleasure in defaming and insulting men of candor, learning, and probity, who happen to be touched with any scruples, or charged with any opinions which they call heretical\*.’

One of the most respectable names to be found in the list of Church of England clergy is Jeremy Taylor. He speaks to the same effect, in the following terms:—

‘Possibly men may be angry at me, and my design; for I do all them great displeasure, who think no end is then well served, when their interest is disserved†.’

Opinions are called heresies, upon interest, and the grounds of emoluments‡.’

Our opinions commence and are upheld, according as our turns are served and our interests are preserved§.’

To return again to Middleton, who saw this malignant disease of the Church of England with peculiar clearness:—

‘I do not know how to account for that virulence of zeal, with which it [the Free Inquiry] is opposed by those writers, but by imputing it to their prejudices or habitual bigotry, or to some motives especially of interest; which, of course, bars all entrance to opinions, though ever so probable, if not stamped by an authority which can sweeten them with rewards||.’

Nothing is of more importance than the repeated, and earnest, consideration of the fact, that the interest of a clergy, in the circumstances in which the Church of England clergy are placed, is in direct opposition to their duty, and makes them sworn enemies of the good of their fellow creatures. They are hired, for the purpose of propagating a certain set of opinions. They are sworn to retain them: that is, to keep their minds stationary in at least one department of thought. And it is curious to observe how far that creates a motive to exert themselves to keep the minds of other men stationary, not in that department only, but in all the departments of thought; to make the clergy the enemies of all improvement of the human mind. If one set of men stand still in this improvement, while other men go on, these men see that they will soon become objects of contempt. They are sworn to stand still; they, therefore, detest all those who go on, and exert themselves to impede their progress, and to discredit their design.

This motive has a cruel extent of operation. To be bound to stand still, in any line of mental improvement, is a state of great degradation. The progress of other men in knowledge gives them a keener sense of this degradation. The clergy therefore perceive, that, in proportion as other men grow wiser, they will sink deeper in contempt. This gives them a hatred of the pursuit of knowledge. The search of truth bodes them evil, and not good; and therefore all their art is employed to prevent it.

We think, however, that by changes—far from violent, the Church of England might be converted from an instrument of evil into an instrument of much good; and to the consideration of this part of the subject we now proceed.

We consider a local clergy, distributed everywhere among the people, as the fundamental part of an institute really intended for moulding the character of the people, and shaping their actions, according to the spirit of pure religion. The question then is, what is required towards obtaining in greatest amount the beneficial services capable of being derived from such a set of men.

The very first particular which comes to be noticed, shows in what a different spirit from that of good to the people every thing relating to the Church of England has been arranged. It is very clear, that in employing men to the best advantage in any sort of service, each individual should have enough to do, and not more than enough. This care has been wholly renounced by Church of Englandism, which exhibits the most enormous disproportions; in one place, parishes far too large for any individual to manage; in other places so small, that a man has little to do in them. A good

establishment would correct this abominable instance of careless and profligate management.

Next, the men who are to direct the people in the right path, and make them walk in it as diligently as possible, should be men capable of doing their work well: that is, they should, at least, be men of good education and good character. To this end, it is absolutely necessary that they should receive sufficient pay, to be an inducement to men of that description to undertake the duties. There is evidence enough to prove that this need not be high. We do not adduce the curates; because the baneful lottery of the over-paid places in the Church draws into it too great a number of adventurers. But the medical men, of whom one is to be found in every considerable village, afford evidence to the point, and that conclusive. Besides, the situation would be one of great consideration and dignity, as soon as it came to be regarded as a source of great utility; and men with property of their own would be desirous of filling it. The situation of judges in France is strong evidence to this point. The pay is so small, that the wonder of Englishmen always is, how any body can be found to accept the situation; yet the fact is, that it is in request; and the problem is solved, by learning that men, having a moderate property of their own, covet the dignity which the office confers.

Thus far we have proceeded with no difficulty, and with very little room for doubt; but having determined the sort of men we ought to have, we come next to the question by whom, in each instance, ought they to be appointed. Three considerations obviously enter into the solution of this question—the best means of securing honesty in the selection—the best means of giving satisfaction to the parishioners, without incurring the evils of a mistaken choice—the not giving too much power to one individual. The best chance, perhaps, for having honesty and intelligence in the selection, would be to have a Minister of Public Instruction, by whom all the appointments should be made. He would act under a stronger sense of responsibility, conspicuously placed, as he would be, under the eye of the public, than any other man; and in the majority of cases, would not have any interest in acting wrong. But this would be a great amount of patronage, possibly too great to exist without danger in any single hand; and it is not easy to find an unexceptionable mode of distribution. Suppose the patronage were in each county given to the principal civil authority in the county, he would be exposed to all the local influences which are known to be so adverse to the virtuous use of patronage; and acting in a corner with very little of the salutary influence of publicity, where the choice was not made by favouritism, it would be very apt to be made in negligence.

Suppose, however, that this difficulty is got over (it would interrupt us too much at present to show that it is not insurmountable), we may assume, that where provision is made for the appointment of a fit minister in every parish, complete provision is made for the religious instruction and guidance of the people—provided we can depend upon the due discharge of the duties which those ministers are appointed to perform. It has, however, been generally believed, that the due discharge of the duties of the parochial ministers cannot be depended upon without superintendence. A question then arises, what is the best contrivance for the superintendence of a parochial clergy?

Two methods have been thought of, and are at the present hour in operation: the one is, superintendence by individual clergymen; the other is, superintendence by assemblies, in which clergy and laity are combined. One question is, which of these two methods is the best? and another question is, whether there may not be a third, which is better than either?

The two methods which are now in practice are exemplified respectively in the churches of England and Scotland. In England the scheme of superintendence by individuals has been tried, in Scotland that of superintendence by assemblies.

If we were to judge by the event, in these two instances, the question would be decided very rapidly. The Scottish system is proved by experience to have answered, and not very imperfectly, its end, while it occasions no expense whatsoever. The English system is at once disgracefully expensive, and totally inefficient to its end: it is an absolute failure, with an enormous burthen to the nation.

We hardly suppose that the proposition we have thus announced respecting those two churches will be disputed in regard to either. The general good conduct of the Scottish clergy, and the absence of flagrant abuses in that church, is matter of notoriety. The lamentable want of good conduct, though not universal, among the English clergy, and the existence of enormous abuses in their church, is matter of not less notoriety. There is no non-residence in Scotland, and no pluralities. Would such things have ever begun to exist in England, if the superintendence by bishops had been good for anything? The proportional amount of Dissenterism in Scotland is small, compared with what it is in England; and has arisen almost wholly from the people's dislike of patronage—a matter over which the clergy had no control, and of which the consequences are not to be imputed to them. There is nothing of the sort to screen the English clergy; and the enormous extent of Dissenterism

in England is evidence—is *proof, invincible* proof—that the clergy have not done their duty.

It is not, however, safe to ground a general conclusion upon individual instances, unless where the reason—the *rationale* of the instances, applies to other cases. With respect to superintendence by individuals, the mode of it adopted in England is so glaringly absurd, so little reference has it to any rational purpose, that it never can have been intended to be an instrument of good—to be a means of obtaining from the local clergy the greatest amount of useful service to the people at large. The pay alone is perfect evidence to that effect. Who ever thinks of getting laborious service from a man on whom is bestowed an enormous income, which incessantly invites him to the enjoyment of voluptuous indolence, without any efficient call for exertion? Nor is this the only baneful effect of these enormous incomes: they created a line of separation between the superintending and the superintended clergy. They constituted them two castes; and well is it known how their conduct has conformed itself to the distinction. A principle of repulsion was created between them: often enough, it is true, commuted for prostitute servility on the part of the lower caste; and thus morality, by Church of England culture, was propagated and flourished. There could rarely be any cordial communication between two classes of men placed in such relation to one another. No bishop has an intimate knowledge of the character or turn of mind of any, except an accidental individual or two, among those whom he superintends. He does not go about into the several parishes, to see and inquire how the clerical duties are performed; he knows nothing at all about the matter, unless some extraordinary instance of misconduct, which makes all the country ring, should come to his ears.

Nor could it be otherwise. Natural causes produce their natural effects. A bishop was intended to be a great lord: of course he would be governed by the impulses which govern other great lords. Not one of these impulses is to go about parishes, seeing whether clergymen have been as effectual as they might, in training the people under their tuition to bring their children up well.

The very pretext of any such duty as this is absurd, when we recollect that these reverend lords have to be absent from their business of superintendence of their clergy for one full half of their time, by attendance on their *duties* (so by an abuse of language they are called) in parliament.

As we have seen how it is with the ordinary clergy of the Church of England—that of the two classes of their duties, one the ceremonial, another the useful, it is the ceremonial only which

means are used to make them perform—the useful are left to themselves to perform, or not perform, as they please; so it is exactly with the bishops. There are certain ceremonies they have to go through: these are obligatory on them. The duty of vigilantly looking after their clergy—of using means to get them to do whatever it is in their power to do, to make their people more virtuous and more happy—is left to the bishops to do, or not do, as they please; and accordingly it never is done—at least, to any purpose: by the greater part of them it is never thought of.

But it does not follow, because the plan of superintendence by individuals was so ill-constructed by the Church of England as to make it a source of evil and not of good, that therefore it is in itself, and radically, bad. We are inclined to think that it is radically good, and might be so contrived as to be superior to the Scottish method.

We do not think that an assembly is well fitted for minute inspection; and that is the only inspection which is sure of answering its end. An assembly cannot go about visiting parishes, and ascertaining on the spot where the clergyman has been to the greatest degree, where to the lowest degree, useful to his parishioners.

But if we are to employ individual inspectors (the name bishop means inspector) by what scheme is the greatest amount of good to be obtained from them?

One thing is perfectly clear: you must not over-pay them. An inspector, to be useful, must be a hard-working man: that a very rich man never is. This is an established rule, though it does not altogether exclude exceptions. They should be paid higher than the parochial clergy, because they should be men of such high character and attainments as might give weight to their decisions. Still the business of an inspecting priest is so much of the same kind, with the business of a parochial priest, that the pay of the one should be a sort of criterion by which to regulate that of the other. If the highest pay of a parish priest were, say, 500*l.* per annum, we think 1000*l.* per annum should be the highest pay of an inspector; for we allow no weight whatsoever to the pretence which is set up with characteristic impudence by the friends of public plunder, that wealth gives efficiency to superintendence. It does no such thing. A man will pull off his hat with more hurry, will bend his body lower, will speak in a softer tone, before the man of great wealth; but he will not trouble himself to do his bidding one atom the more for his riches. Is any man, so nearly deprived of intellect, as still, though grown to be a man, to need evidence on this point? Let him see how the rich are served, even in their own houses. Are they better served than those among us whose riches are less? Do we not know

that the men best served in their houses are not the richest, but the most sensible men?

There is another thing to be regarded in the matter of pay, which though it appear small intrinsically, is great by its mode of operation on the human mind. It is infinitely better that the clergy should be paid in the way of salary than in the way of estate. Between the idea of salary, and the idea of service to be performed for it, the association is close and strong. Between the idea of living on the proceeds of an estate, and the idea of having nothing to do, the association is equally powerful. And so it must be. In all our experience, we regularly observe that salary and service go together. We see that commonly estate and service have no connexion. Hence it comes, that a man who lives upon an estate seems to himself to share in the common privilege of those who live upon estates; that is, to enjoy himself. No man who has studied the human mind will doubt that this is a matter of the greatest importance. If the Church of England clergy had always been paid by salary, we may be assured they would not have sunk into the state of absolute uselessness in which we now behold them.

It is unnecessary to dwell upon the scheme of paying the clergy by that particular kind of estate called tithe, because people now pretty well understand it. Of all conceivable schemes for setting the interest and the duties of the clergy in direct opposition, this is the most perfect. And it makes a fearful revelation. It proves, beyond the possibility of a doubt, that the clergy, and all those who through so long a series of ages have had in their hands the power of regulating the payment of the clergy, have been void even of the desire that the clergy should be useful. Oh, what an odious thing is the pretence of caring for religion in the mouths of such men! Contrast an establishment of men whose business it would be to go about their parishes, planting themselves in the hearts of their people, and working upon their minds to the performing of all good actions, and the acquiring of all good habits, with an establishment of men who go about their parishes, indeed, but go about raping and rending, demanding what others are unwilling to pay, carrying strife and hatred along with them, looked at by their people in the light of enemies, not of friends, the very sight of whom is odious, and in whose mouths advice to their parishioners to be mutually forbearing and helpful could only be treated with ridicule; and say if the imagination of man can present any two things of a more opposite character. Reflect also deliberately who the men are who have so long strained their lungs, and now do, proclaiming that this church is 'most excellent.' What a help-meet it must have been for misrule to earn all the protection which it has received! That on any other score it has deserved it, there is hardly impudence enough in the world now to pretend.

But if it were determined that good inspection and stimulation were more to be expected from individual superintendents, properly paid and employed, than from assemblies, another question would remain to be answered: whether these inspectors should be clergymen or laymen? There are some reasons for thinking that laymen would be the best. They would be less under the influence of that feeling which men of a class commonly contract, and which makes them willing to favour one another, to make them sympathise with their self-indulgences, and to screen their neglects. If it be surmised that such men would be less acquainted than clergymen with the supposed science of the theologians, we answer, that if it were so, and it is by no means necessary that it should be so, for that science is easily learned, it would not, upon our scheme, be a matter of much importance. For we do not mean that our parochial clergy should trouble their parishioners with dogmas. Their business will be to train them in the habits of a good life; and what is necessary to that will be judged of fully as well by a layman as by a clergyman.

We have now supposed, that a well-selected person from the class of educated men has been placed as the minister of religion in every conveniently-sized district, called a parish. This we consider as the fundamental part of a religious establishment. We have next supposed that a well-selected person from the class of men of superior acquirements and intelligence has been appointed the inspector and superintendent of a convenient number of clergymen everywhere throughout the country. We have also spoken a little of the duties of each, but it is necessary to speak somewhat more in detail.

In the first place, it is a fundamental part of our scheme, that a clergy, paid by the state, should, in their instruction of the people, abstain entirely from the inculcation of dogmas. The reasons are conclusive. They cannot inculcate dogmas without attaching undue importance to uniformity of belief in doubtful matters; that is, classing men as good or bad on account of things which have no connexion with good conduct; that is, without derogating from morality, and lessening its influence on the minds of men.

They cannot inculcate dogmas—at least they never do—without attaching merit, and the rewards which belong to it, to belief on one side of a question; that is, without suborning belief, using means to make it exist independently of evidence; that is, to make men hold opinions without seeing that they are true—in other words, to affirm that they know to be true what they do not know to be true; that is, if we may give to the act its proper name—to lie. But a clergy, paid for teaching the people to live well, should assuredly not do what has a tendency to make them habitual liars.



To preach the importance of dogmas, is to teach men to impute imperfection to the Divine nature. It is according to the perfections of the Divine nature to approve in his rational creatures the love of truth. But the love of truth leads a man to search for evidence, and to place his belief on that side, whatsoever it be, on which the evidence appears to him to preponderate. The clergyman who tells him that God likes best belief on one side, declares to him that God does not like the honest search of truth. Oh God! with what perseverance and zeal has this representation of thy Divine nature been maintained, by men who, with the same breath, and therefore in the spirit of base adulation, were calling thee the God of truth!

Upon this ground it surely is proper to interdict the use of articles. The Articles of the Church of England are a set of propositions, the strangeness of which we shall not dilate upon. That, and the history of them, are both pretty well known. The clergy of the Church of England subscribe them as propositions which they are bound to believe. Anything more fraught with injury to the intellectual and moral parts of man's nature cannot be conceived. This is to make men enemies to truth.

We shall not repeat, what we have so immediately said, and what we are sure must make a deep impression on every untainted mind, on the atrocity of giving men inducements to make a belief, which they have not derived from evidence. The subscription of articles goes beyond this. It vouches for future belief. It is a bond, that the individual subscribing shall for ever after set his mind against the admission of evidence; that is, resist the entrance of truth; in other words, make war upon it, in the only way in which war upon truth is capable of being made.

It is a deplorable fact,—which deserves the most profound attention, though hitherto it has not received it,—that the creation of effectual motives to the hatred of truth in one department, creates effectual motives to the hatred of it generally. We have touched upon this point already. But it deserves further development; for it stands first in point of importance.

The man who is reduced to the degraded condition of resisting truth, lives under the painful assurance that he will be held to be a degraded being, by every man who sets a high value on truth, and is eager in the pursuit of it. The pursuit of truth brings thus along with it a consequence most painful to him. He therefore dislikes it. He would prevent it, if he could; and he is stimulated to do all that he can to prevent it. If the love and pursuit of truth should become general, he sees clearly that he must become an object of general contempt. What a motive is this to him to prevent its becoming general; to smother it in the very birth, if he can!—See in what

perfect obedience to this impulse the Church of England has always acted! Above all, explore minutely the cruel ways in which, to this end, it has abused its power over the business of education! The whole bent of its tuition is to make its pupils acquiesce slavishly in a parcel of traditional dogmas, and instead of awakening the desire of farther progress, to frighten them at the idea of it; training them to regard it as a source of boundless evil; and all those who pursue it, as villains, aiming at the destruction of whatever is valuable among mankind.

They have thus been constituted the enemies of their species. The advance of mankind in happiness has, by a nefarious constitution of their church, been made a source of evil to them. And they have been, as it was certain they would be, its strenuous, and, to a deplorable extent, we must add, its successful opponents.

The steadiness with which the priests of this establishment have persevered in this course, is a point of great interest in their history, and should be carefully set to view. We may make it the subject of a future article. The barefacedness with which it is professed, up to the present hour, and by some of the most respectable among them, amounts to a striking phenomenon. They even reprobate Locke, the cautious, the modest, the sober-minded Locke, for that which is even *his* greatest distinction, the trusting to evidence; the seeking after truth; the desiring to know something beyond the traditional propositions of others; the taking the only course which leads to the advancement of human knowledge, the improvement of the human mind, the progress of the race in happiness and virtue. Listen to what Copleston, then Head of a House, now bishop, and peer of parliament, thought it not disgraceful to him to say a few years ago. 'His' (Locke's) 'own opinions would have been entitled to greater respect,' (observe for what) 'if he had himself treated with more respect the opinions of those who had gone before him,' (opinions, you see, are entitled to respect, not on account of the truth of them, but something else) 'and the practice of sensible men of his own time, whose judgment was worth more, in proportion as it was confirmed by experience.'—Locke misbehaved, you see, by seeking for evidence, and yielding to it when found. Had he disregarded evidence, that is truth, and taken passively the opinions given to him, he would have merited the praise of Church of England priests; by taking the course he did, no wonder he has been always unpopular among them. 'The light freedom, indeed, and the confidence with which this philosopher attacks all established notions, is one of the principal blemishes in his character.'—Is not this *instar omnium*? That is one of the principal blemishes in the character of one of the greatest philosophers who ever lived—so says Church of Englandism—which alone enabled him to do any good; namely,

calling for evidence, marking where he did not find it, but only some man's *ipse dixit* instead, and then proceeding honestly in search of it himself! Good God! what sort of a place of education is it, where such a course is held up, not for imitation, but reprobation?\*

How vividly does this call to memory the description which Pope gives of the clergy of the Church of England, as being among the most zealous of the votaries of the Goddess of Dulness, and the education they impart in their schools and colleges the most efficient of all instruments for extending her empire!

In the description given in the second book of the *Dunciad* of the games instituted in honour of the goddess, whereof one was swimming and plunging in Fleet Ditch, a reverend gentleman having therein distinguished himself, is thus, and his brethren along with him, held up to observation:

‘Thence to the banks where reverend bards repose,  
They led him soft; each reverend bard arose;  
And Milbourn chief, deputed by the rest,  
Gave him the cassock, surcingle, and vest.  
“Receive,” he said, “those robes which once were mine,  
Dulness is sacred in a sound divine.”  
‘He ceased, and spread the robe; the crowd confess  
The reverend Flamen in his lengthen’d dress.  
Around him wide a sable army stand,  
A low-born, cell-bred, selfish, servile band,  
Prompt or to guard or stab, or saint or damn,  
Heaven’s Swiss, who fight for any god or man.’

—347-358.

Such is the character of the race, drawn by the hand of our moral poet. Next we present his account of the debt of gratitude which education owes to them.

## **DUNCIAD, BOOK IV.**

. . . ‘Since man from beast by words is known,  
Words are man’s province; words we teach alone.  
When reason, doubtful, like the Samian letter,  
Points here two ways, the narrower is the better.  
Placed at the door of learning, youth to guide,  
We never suffer it to stand too wide.  
To ask, to guess, to know, as they commence;  
As fancy opens the quick springs of sense;  
We ply the memory, we load the brain,

Bind rebel wit, and double chain on chain;  
Confine the thought, to exercise the breath,  
And keep them in the pale of words till death.  
Whate'er the talents, or howe'er design'd,  
We hang one jingling padlock on the mind.'

—149.

.....

'Oh, cried the goddess, for some pedant reign!  
Some gentle James to bless the land again!  
To stick the Doctor's chair into the throne,  
Give law to words, or war with words alone;  
Senates and courts with Greek and Latin rule,  
And turn the council to a grammar-school.  
For sure, if dulness sees a grateful day,  
'Tis in the shade of arbitrary sway.  
O! if my sons may learn one earthly thing,  
Teach but that one, sufficient for a king;  
That which my priests, and mine alone, maintain,  
Which, as it dies or lives, we fall or reign;  
May you, my Cam and Isis, preach it long—  
The right divine of kings to govern wrong!  
Prompt at the call, around the Goddess roll  
Broad hats, and hoods, and caps, a sable shoal;  
Thick, and more thick, the black blockade extends,  
A hundred head of Aristotle's friends.  
Nor wert thou, Isis, wanting to the day,  
(Though Christ-Church long kept prudishly away).  
Each staunch polemic, stubborn as a rock,  
Each fierce logician still expelling Locke,  
Came whip and spur, and dash'd through thin and thick.'

—175.

.....

' 'Tis true on words is still our whole debate,  
Disputes of Me or Te, or Aut or At;  
To sound or sink in *Cano*, *o* or *a*,  
Or give up Cicero to C or K.'

—219.

.....

'Thine is the genuine head of many a house,  
And much divinity without a *Nouç*.'

—243.

. . . . .

‘For thee we dim the eyes, and stuff the head  
With all such reading as was never read;  
For thee explain a thing till all men doubt it,  
And work about it, goddess, and about it.’

—249.

. . . . .

‘What though we let some better sort of fool  
Thred every science, run through every school?  
Never by tumbler through the hoops was shown  
Such skill in passing all, and touching none.  
He may, indeed (if sober all this time),  
Plague with dispute, or persecute in rhyme.  
We only furnish what he cannot use,  
Or wed to what he must divorce, a muse.’

—255.

. . . . .

‘With the same cement, ever sure to bind,  
We bring to one dead level every mind.’

—268.

. . . . .

‘O! would the sons of men once think their eyes  
And reason given them but to study flies!  
Learn but to trifle; or, who most observe,  
To wonder at their Maker, not to serve.’

—453.

. . . . .

‘First slave to words, then vassal to a name;  
Then dupe to party; child and man the same:  
Bounded by nature; narrow’d still by art;  
A trifling mind, and a contracted heart;  
Thus bred, thus taught, how many have I seen,  
Smiling on all, and smiled on by a queen!’

—501.

On the above passage is the following note: 'A recapitulation of the whole course of modern education, described in this book, which confines youth to the study of words only in schools; subjects them to the authority of systems in the universities; and deludes them with the names of party distinction in the world.'

After being thus educated, they are delivered over to the magus of Dulness, Influence, 'and then admitted,' says the poet, in the Argument of the Book, 'to taste the cup of the magus, her high priest, which causes a total oblivion of all obligation, divine, civil, moral, or rational; to these, her adepts, she sends priests, attendants, and comforters, of various kinds, confers on them orders and degrees,' &c. The lines are—

'Then take them all, oh take them to thy breast!  
Thy magus, Goddess! shall perform the rest.  
With that a wizard old his cup extends,  
Which whoso tastes forgets his former friends,  
Sire, ancestors, himself. One casts his eyes  
Up to a star—and like Endymion dies:  
A feather shooting from another's head  
Extracts his brain, and principle is fled:  
Lost is his god, his country, everything;  
And nothing left but homage to a king!  
The vulgar herd turn off to herd with hogs,  
To run with horses, or to hunt with dogs.'

—515.

On the passage 'homage to a king,' is the following note:—'So strange as this must seem to a mere English reader, the famous M. de la Bruyere declares it to be the character of every good subject in a monarchy: "Where," says he, "there is no such thing as love of our country, the interest, the glory, and service of the prince supply its place\*." Of this duty another celebrated French author speaks, indeed, a little more disrespectfully, which, for that reason, we shall not translate, but give in his own words: "L'amour de la patrie, le grand motif des premiers heros, n'est plus regardé que comme une chimère; l'idée du service du roi, etendue jusqu'à l'oubli de tout autre principe, tient lieu de ce qu'on appelloit autrefois grandeur d'ame et fidelité\*."'

'But she, good goddess, sent to every child  
Firm impudence, or stupefaction mild;  
And straight succeeded, leaving shame no room,  
Cibberian forehead, or Cimmerian gloom.'

—530.

. . . . .

‘Others the syren sisters warble round,  
And empty heads console with empty sound.

. . . . .

‘The balm of dulness trickling in their ear.’

—541.

A note on line 567 says: ‘This tribe of men, our poet hath elsewhere admirably characterized in that happy line,

‘ “A brain of feather, and a heart of lead.”

For the satire takes in the whole species of those, who, with an understanding too dissipated and futile for the offices of civil life, and a heart too lumpish, narrow, and contracted for those of social, become fit for nothing, and so turn wits and critics, where sense and civility are neither required nor expected.’

There is not a finer specimen of the arts of the clergy than their new-born zeal for the religious education of the children of the poor. The religious education of the children of the poor is not among the objects of the Church of England; there is no provision for it in that establishment; it was never a practice. Though the most eminently religious of all the possible functions of a minister of religion, a clergyman of the Church of England as little thought it belonged to him, as to make shoes for the children of his parishioners. Till the other day, there was in England no education for the children of the poor. They were absolutely uneducated, in religion, as in every thing else. During all the ages in which this state of things continued, the clergy saw no occasion for this religious education they are now so hot about. It is only when education in general, that is knowledge, begins to be, that they think education in religion is, required. Non-education in religion was not an evil, when in union with ignorance; in union with knowledge it becomes direful.—Can any body need help, in reading this passage of clergy?

So long as the people were in gross ignorance, their servility to their priests was to be depended upon. The moment light began to dawn upon them, it was, it seems, not to be expected, unless particular artifice was used. An expedient was fallen upon—that of clamouring for the union of religious education with other education.

This, in the first place, was a great impediment to education. It rendered it impossible for the children of people of different sects to be educated together. This was a capital stroke. It rendered the education of the people much more expensive, therefore much less likely to be carried into effect. It had other important consequences. It made all those benevolent individuals, whose partialities ran towards the Church, place the funds which they were disposed to contribute towards the education of the poor under the control of the Church, which was skilled in the art of giving education without instruction. From the evidence extracted by the committee of the House of Commons on Education, last year, it appears, that their endeavours in the National Schools are remarkable specimens of that art. They thus made sure of having all the children of those who nominally belong to the church in their own hands; and all the security against the desire of knowledge which education without instruction can yield.

The hollowness of the pretence is further seen in this, that all the education in religion which for ages the clergy thought necessary for the children of the poor, was only to make them able to repeat a few questions of the Catechism, before confirmation; and surely this it would not be difficult to attain, if they were educated in schools for all. What should hinder the parson of the parish (it is his business if any thing be), to assemble the children of his flock as often as needful, for the purpose of imparting to them much more religious instruction than this? That the clergy are not in earnest in their talk about the necessity of schooling in religion, is manifest from this, that they have done nothing to have it given. They have made use of the cry solely for the purpose of making schooling difficult. But where is the parson of a parish who takes the trouble to instruct the children of his parishioners in religion? Where is there one ordinance of the bishops rendering it imperative upon their clergy to fulfil the great duty of administering religious instruction to the young? The whole thing is a farce.

Having thus seen the importance of relieving the parochial ministers of religion from all concern with dogmas, we come to another question of no small importance, whether their labours of love should not also be relieved from the incumbrance of ceremonies?

The example of our Saviour shows, that in certain circumstances they cannot be dispensed with; that where the human mind is spell-bound in old habits, you cannot obtain access to it except through the medium of some of these habits.

We persuade ourselves, however, that we have attained in this country such a degree of advancement, notwithstanding the efforts



of the Church of England to prevent it, that we may dispense with the performance of ceremonies on the part of those ministers of religion whom the state appoints for the pure purpose of making the people conform to the designs of a Being of perfect wisdom and goodness.

The importance would be immense of constituting a church without dogmas and ceremonies. It would be truly a Catholic church. Its ministers would be ministers of good, in the highest of all senses of the word, to men of all religious denominations. All would share in the religious services of such a church, and all would share in the blessings which would result from them. This is the true idea of a State religion; and there is no other. It ought to be stripped of all which is separating; of all that divides men from one another; and to present a point whereon, in the true spirit of reverence to the perfect being, and love to one another, they may all unite. So long as there are men who think dogmas and ceremonies a necessary part of religion, those who agree about such dogmas and ceremonies may have their separate and respective institutions of their own providing, for their inculcation and performance. But this is extraneous to the provisions which alone it is proper for the State to make, and which ought to be so contrived as to embrace, if it were possible, the whole population.

This, the scheme of which we have been endeavouring to convey the idea, we think, would effect. There is no class of Christians, who could not join in the labours of love of one who was going about continually doing good; whose more solemn addresses to his assembled parishioners would never have any other object than to assimilate them more and more in heart and mind to Him who is the author of all good, and the perfection of wisdom and benevolence. Men could not long attend a worship of this description, worship of the perfect being, by acts of goodness, without acquiring attachment to it, and learning by degrees that it is the one thing needful. All would belong to this church; and after a short time would belong to no other. Familiarized with the true worship of the Divine Being, they would throw off the pseudo worship, dogmas and ceremonies. This is the true plan for converting Dissenters. There would be no schism, if men had nothing to scind about.

If the ministers of the Established Church had nothing to do with dogmas, and nothing to do with ceremonies, how would we have them employed?

We have already expressed the general idea of their employment. It would be assiduous endeavour to make all the impressions on the minds of their parishioners which conduce to good conduct; not

merely negative, in abstaining from ill; but positive, in doing all the good to one another which the means put in their power enable them to do.

It is very evident, that rules for the making of those all-important impressions cannot be given. General rules would be too vague to be of any use; and the variety of differing cases is so great, that it can only be met by the resources of zeal and discretion in the daily intercourse between the minister and the individuals of his flock. There are, however, certain things which may be assumed as tests, in each instance, of the manner in which the duties of the parochial minister are performed, and which afford a guide to the manner in which stimulants may be applied to him.

For example; we would give annual premiums to those ministers in whose parishes certain favourable results were manifested—in whose parishes there was the smallest number of crimes committed within the year—in whose parishes there was the smallest number of law-suits—in whose parishes there was the smallest number of paupers—in whose parishes there was the smallest number of uneducated children—in whose parishes the reading-rooms were best attended, and supplied with the most instructive books. We mention these as specimens. If there were any other results of the same kind; of which the evidence could be made equally certain, there would be good reason for including them in the same provision. In this manner, would pretty decisive evidence be obtained of the comparative prevalence of good conduct in the different parishes, and a motive of some importance would be applied to the obtaining of it.

We think that infinite advantage might be derived from the day of rest, if real Christian consideration, exempt from all superstitious feelings, by which the clergy have hitherto converted it to their own use, were applied to it.

We think it of great importance, that all the families of a parish should be got to assemble on the Sunday—clean, and so dressed, as to make a favourable appearance in the eyes of one another. This alone is ameliorating.

An address delivered to these assembled neighbours, by their common friend and benefactor, on their means of lessening the evils, and ensuring the happiness of one another, the motives they have to this conduct, its harmony with the laws of that benevolent Being of whom our lives are the gift, and who has made the connexion between our own happiness and the aid we afford to the happiness of others inseparable—would come powerfully in aid of

all the other means employed to make salutary impressions on their minds.

When the parishioners are assembled, it is of importance to consider in what other ways the meeting can be turned to advantage.

One thing is very obvious: the opportunity would be favourable of doing something to add to their education. As often as the means were available, useful lectures on various branches of art and science might be delivered to them. Of what importance would it be to the numerous classes of workmen who make use of tools, to be made acquainted, in a general way, with the mechanical powers? What interest might be excited by chemical experiments; and what benefit derived from the knowledge of the composition and decomposition of bodies, which that science imparts. The science of botany, to all those whose employment is in the fields, and to the females whose monotonous lives are confined to their cottages, would afford a great source of interest and delight. Why should not even the wonders of the distant world—the magnitude and laws of the celestial bodies, be laid open to their minds? It will not be disputed that lectures on the art of preserving the health, pointing out the mistakes which ignorant people commit in the physical management, both of themselves and their children, and both the preventive and curative means which they might employ, would be of infinite importance to them.

It is impossible to estimate too highly the benefit which would be derived from good lectures to those parochial assemblies on the education of their children: not merely in sending them to school, and getting them taught to read and write, but in moulding their tempers; in making them gentle, moderate, forbearing, kind, and deeply impressed with the importance to themselves of habits of industry and frugality.

Not merely the mode of conducting themselves towards their children—the mode of conducting themselves towards their servants is an important topic. On the right and the wrong in this matter, in which the grossest errors are habitually committed, good teaching would be of the greatest utility. Even in the mode of training and conducting their beasts, there is great good to be done by proper instruction—in order to habituate them to the thought that gentleness is more effectual than cruelty—that when the animal disappoints our expectation, it is not by design, but by its not knowing what we desire, and that beating it for it knows not what, is no means of correction to the animal, but fuel to one of the worst of our own distempers—the disposition to inflict evil upon whatsoever or whosoever is the cause of immediate annoyance to

ourselves. No man practises ferocity towards animals who would not, with a little more temptation, practise it towards his fellow-men; and this is a propensity which may be effectually rooted out.

There are even branches of political science, in which it would be of importance that the people should receive instruction in their weekly assemblies. They cannot, for example, be too completely made to understand the laws which determine the rate of wages—from ignorance of which rise most of their contentions with their masters, as well as the other evils which they endure. Indeed, a knowledge of the laws of nature, by operation of which the annual produce of the labour of the community is distributed, is the best of all modes of reconciling them to that inequality of distribution which they see takes place, and which there are people ignorant or wicked enough to tell them, is all in violation of their rights, because it is by their labour that everything is produced.

We go farther: we say there is no branch of political knowledge which ought not to be carefully taught to the people in their parochial assemblies on the day of rest. If it be an established maxim of reason, that there is no security for the good use of the powers of government, but through the check imposed upon it by the representatives of the people, and no security that the representatives will duly apply that check, unless the people make them, by a right use of the power of choosing and dismissing them, it is evident how necessary a condition of good government it is that political knowledge should be diffused among the people.

And the elements of the politics are not abstruse. There is nothing in them above the comprehension of a sensible man of the most numerous class. They relate to nothing but the common-sense means for the attainment of a common-sense object—the means of compelling those in whose hands the powers of government are placed, to make the best use of them. Questions, no doubt, arise in the exercise of those powers, which are exceedingly difficult, and require the highest measure of knowledge and understanding rightly to determine them: the question of war for example. The decision whether the known calamities of war, or the evils threatened by the unchecked proceedings of another state, are, in any instance, the greatest, may require the most extensive range of knowledge, and the utmost skill and sagacity in placing the exact value on the causes of future events.

Even the elements of jurisprudence might be taught to the people with great advantage in their Sunday meetings. The art and science of protection might be opened up to them in a manner which they would find in the highest degree interesting. How usefully might they be made to perceive that to them, above all others, it is the

most necessary? The rich man can always do a great deal for his own protection. The poor man—unless the means of many, combined with art, are applied to protect him—is totally deprived of it. The institution of laws and tribunals is that combination; and the essence of them it is not difficult to unfold. To protect a man in the use of what is his own, the means must be provided of determining what is his own—that is, a civil code must be constructed. To prevent violations of what the law has declared to be a man's own—that is, declared to be his rights—the law must determine what acts shall be considered violations of them, and what penalty shall be annexed to each: that is, a criminal code must be made. This is all plain; and the development of it would convey, even to the common people, the most useful ideas.

The necessity of a third party, to settle disputes, and afford redress of wrongs, is a maxim of common sense, familiar to all. This is the establishment of courts of justice; and the discussion of that subject is merely the inquiry, by the instrumentality of what means can the settlement of questions of right, and the redress of wrongs, be most effectually and cheaply accomplished. Not only is there nothing abstruse in this development—it is a subject, the discussion of which, as coming home to their businesses and bosoms, is calculated to excite the most lively interest, and exceedingly to improve their minds.

So much, then, for the serious matters with which the minds of the people might be usefully engaged in their parochial meetings on the day of rest. But further than this, it is well known to those who have made the principles of human nature their study, that few things tend more effectually to make impressions on the minds of men, favourable to kindness, to generosity, to feeling joy with the joys, sorrow with the sorrows of others; from which the disposition to mutual helpfulness mainly proceeds,—than their being habituated to rejoice together—to partake of pleasures in common. Upon this principle it is that the amusements of the common people are looked upon by philosophical minds as a matter of grave importance. We think that social amusements, of which the tendency would be ameliorating with respect to the people, might be invented for the parochial meetings. They should be of a gentle character; harmonizing rather with the moderate, than the violent emotions; promoting cheerfulness, not profuse merriment. We think that sports, requiring great bodily exertion, and in which bodily strength is mainly displayed, are not well adapted to the day of rest, nor favourable to the feelings of brotherly love, to which the occupations of that day should be mainly subservient. The people of antiquity, who most encouraged sports of that description, did so with a view to war, to the evils of which they were almost incessantly exposed. We can enter but a very little way into the

details of this subject. When the time shall come for thinking of it seriously, it will deserve a very careful and minute consideration.

Music and dancing, if regulated, as we think they might be, would afford an important resource. Dancing is a mimetic art, and might be so contrived as to represent all the social affections, which we most desire to implant in the breasts of the people, and to call up the trains of ideas by which they are nourished. A dance might be invented which would represent, as far as gestures and movements afford the means, the parental and filial affections; another, the fraternal affections; another, the sorrowing with those that sorrow, and rejoicing with those that rejoice. There is not any affection in itself more virtuous than that which exists between two unspotted persons of different sex, looking forward to the happiness of wedded life. But dances to represent that affection would be so apt to slide into lasciviousness, that we should be afraid to trust them. Dancing, as generally practised at present, is either a representation of profuse merriment, or of lasciviousness. In both shapes, it is altogether unfit for the moral and tranquil amusements of the day of rest. The dances which would harmonize with the tone of mind we desire to engender by everything which is done or witnessed on that day, would consist of the quiet and gentle motions, and would rather be an exhibition of grace, than of agility and strength.

The smallest tendency to exceed the bounds of decency and order in these amusements would be easily checked by a very simple expedient. The parishioners would select among themselves one of the most discreet of the elders, and one of the most discreet of the matrons, to be from time to time the master and mistress of the ceremonies, whom they would authorize to preserve regularity, and whose decisions they would firmly support.

In all ages and nations of the world, the taking of the meals together, or separately, has been considered a matter of importance. The conjunct meal has always been found a promoter of union; wherever, on the other hand, for some accursed cause, the object has been to separate men from one another, the eating and drinking together has been as carefully prevented. The institution of castes is mainly upheld by the strict separation of meals; and wherever anything partaking of the nature of the institution of castes is found to exist, as between the noble and plebeian in modern Europe, the separation in eating and drinking is more or less strictly attended to.

We are sure it would be a thing attended with the happiest effects, if the proper regulations could be enforced, that the people at their Sunday assemblings should partake of meals together, in greater or

smaller parties, as convenience might direct. This would be a renewal of the social meals of the early Christians, for which the Greek language afforded an appropriate name. They were called *Agapai*: that is, friendship-meals. When the Christians of any particular place assembled to hear the instruction of an Apostle, or other teacher, it was their custom to carry with them something to eat and drink; of which they partook in common when the business of instruction was over; and thereby bound themselves to one another in stronger ties of affection.

The circumstance unfavourable to this practice in modern manners, is the prevalence of the taste for intoxicating liquors, in which there would be always some who would indulge to excess. This would produce disorder, and a spectacle far from favourable to the class of impressions which it should be the object of all the occupations of the day of rest to produce.

If there were not means by which this consequence could be prevented—and we suspect there are none but the total interdiction of intoxicating liquors—we believe it would be necessary to forego the advantages of the social meal. However, we see no reason to despair, especially under the influence of such a truly Christian pastor as we have been all along supposing, that the parishoners would come to an agreement among themselves to abstain at these meals from the use of intoxicating liquors, and not to permit any one to infringe the rule. They would have the resource of tea and coffee; and the example of the happiness of the Sunday meal would operate powerfully in weaning from the attachment to intoxicating liquors even those by whom it had been acquired.

We shall speedily hear an objector saying, 'All very fine! But how to be done? In what parish are the people to be found, who will submit to all this moral drilling?' The misfortune is, that such talk proceeds from objectors, who care not whether the work be done or not done; but they thus exempt themselves at small cost from the trouble of bearing a hand in it. However, if there were as many people in earnest about religion, as there are who pretend to be; if there were as many imbued and animated with the spirit of true religion, as there are besotted with dogmas and ceremonies, all the difficulties which present themselves would be overcome. Have not those who were interested in the work got men to submit to whatever was most repugnant to their nature and feelings? to fall in love with propositions incredible? to practise tiresome, and endless, and often painful tricks, in supposed service of the Deity, which sink the performers of them to the level of monkeys? And can we despair, if similar pains were taken, of getting them to do what, at every step, would be delightful, and from which they

would derive the greatest of all conceivable pleasures, the consciousness, the heart-felt assurance, of rising higher and higher in the scale of virtue and intelligence every day! Assuredly, the best means of carrying on the moral culture of the people will not speedily present themselves to the people, if they are not aided; and if the influence of those whom they are always ready to follow is not employed to put them in the right path, and urge them forward in it to a certain extent. But for the accomplishment of all this, we should rely much on the efforts of such a class of parochial ministers as we have just been describing; who might be truly styled the servants of God, and the friends of man; who would do much, by their own influence, and much, by stimulating men of station and wealth to employ their influence in the same beneficent direction.

P. Q.



[\[Back to Table of Contents\]](#)

## Art. I.

### LAW REFORM.

WE are relieved from a part of the labour which, a few years ago, would have been imposed upon us; it being no longer necessary to prove that we have *occasion* for law reform.

Of the signs of the times—now speaking a language very plain and impressive—this is one. A few years only have gone over our heads, since any imputation of imperfection in the law was resented as a crime against the state; when the unlimited praises of it, vented by generations of lawyers, one after another, for good reasons of their own, were received as implicitly as the axioms of geometry; and he who but sought to *moderate* the fury of panegyric was deemed the same kind of monster, as he who should have asserted that republicanism has its advantages.

The change has been so great, that now the extreme badness of the law is matter of universal admission; and wonder at the long-suffering stupidity of a people who submitted to such a nuisance is the sentiment bursting from every man's lips. What is now therefore wanted is, instruction on the nature of the reforms we ought to have.

The ideas which are predominant on this subject are to the last degree defective. They spring from a narrow, mechanical view of the subject.

The present law-contrivances are a set of means for attaining the ends of law. It is acknowledged that they are ill adapted to that attainment. But men who look at the subject, without having studied the principles of it, can only look at the existing contrivances. They see defects and ill-working parts here and there in the machinery; and they are willing to try such changes upon those parts as they think will make them work better. They do not, however, take a full view of the subject. Their mental preparation does not fit them for that. They do not see, nor do they consider, the putting together of the whole. Powers must be put in action for the attainment of any end which is not spontaneous,—that of law in the same way as other ends. But it is evident that a combination of powers for the attainment of an end will work well or ill according to the mode of the combination. It is not enough that all the requisite powers are there; they must be so combined as to co-operate without obstruction, and with the greatest effect, to the

attainment of that which is the object of their combination. A machine which is vicious in its original construction may be patched and patched to the end of time; and nothing but a blundering, ill-working instrument will, after all, be produced.

It is with a view to aid in removing the weakness of which we speak in the public mind, that the present article has been undertaken. We wish to give a specimen, however imperfect, of the mode of looking at the parts of a combination of means for attaining the ends of law, *in the connexion they have with one another*, and their common subserviency to the common end.

The meaning of the word Law (a word of too many acceptations), in the phrase "Reform of the Law," is fixed, by usage, with considerable precision. It means the rules according to which the tribunals determine questions about rights, and punish the violation of them. The business of the tribunals is thus, in one word—protection; and that which they are appointed to protect, is rights.

As things are managed in England, that protection—upon which we observe, by the by, that all the happiness of society depends—is most imperfectly afforded. Under the pretence of affording it, other ends, and those directly opposed to it, have been most successfully pursued. This is now seen. And the inquiry therefore comes.—In what way is the remedy to be applied?

Towards the solution of that question, the first thing undoubtedly is, to determine what are the requisites of that protection,—what are the conditions essential to its existence. This is no very abstruse inquiry. In fact, all the inquiries of jurisprudence are of a very simple nature. They only seek to discover the common-sense road to a common-sense end.

It is easy to see that the first thing requisite for the protection of rights is, that they shall be known: if they are unknown, protection cannot be afforded; and, in proportion as they are imperfectly known, the protection of them must be imperfect.

Rights are constituted by the supreme power of the state. Nothing is, properly speaking, a right, but that which the supreme power wills to be a right; and to which, more or less perfectly, it yields protection.

There are two ways in which this will of the supreme power is made known; either by express declaration in words; or by habitual acquiescence in what has grown up among the people themselves. Both modes exist in England. When the will of the supreme power

is made known by words, we call the law statute law; when it is by acquiescence in custom, it is called common, or customary law. The greater part of the law of England is still in this last barbarous state.

In all countries, which are not pretty far advanced in civilization, there is no law but custom. The will of the supreme power with regard to rights is not expressed in words at all. It is only expressed by its acquiescence in the existing customs, and the enforcement which, with more or less regularity, it affords to them. This, for example, is the state of law in our widely-extended dominions in India; and now, for the first time, has the British legislature wisely given order that this most imperfect expression of the will of the supreme power shall be exchanged for the more perfect expression by words.

Where custom, acquiesced in, is the only law, the custom itself has often need to be proved. The judge takes evidence of it in the same way as of any other fact, and admits all the same media of proof. English law pursues a course of its own in this respect. It admits nothing as evidence of a custom of this kind (allowing for exceptions, of which there are some), but the decisions of the judges. In such a country as India, there are no recorded decisions of the judges, and this medium of proof is inaccessible; the judges, therefore, are left to the plain business of taking evidence in the plain and ordinary way. What a fabric of mysterious science—if the word science may be desecrated by using it in so unholy a combination—English lawyers have erected upon this ground, is sufficiently known. The question is often propounded, what this law, called common law, is; and nobody has yet given a satisfactory answer. Mr. Bentham affirmed that it is a non-entity,—a fiction set up, on each occasion, by the judge, to which he gives the effect of law; that is, he makes a law for each particular occasion; for which reason Mr. Bentham called it also judge-made law, and *ex post facto* law.

English lawyers have been very much at a loss to give an intelligible account of what it is they do on those occasions. They abjure the thought of making a law. The judges (that is their language) *declare* the law,—do not *make* it. But it is a curious case of declaring. To declare a law, it must exist; the common law, however, exists nowhere. Decisions of judges exist, but they are on particular cases, and are not laws\*. When a new case occurs, that is, a case to which no decided cases very similar can be found, the lawyers look out for such as come the nearest to it, and then they decide by what they call analogy; which means, similitude of proportion, or of reason. They suppose a reason as the ground of

the decision in the decided case, and they determine that the reason applies to the case in hand.

This is law in a very unsatisfactory state. What shall be a man's right, does not in such circumstances depend upon the will of the legislature expressed in a general rule, but upon the individual will of the judge, applied to an individual case. Reason tends always to take law out of this state. It is not safe to allow the judge any power over the law† ; his business is, after investigation, to say under what class of cases, provided for by the legislature, the individual case which he has to deal with is included.

The real nature of the operation performed by the judge in a case of common law is mistaken by English lawyers universally, and utterly hidden from view by their language. For the ground of every decision at common law, it is assumed that there is a custom. Customary law without a custom is a contradiction in terms. To prove the existence of the custom, they adduce such decisions of the judges as would be supported by the custom if it existed; and they admit no other kind of evidence to establish its existence. It is very evident that a rule of action made out of such materials must be exceedingly imperfect. First of all, a custom is seldom anything very precise; the notion of it is almost always confused and unsteady, to a greater or less degree. In the next place, the decisions of judges are often not good evidence of a custom; the decision of a judge is only evidence that he inferred a custom: but whether properly or improperly remains to be inquired. Again, it often happens that there are conflicting decisions. Next, the cases upon which any decision has been passed may, none of them, have more than a faint similitude to the case which stands for the decision of the judge, or indicate precisely any custom within which it can be said to fall. The judge, however, pursues his course; a custom he resolves there shall be. He calls it a law. It is a law in a dormant, *alias* nonexistent, state. He supposes, therefore, such a law as he pleases, and thereupon decides.

Besides the obvious and enormous imperfections of a rule of action which is only a custom, the other portion of our law, expressed in the words of the legislature, is in a most deplorable state. It has been made upon no plan. The parts of it have been produced upon the spur of the occasion. Each enactment has been squared to the present emergency; and thus, frequently, we have enactment upon enactment, to any amount, upon parts of a subject, which might all have been included, and much better included, in one. Besides this total want of order and method in our law-book, the style in which the laws are written is the worst possible; it is loaded with useless words, to a degree which would be utterly ridiculous, if custom, and the reverence due to the subject, did not repress the natural

emotion. This faulty expression is very often the cause of ambiguity and uncertainty, and obscures the meaning to all but those who have been called upon to make a study of it. A consequence of this unskilled and rude composition is, that the volume of the law is swelled to so enormous a size, that a complete knowledge of it is the next thing to impossible; and the mass of the people are placed in helpless dependence on the class of lawyers to whom the knowledge is by that means confined. As our thinking countrymen are so much more accustomed and willing to be guided by authority than by reason, we shall here give them a delineation of our law, by a man who had quite propensity enough to over-praise it, and was very seldom restrained from using his lavish hand,—we mean, the famous Lord Erskine.

‘I expressed to my learned conductor the strongest desire to see the Book in which their decisions and statutes were compiled and registered for public instruction and the administration of justice.—He smiled *very significantly*, saying he would carry me to where my curiosity should be indulged, and, in a few minutes afterwards, we arrived at a house, from whence I expected to carry home under my arm *the volume* I had been promised:—it was one of the great libraries of the country, being the property of a nobleman, in whose family books had been accumulating for centuries, and who preserved them in the utmost regularity and order.

We were shown into a spacious apartment, handsomely fitted up and provided with ladders, such as are common in England, for reaching their highest orders. I was greatly struck with the immense number of volumes, in the view of which, however, my learned conductor interrupted me, by saying, that, as our time was limited, we must not waste it in one part of the library, as it was divided into different chambers, in which the books were classed according to their subjects. I was surprised at this, and told him, that though England was more famous for literature of every character and description than any nation of our world, yet I had conceived the hall we were leaving contained the whole collection. “The whole collection!” he re-echoed with the utmost seeming amazement—“why, my dear stranger, they are only his Law-books.” “What do you mean?” I answered, with equal surprise on my part, as the reader may well believe—“what law-books? Have you communications then with the planets and fixed stars, and made a digest of all their institutions?” “Oh, no,” he said, “they are only books of very *local* jurisdiction—*they are our own laws only*.—Those on your right hand,” pointing as far as we could see, “are our *decisions*—and those on your left are our *statutes*.” I stood silent for a while, and then broke out with an astonishment I could not conceal—“If this he really so, how are your people to know by what

rules they are to govern themselves, what duties they are to perform, or how to avoid the penalties annexed to disobedience?" "Nothing so easy," replied my learned conductor; "nothing in either of our worlds so perfectly plain and simple," laying his hand, at the same time, on what seemed to correspond with some of the indexes in our own books—"what shall I find for you?—I will turn to it in a second."—"Turn then," I said, "to your law for preventing infection from the plague"—for I had been told they had regulations for quarantine. "Here it is," said the Armatan counsellor, as he read *the title*; but he had not proceeded ten lines in the enacting part, when we found it principally related to the smuggling of chew-chum, a leaf resembling our tobacco. "Oh," said he, on my laughing at the discordancy, "this is a mere mistake, depend upon it, some misprinting—let me turn to another." "Well then," I said, "find me the law which regulates your marriages;" which he turned up accordingly in a moment, and read its title with an air of triumph; but he had not read far, when we found it mostly related to *horned cattle*—he was now rather disconcerted, when I laughed, and said to him, "Oh, this can only be a misprinting—try something else—let me see the act which regulates the functions of your bishops and clergy." "That I can do," he replied; "it is now," he said, "before you," as he read the *title*; but there was little in the *body* of it, except as to passing women with child of bastards, to their proper parishes, as we at least should call them. It was now my turn to triumph, and I could not help exclaiming, "You have found it at last, have you?—your women, I hope, don't swear their bastards to your bishops and clergy? I will now positively give you but one chance more, and you must find me at once something consistent, or I will go back again to England, and send over Lord Stanhope to thump you."—Alas! I little thought how soon he was to be lost to ourselves!

He now turned, by my desire, and as his last effort, to an act against bribery and corruption, the *title* of which he was not long in finding, but so little was the concordance of the *enactment*, that, on the contrary, it only continued and secured the constitutions of their *rotten boroughs*.

"As he went on, referring to the decisions of their courts, he was frequently in the same manner most sorely puzzled.—Sometimes he found a case *settled*, and told me it was *undoubted law*; but on looking farther, he often informed me that it had been afterwards settled *the other way*, and in a subsequent volume, which he turned to, he frequently discovered that the *last* decision was clogged with *exceptions* which supported *neither*; but that, by still looking onward, he could show me how it was settled at last;—he accordingly found some of his cases, but they had many times stood over for another argument, *and had never been decided*.

In this way he went on, until he was driven in the end to admit that if a young man were to begin to read all the books of their laws, written and unwritten, public and private, on his first entering their courts, he would be superannuated before he got through them.'

—*Armata*, Part II., p. 135—140.

As a deep conviction of the weight of the grievance, of which we crave the redress, is the first step in order to its attainment, we shall produce another account of it, though forming a longer quotation than we could have wished, given by a lawyer of great authority—the late Sir Samuel Romilly.

'In spite of the panegyrics which have been so often pronounced upon our laws, and upon the administration of them, no person who is practically acquainted with our English system of jurisprudence, and who will speak of it ingenuously, can deny that it is attended with great and numerous mischiefs, which are every day becoming more intolerable. The difficulties, the expense, the tedious length of litigations, the uncertainty of their issue, and, in many cases, the lamentable delay of decision, are but too well known to the great number to whom all this is a source of profit, and to the far greater number on whom it brings down calamity and ruin. What are the causes of these evils it would be rash in any one to pronounce, before he had fully and anxiously examined every part of the subject. They are evils, however, of such magnitude, that every discussion which affords a chance of leading us to the discovery of their causes, and consequently to the providing against them an effectual remedy, must be regarded as highly beneficial. Considered in this point of view, the question, whether the common, or unwritten law, be better calculated than a written code, to provide effectually for the security of men's persons and properties, in a state as far advanced as England is in civilization and refinement, is one of very great public interest; and we shall therefore make no apology for proceeding to the discussion of it, or for mixing arguments of our own with those, which either we have found in the work before us, or have been suggested by its perusal.

The first step to be taken in this inquiry is to ascertain the nature of the unwritten law, by which England is at this moment governed. We are not then to understand that the rules by which property is to be distributed, and the conduct of men to be regulated, really exist only in oral tradition, and the imperfect recollections of individuals. What is called with us unwritten law is in truth to be collected from a great number of written records and printed volumes; and, according to old Fortescue and to Blackstone, it is only by a twenty years' study of them that a perfect knowledge of it can be gained. It is by reading, and by reading only, that the *lex*

*non scripta*, as well as the statute law, is to be acquired; but, in the one case, we find the law expressing its commands in direct and positive terms—while, in the other, we can arrive at a knowledge of it only through its interpreters and oracles—the judges.

The common law is to be collected, not from the plain text of a comprehensive ordinance, which is open to all men to consult, but from the decisions of courts of justice, pronounced in a great variety of cases, and which have disclosed small portions of it from time to time, just as the miscellaneous transactions of men in a state of society may have chanced to require, or give occasion for its promulgation.

Of a law so constituted, it must necessarily happen that a large portion must always remain unpublished. The occasion for declaring it never having occurred, it must rest (as all that is now published once did) in a latent state, till some event happens to call it into use and into notice. Of a statute law, we know with certainty the whole extent,—and we can at once discern what it has not, as well as what it has provided; but under the common law there is no case unprovided for,—though there may be many of which it is extremely difficult, and indeed impossible, to say beforehand what the provision is. For the cases on which no decision has yet been pronounced, an unknown law exists, which must be brought to light whenever the courts are called upon for their decision. For all practical purposes, a law so unknown is the same as a law not in existence; to declare, is substantially to enact it; and the judges, though called only expounders of law, are in reality legislators. Of what importance is it, that, by a legal fiction, the law is supposed to have had pre-existence, since, being unknown till it was promulgated by some tribunal, it was not possible that men could have conformed to it as the rule of their conduct?—and yet, in this very circumstance, have some most eminent lawyers discovered a superiority in the common law over all written statutes. Lord Mansfield, for example, when pleading as an advocate at the bar, is reported to have thus expressed himself:—“Cases of law depend upon occasions which give rise to them. All occasions do not arise at once. A statute very seldom can take in all cases; therefore the common law, that works itself pure by rules drawn from the fountains of justice, is superior to an act of Parliament.”

The law, thus unknown to others till it was promulgated in some decision, can hardly be said to have been previously known, even to the judges themselves. When some new question is brought before them to decide, those oracles of the law do not, like the oracles of old, (the supposed sources of all wisdom and knowledge,) immediately pronounce their authoritative and unerring responses; neither do they retire to their chambers, as if to consult some code



of which they are the sole possessors, and then reveal in public, to the contending parties, the text which they have discovered. They profess themselves unqualified immediately to decide: they require to be themselves informed: it is necessary that they should hear, and compare, and examine, and reason, and be assisted by the arguments of others, before they are prepared to pronounce what the law has declared. They even call upon the litigant parties themselves to state by their advocates, what they conceive the law to be, and to support their statements by reasoning and authorities, and analogous decisions; and it sometimes happens that, even with all this assistance, the judges find themselves unable to declare what the law is, and require the assistance of a second argument, and by other counsel.

That all these deliberations, and this laborious process, should be necessary, will not appear surprising to those who reflect what is the nature of the operation to be performed, when we would discover what the common law is upon some point upon which it has never yet been declared. Dr. Paley calls it, and not unaptly, a competition of opposite analogies. "When a point of law," he says, "has been once adjudged, neither that question, nor any which completely, and in all its circumstances, corresponds with *that*, can be brought a second time into dispute; but questions arise which resemble this only indirectly, and in part, and in certain views and circumstances, and which may seem to bear an equal, or a greater affinity, to other adjudged cases; questions which can be brought within any fixed rule only by analogy, and which hold an analogy by relation to different rules. It is by the urging of the different analogies that the contention of the bar is carried on; and it is in the comparison, adjustment, and reconciliation of them with one another, in the discerning of such distinctions, and in the framing of such a determination, as may either save the various rules alleged in the cause, or, if that be impossible, may give up the weaker analogy to the stronger, that the sagacity and wisdom of the court are seen and exercised." The common law was covered with a veil of antiquity;—that veil has been, by the decisions of the judges, in part removed: what it is that still remains concealed from the public view no one can with certainty tell. Nothing is left us but to conjecture, and our conjectures are wholly founded upon those various analogies of which Paley speaks. The best supported of those analogies is that which generally prevails; it is acknowledged, from that moment, as the law of the land, and as a point from which other analogies may in future be drawn.

It is not a little amusing to hear what Blackstone (who is, upon almost all occasions, the apologist for what he finds established) says of this unwritten law:—"The moment," these are his words, "that a decision has been pronounced, that which was before

uncertain, and perhaps indifferent, becomes a permanent rule, which it is not in the breast of any subsequent judge to alter or vary from;" and he accordingly tells us, that "it is an established rule to abide by former precedents, where the same point comes again in litigation." How, indeed, should it be otherwise? Where the authority of a written text cannot be referred to, it is from decisions alone that the law can be collected; and it should seem to be as necessary for those who administer the law to follow those decisions implicitly, as to obey the plain injunctions of a statute: and yet, according to Blackstone, "this rule admits of exception, where the former determination is most evidently contrary to reason, and much more, if it be clearly contrary to the Divine law." Here are other sources, then, from which we are to collect the unwritten law—namely, the dictates of reason, and the declared will of God. But, unfortunately, the dictates of reason, which are at all times sufficiently uncertain as a positive rule of conduct, are rendered much more uncertain by the learned Commentator's explanation. For, in many cases, he tells us—the reason of a law cannot be discovered by any sagacity, and yet must be presumed to exist; and he proceeds to lay it down, as a maxim of English jurisprudence, that it is only where a precedent, or the rule which it has established, is flatly absurd or unjust, that its authority may be disregarded. The Cambridge professor, who has commented upon the Commentaries, controverts even this position, and most satisfactorily proves, that absolute demonstration of the absurdity and injustice of a rule, is not alone sufficient, at the common law, to detract from its binding force. By the law of England, till the Legislature interposed to alter it, every statute had a retrospective operation to the first day of the Sessions in which it passed; and acts, therefore, which were done after the Sessions had commenced, and before the law was made, fell under the animadversion of its *ex post facto* enactments, and subjected the author of them to the penalty of having disregarded prohibitions which had no existence. A stronger instance to prove that absurdity and injustice are not incompatible with a rule of the common law, could not have been adduced.

This source of uncertainty becomes the more formidable, from the consideration that the judges are themselves to determine, whether the former decision was or was not contrary to reason; or, in other words, whether it shall or shall not be binding on them. It must always, therefore, be in the power of the judge, notwithstanding the oath which we are told he takes, "to determine, not according to his own private judgment, but according to the known laws and customs of the land." To relieve himself from embarrassing precedents which may be cited, he has only to declare, that those precedents are contrary to reason, and were therefore themselves deviations from the common law, and to profess, in the language of

Mr. Justice Blackstone, that he is “not making a new law, but vindicating the old from misrepresentation.” This doctrine, that former determinations are of authority only as they are consistent with reason, affords, in the opinion of the same writer, good ground for those high-strained panegyrics of the law which are so often pronounced by our judges. “Hence,” to use his own words, “it is that our lawyers with justice tell us, that the law is the perfection of reason, and that what is not reason is not law.” An aphorism which is, however, involved in such a cloud of mystery, that we are at the same time told, that not even the judges can, upon all occasions, discover in what that reason, the test of genuine law, consists; and that they are bound to hold everything which they find decided by their predecessors to be law, and consequently the perfection of reason, unless it be “flatly absurd or unjust.” In contemplation of law, there is no medium, it seems, between the perfection of reason and gross absurdity.

Not to deceive ourselves, however, we ought to understand, that this supposed bringing to light of the ancient law, which had been for ages unrevealed, is at best but a fiction. The law so declared in many cases had no existence till the declaration was made, although the judges do not “pretend to make new law,” but “to vindicate the old from misrepresentation.” It has already been observed, that where the whole law is embodied in written statutes, cases may occur on which the law is silent; but where an unwritten law prevails, this can never happen. That the law is not already declared is only because the particular occasion for declaring it never before occurred. The judges being unable, therefore, to predicate of any case that it is one which the law has not foreseen, are under the necessity, with the aid of Dr. Paley’s Analogies, of supplying what is wanting, and of *discovering* the ancient law which is supposed to have been once expressed in statutes that have long since mouldered away, or to have been pronounced in judgments of which no record has been preserved. In name, this differs from making laws,—but it is only in name. Whether the chasm has been made by the ravages of time, or was left in the *original* fabric of our law, it is precisely by the same process that it must be filled up. The same recourse must be had to Paley’s Analogies, whether the object of the judges be to conjecture what the lost law must have been, or to make a new law, which will best quadrate and harmonize with the relics of the old\*.”

Sir Samuel goes on, at some length, exposing the defects of this species of law, and then adds:—

‘Such are among the principal objections to this species of legislation. But it is to be observed that, while this is going on, there is amongst us a legislation of another kind, proceeding with

equal activity—that of the avowed and acknowledged legislature, which every year sends into the world a cumbrous Collection of new Statutes. Between these two legislatures there is no unity of design; their works are as unlike as the characters of the authors and their modes of legislation. Of a law, proceeding from such sources, it is not surprising that it is found to be uncertain, intricate, obscure, perplexed, inconsistent, full of refinement and subtlety, and subject to continual fluctuations. The law which is every term discovered and brought to light by the judges, seems to vic in extent with that which is made by the Parliament; and the lawyer's library is every year enlarged by one bulky volume of statutes, and by several volumes of reported decisions. The new statutes of each year are swollen out to a bulk surpassing that of the year which preceded it; and every fresh term seems to be prolific of more judicial reports than the term that went before it. So considerable are the changes and augmentations which are thus continually taking place in English law, that the treatises, essays, and compilations, which have been composed on various legal subjects, require to be from time to time renewed, that they may not mislead those who consult them; and, upon many heads, an old law treatise is of as little use as an almanack for a year that has expired. The duties of a justice of the peace were formerly comprised in one small duodecimo volume; they are now to be searched for in five large octavos, containing altogether 4400 pages. To this size "Burn's Justice" has been gradually expanded, in the course of the twenty-two editions which, during a period of sixty years, it has passed through. So many new reports have been printed, and so many new statutes made, that, as the publisher tells us in the advertisement to the fifteenth edition, "every new edition, in order to keep pace with the law, is in effect a new book." '

—p. 223.

We do not suppose that another word is necessary to be said, in order to show the necessity of having our law better expressed. This is one of the strongest of all the dictates of common sense. If anything requires to be well expressed, it is the law. If anything requires to be laid down, orderly, clearly, unambiguously, succinctly, it is the law—upon which depends the security of everything which we enjoy.\*

It is necessary here to obviate a blunder, or a misrepresentation, which, though very stupid, is very common. When we speak of expressing the law better, we mean nothing else. We mean not to alter the law in a tittle. We mean to improve the expression—to make that clear, which is now obscure—that distinct, which is now ambiguous—that orderly, which is now a mass of disorder—that succinct, which is now prolix, to a degree altogether

intolerable—and that easy to be known, which is now almost beyond comprehension.

But men have gotten it into their heads, that to make a code is to make new laws—that to make a code, the existing laws are to be swept away, and a new set put in their place. With that belief, they have a horror of codification; and if they were right in the belief, we should most assuredly join with them in the horror. This would be tantamount to a scheme of universal confiscation. It would be to begin by destroying all rights, that we might proceed to establish others; a project so pregnant with human misery, that the most frightful of tyrants, in their maddest fits, never conceived anything which approached it.

Rights are not touched by codification. Rights, which are now ill expressed, will, by codification, be well expressed; and that is the whole matter. Every man's right is then a better thing for him than it was before. The protection of it, which is that alone which gives it value, is better provided for. The good expression of rights is the first of the conditions on which perfect protection of them comes within the verge of possibility.

Another thing with which men frighten themselves, in regard to this great service due to the community, is its difficulty. They tell us that they see the importance of codification: but how, they cry, is it to be done?—How is it to be done!—Why, by working at it, to be sure. Is anything else done but by being worked at? And what right have we to talk of difficulties till we have tried to overcome them? Many things which appear great difficulties at a distance are found of tolerably easy management when we approach them: so it will be found with codification. Good God! cannot we write the law over again? And have we not men among us who can marshal disordered ideas, and put every one of them in its proper place, with its proper expression?—That is all. The subject is large, and the work is therefore extensive: it is difficult in that sense, because there is a great deal to be done—because it must be done with accuracy, and accurate work is slow. But what other difficulty is there, if the proper men are applied to the task?

Having said thus much on the first of the requisites of law reform—the perfecting of the text of the law—we have only to proceed to the instruments by means of which the law is secured of its effects. The law; and its instruments;—these are the two subjects, and the only two, which enter into the consideration of him whose desire it is that the ends of law should be attained.

The first of the instruments of law is the judge. When there is any question about a right, or the violation of a right, a third party must

be called to decide—as few men are fair judges when the case is their own. Our next inquiry therefore is, in what manner judges can be employed with most advantage for the attainment of the ends of law—in other words, the protection of rights.

Every step in this inquiry is so obvious and certain, that we may expect acquiescence in each proposition on the very first announcement.

In the first place, it is clear that you must have judges sufficient in number to decide all the questions which arise. It is not less clear, that they ought to be distributed in such a manner as best to suit the convenience of those who have occasion for their intervention—that is, to be so located, that the suitors may have the smallest distance to go, in order to obtain the service which they require. It is the clear dictate then of reason, that there ought to be a judge in every district of a convenient size: that convenience depending mainly on three things—the amount of the population, the facility of access, and the means of the community to bear the expense.

It is not less clearly the dictate of reason, that each local judge should perform the whole of the judicial business of the district. The convenience secured by this is most material. It is obviously important, that each judge should have as much to do as he can well perform; that all unnecessary expense may be avoided. In the next place, the advantage is great of having the district small to which his services are allotted, that he may be easy of access. These advantages are combined, by giving to one man the whole of the judicial business of every kind. Suppose you were to divide the business between two: if you give the men full employment, you must have the district twice as large as it would otherwise need to be, and the difficulty of access on the part of the suitor twice as great, without any advantage whatever; whether you take for the principle of your division suits classed according to the amount of the property in litigation, or any other distinction.

This being determined, we see clearly what comes next for consideration. Having a judge in every district who performs the whole of the judicial business of the district, we should have done enough, as far as judges are concerned, if we were certain that those judges would all do their duty. We are, however, certain of the contrary; we must, therefore, have the means of correcting their errors, whether the effect of weakness, negligence, or corruption. The suitors must have justice. If a suitor is dissatisfied with the decision which has been passed in his case, there ought to be somebody else to whom he can apply for a revisal of the decision: that is to say, there ought to be a judge of appeal. This is found by

experience, and is easily seen by reason, to be the grand security against misdecision. We are then to investigate the means by which courts of appeal may be made to yield us this security with greatest advantage.

In this, as in most of the things which are to be done for the correct administration of law, the simplest expedient is the best. When the proceeding of the original judge is revised by a revising judge, the object is accomplished.

It has been made a question—whether, when you have obtained one revisal, you ought not, for greater security, to have a second? namely, a revisal of the revisal.

The minds of the men who are entitled to have an opinion on this subject seem to be made up. It is generally allowed that there ought to be but one stage of appeal. This is placed beyond controversy, when it is considered that you add nothing to your security for right decision by adding to the number of appeals. You can have no greater reason for trusting to a second revisal than to the first—to a third than to the second, and so on. With each of these appeals, however, you have the mischief of delay and expense, without any the smallest advantage.

A question here occurs which applies to judges of both kinds, both the original judge and the judge in appeal. The question is—whether there ought to be one judge for one question, or whether each question ought to be decided by more judges than one?

Common sense appears to be perfectly equal to the solution of this question. If your judge is a competent man, he can decide the question properly without any assistance. Then why give him that of which he has no need? By this you multiply expense, and secure not any concomitant advantage. If you add incompetent men to the competent one, you only embarrass his proceedings, and delay or perhaps disfigure the decision. If you add other competent men, you do what is unnecessary—you increase your expense, and lose the inestimable advantages of prompt decision and of concentrated responsibility.

There ought clearly, then, to be one judge for one question, whether it be the original question or the appellate one: that is, in other words, each tribunal, whether a tribunal of original jurisdiction, or a tribunal of appellate jurisdiction, ought to consist of one judge.

Thus, all the questions which regard the establishment of judges are solved. There ought to be two sets of tribunals, one for the original jurisdiction, and one for appellate jurisdiction. These tribunals ought to be sufficiently numerous to do the judicial business of the country without delay; and the tribunals of original jurisdiction ought to be so located as to suit, in the highest degree, the convenience of those who have occasion to apply to them.

The location of the appellate tribunals is to be determined by considering what is their proper business; or, in other word, what that is in which appellate jurisdiction properly consists.

This is a question of great importance; and it is one on which even those who speculate about law have not yet all attained very clear ideas.

We have already called it by its proper name—Revisal. It is the revisal of the proceedings of the original judge, upon a complaint of one of the suitors that a wrong decision has been pronounced. Misdecision always arises from one of three causes—either because the point, on which the question of right depends, has not been properly determined; because the evidence has not been duly and properly weighed; or because evidence which ought to have been taken has been omitted.

It is evident that the question on the first two points can be determined by inspection of the record, the written statement of the pleadings, and the written statement of the evidence. On the third point, the court of appeal decides either that all the evidence has been taken which ought to have been, or that it has not. If the former, the suit is determined; if the latter, it is the business of the appellate court to remit the cause to the original court, with an order to take the omitted evidence, and give its decision afresh.

It is of great importance to remark (for in conceiving the business of appellate judicature confusion of ideas has prevailed to a lamentable degree) that it is no part of the business of an appellate judicatory to take evidence. When evidence is taken by an appellate court, the cause is tried over again. Your court of appeal discharges the function not of a court of appeal, but a court of original jurisdiction; while the decision of the original court passes for nothing at all: it is so much lost time, lost labour, and lost expense.

This being settled, and it thus appearing that whatever has to be done by the court of appeal is to be grounded on what appears on the written record of the proceedings before the original judge, there is no such necessity for proximity to the suitors in the case of appeal courts, as in that of courts of original jurisdiction. The



presence of parties and the presence of witnesses is essential in the original court; neither is necessary in the court of appeal. The written record of the proceedings of the original court may travel by post; and whether it travels ten miles or a hundred miles, is of no importance. The place where the best public is found—where the eye of intelligent spectators is likely to act with greatest efficiency, is the best situation for courts of appeal. That, generally speaking, is the metropolis; and, in England, there is no doubt about the matter. The distance in England of the metropolis from the most remote parts of the kingdom would produce little inconvenience in the business of appeal.

The idea, then, of the reform to be aimed at in the constitution of our courts is sufficiently simple. We ought to have courts of original jurisdiction, at convenient distances, all over the country; and we ought to have judges of appeal in Westminster Hall. The number of the judges of appeal should, of course, be proportioned to the business to be done; each, in his own court, deciding individual questions alone; and all deliberating together when any point is to be determined whereon uniformity of decision may depend.

We do not enter into any argument to show the utility of this constitution of courts, because its perfect adaptation to the ends which all profess to have in view must inevitably be seen by every man who will take the trouble to apply his reason to the case. We deem it, however, of importance to give an idea of the dreadful state we are in with respect to courts, as matters are at present arranged, in the best governed country in the world; and it is fortunate that we can present a delineation of a great part of it by a master-hand.

Mr. (now Lord) Brougham, in his celebrated speech on Law Reform in the House of Commons, on the 7th Feb. 1828, said:

‘I invite you then, Sir, to enter upon an unsparing examination of this mighty subject; I invite the House to proceed with me, first of all, into the different courts—to mark what failures, in practice, are to be found in the system, as it was originally framed, as well as what errors time has engendered by occasioning a departure from that system; and afterwards to consider whether we may not, safely and usefully, apply to those defects remedies of a seasonable and temperate nature, restoring what is decayed, if it be good—lopping off what experience has proved to be pernicious.

I.—1. In the first place, let us proceed to the courts in Westminster Hall, and observe the course pursued in them. The House is aware that, whatever may have been the original of our three great common law courts, they now deal with nearly the same

description of suits; and that, though the jurisdiction of each was at first separate, and confined within very narrow limits, their functions are now nearly the same. The jurisdiction of the Court of King's Bench, for example, was originally confined to pleas of the crown, and then extended to actions where violence was used—actions of trespass by force; but, now, all actions are admissible within its walls, through the medium of a legal fiction, adopted for the purpose of enlarging its authority, that every person sued is in the custody of the marshal of the court, and may, therefore, be proceeded against for any personal cause of action. Thus, by degrees, this court has drawn over to itself actions, which really belong to the great forum of ordinary actions between subject and subject, as its name implies, the Court of Common Pleas. The Court of Common Pleas, however, in its exertions for extending its business, was not so fortunate as its rival: for, though it made a vigorous attempt, under Lord Chief Justice North, to enlarge its sphere, it never was able to obtain cognizance of the peculiar subject of King's Bench jurisdiction—Crown Pleas.

The Exchequer has adopted a similar course; for, though it was originally confined to the trial of revenue cases, it has, by means of another fiction—the supposition that everybody sued is a debtor to the crown, and further that he cannot pay his debt because the other party will not pay him—opened its doors to every suitor, and so drawn to itself the right of trying cases that were never intended to be placed within its jurisdiction.

The first state of the courts being that of distinct jurisdiction, then of course this separation of provinces was praised; afterwards, all distinction became obsolete, and then the conflict and competition were as much commended; and with far greater reason if the competition were real; but it is almost purely speculative. In the first place, the Court of Common Pleas shuts its doors to many practitioners of the law, by requiring that a certain proportion of fees should be advanced at a much earlier stage in the cause than is customary in the other courts. For who is it that must advance this money? Either the attorney himself, if it be his own cause, must pay the money out of his own pocket, or, if he is acting as agent for a country practitioner, he must begin by laying out the money long before he can draw upon his employer for reimbursement, and he is not, in all cases, sure of being repaid for those advances. In the second place, clients and their attorneys are induced not to carry causes into the Common Pleas, by the strict monopoly that exists in the advocates of that court.

The Exchequer, in like manner, has its drawbacks, though they operate in another way. There is one reason why, as at present constituted, it cannot do much business, or have the high

reputation which it ought to enjoy; I mean the mixture of various suits which are cognizable in it. It is, in fact, a court of all sorts—of equity and of law—of revenue law and of ordinary law—of law between subject and subject, as well as of law between the subject and the crown. This makes suitors, seeing the business done in so many different ways, come to the conclusion that it is not well done in any.

What, then, is the natural consequences of those restrictions which prevent suitors from approaching the Courts of Common Pleas and Exchequer? Why, it is this—wherever there is but little business done in any court, those in power are induced not to place the strongest judge in that situation; then, the small portion of business to be done renders the judge less fit for his office; and so, by action and re-action, while the little business makes the bench and the bar less able, the inferior ability of the court still further reduces that little business.

Experiments have been tried to lighten the business of the Court of King's Bench: but I do not find that any of them have answered the purpose for which they were instituted. The first of these attempts was made in the year 1821, when it was arranged that the Chief Justice should sit in one court, and a puisne judge in another, at the same time; but never did any arrangement fail more completely. The court in which the puisne judge sat remained almost idle, while the other court was as constantly preferred, and nearly as much overloaded as before. Little else was effected but a great inconvenience both to practitioners and suitors, by the passing and repassing from court to court. In fact, it is not in the power of the courts, even were all monopolies and other restrictions done away, to distribute business equally, as long as the suitors are left free to choose their tribunal. There will always be a favourite court; and the circumstance of its being preferred tends to make it more deserving of preference; for if the favour towards it began in mere caprice, the great amount of business draws thither the best practitioners, to say nothing of judges; and the better the court, the greater will be its business. The same action and re-action will operate favourably, which I before showed in its unfavourable effects where a court was declining—*Possunt quia posse videntur*. The experiment of 1821, having failed entirely, was not repeated.

Another attempt has subsequently been made to relieve the Court of King's Bench from the pressure of term business, which must always bear a proportion to the *Nisi Prius* causes. This system is still going on under the bill brought into the House by the present Chancellor, and of which though he was induced to patronise it officially when Solicitor-General, I have reason to believe he never much approved. As this arrangement is compulsory, the client

having no choice, it cannot well fail; but I heartily wish that it had failed, for it has done much mischief, and is certainly one of the worst changes that has ever taken place. It is true, the great pressure of business requires that something should be done; but it is equally true that the right thing has not been adopted; for, where the King's Bench sits, with the Chief Justice presiding—where the suitors resort—where the bar is mustered—where the public attend—where all the council and attorneys appear—where the business is disposed of, as it ought to be, gravely and deliberately, with the eyes of mankind, with the eyes of the bar, as well as of the world at large, turned on the proceedings—would not every one point to that as the place in which all important legal questions ought to be decided? Would not any one, on the other hand, say, if another court were constituted in a sort of back room, where three judges were sitting—where the only persons present, besides the judges, were the counsel and attorney employed on either side of the cause that was pending—where there was no audience, and the public eye was entirely directed not *upon* but *from* that to the other court—would not any one, I ask, declare, that a court so circumstanced was the place in which the trifling business alone should be transacted? These, I think, would be but natural conclusions; and yet if the matter be stated exactly the other way, it will be far nearer the truth. Of the really important business, as regards both its difficulty and importance to the law, and, indeed, to the suitor, a very large proportion is done in that back room, and before those three judges; it is done in a corner, and, I may say, disposed of behind people's backs, with only the attendance of the attorney and barrister on each side, or, at most, with the presence of these and of the practitioners waiting for the next cause; and as the court is not frequented by the public any more than the profession, the business may certainly be said to be transacted without due publicity and solemnity. Thus we see, that by this arrangement, while the most interesting matter is overlooked, trifling business and points of no importance are brought forward with all possible observation:—a motion for judgment as against the casual ejector, which is a motion of course—a motion to refer a bill to the master to compute principal and interest—for judgment, as in case of a nonsuit—and a thousand others, either of course or of the most trifling moment, are heard, with the utmost publicity, before the whole court—before the whole bar—before the whole body of attorneys—before the whole public—all of which might be settled by the three judges in a corner, or by any one of them, or by any one of their clerks. The consequence is, that much time is lost to the full court, while the most important business—special arguments, raising the greatest legal questions—new trials, involving both matters of law and fact affecting large interests;—and the crown-paper, comprehending all the questions from sessions, are obliged to be heard in the private and

unsatisfactory manner I have described. I wish this system to be remedied, because it is a great and growing evil. . . .

3. I now pass to the civil law courts; and their constitution I touch with a tender, and, I may say, a trembling hand, knowing that, from my little experience of their practice, I am scarcely competent to discourse of them; for I profess to speak only from such knowledge as I have obtained incidentally by practising in the two courts of appeal, the High Court of Delegates and the Cockpit, where I have been occasionally associated with the civilians. The observations I have to make on this part of the subject resolve themselves, entirely, into those which I would offer upon the manner in which their judges are appointed and paid. In the first place, I would have them better paid than they are now, a reform to which I would fain hope there may be no serious objection on their part, averse, as I know them, generally, to all change. I think they are underpaid in respect of the most important part of their functions. The judge of the Court of Admiralty, who has the highest situation, or almost the highest, among the judges of the land (for there is none of them who decides upon questions of greater delicacy and moment, in a national view, or involving a larger amount of property)—this great dignitary of the law has 2,500*l.* a-year salary only. The rest of his income is composed of fees, and these are little or nothing during peace. But then, in time of war, they amount to 7,000*l.* or 8,000*l.* per annum. I profess not to like the notion of a functionary, who has so many calls, as the judge of the Admiralty Court, for dealing with the most delicate neutral questions—for drawing up manifestoes and giving opinions on those questions, and advising the crown in matters of public policy bearing on our relations with foreign states;—I like not, I say, the notion of such a personage being subject to the dreadful bias (and here, again, I am speaking on general principles only, and with no personal reference whatever) which he is likely to receive, from the circumstance of his having a salary of 2,500*l.* per annum only, if a state of peace continue, and between 10,000*l.* or 11,000*l.* a-year, if it be succeeded by war. . . .

The other remark, which I have to offer on these courts, I would strongly press upon the consideration of the House; it relates to the mode in which their judges are appointed. Is it a fit thing, I ask, now, when Popery is no longer cherished or even respected, indeed hardly tolerated, among us—that one of its worst practices should remain, the appointment of some of the most eminent judges in the civil law courts by prelates of the church? I except, indeed, the judge of the High Court of Admiralty, because his commission proceeds from the Lord High Admiral; but I speak of all those who preside in the Consistorial Courts—who determine the most grave and delicate questions of spiritual law, marriage and divorce, and

may decide on the disposition by will of all the personalty of the kingdom. Is it a fit thing that the judges in these most important matters should be appointed, not by the Crown, not by removable and responsible officers of the Crown—but by the Archbishop of Canterbury and Bishop of London, who are neither removable nor responsible—who are not lawyers—who are not statesmen—who ought to be no politicians—who are, indeed, priests of the highest order, but not, on that account, the most proper persons to appoint judges of the highest order? So it is in the province of York, where the judges are appointed by the archbishop; so in all other consistorial courts, where the judges are appointed by the bishops of the respective dioceses in which they are situated. From their courts an appeal lies, it is true, to the Court of Delegates, in the last resort; but so far from this affording an adequate remedy, it is an additional evil; for I will venture to affirm, that the Delegates is one of the worse-constituted courts which was ever appointed, and that the course of its proceedings forms one of the greatest mockeries of appeal ever conceived by man: and I shall demonstrate this to you in a very few words. The court is thus formed:—You take three judges from the common-law courts, one from each; to these you add some half-dozen civil lawyers, advocates from Doctors' Commons, who the day before may have been practising in those courts, but who happen not to have been in the particular cause, in respect of which the appeal has been asserted. Now, only see what the consequence of this must be. The civilians forming the majority of the delegates are, of necessity, men who have no practice, or the very youngest of the doctors. So that you absolutely appeal from the three great judges of the civil and maritime courts, from the sentences of Sir William Scott, Sir John Nicholl, and Sir Christopher Robinson—of those learned and experienced men, who are to us the great luminaries of the civil law—the venerated oracles best fitted to guide our path through all the difficulties of that branch of the science, and open to us its dark passages—you appeal from them to judges, the majority of whom must, of necessity, be the advocates the least employed in the courts where those great authorities preside, the most recently admitted to those courts, and the most unqualified to pronounce soundly on their proceedings, if it were decent that they should pronounce at all; for, out of so small a bar, the chances are that the three or four eminent advocates have been employed in the case under appeal. Thus the absurdity is really much the same as if you were to appeal from a solemn and elaborate judgment, pronounced by my Lord Tenterden, Mr. Justice Bayley, Mr. Justice Holroyd, and Mr. Justice Littledale, to the judgment of three young barristers, called but the day before, and three older ones, who never could obtain any practice. . . . .

4. I next come to speak of the Privy Council; a very important judicature, and of which the members discharge as momentous duties as any of the judges of this country, having to determine not only upon questions of colonial law in plantation cases, but to sit also as judges, in the last resort, of all prize causes. The point, however, to which I more immediately address myself on this head is, that they hear and decide upon all our plantation appeals. They are thus made the supreme judges, in the last resort, over every one of your foreign settlements, whether situated in those immense territories which you possess in the East, where you and a trading company together rule over not less than seventy millions of subjects; or established among those rich and populous islands which stud the Indian Ocean, and form the great Eastern Archipelago; or have their stations in those lands, part lying within the tropics, part stretching towards the pole, peopled by various castes differing widely in habits, still more widely in privileges, great in numbers, abounding in wealth, extremely unsettled in their notions of right, and excessively litigious, as all the children of the New World are supposed to be, both from their physical and political constitution. All this immense jurisdiction over the rights of property and person, over rights political and legal, and over all the questions growing out of such a vast and varied province, is exercised by the Privy Council, unaided and alone. It is obvious that, from the mere distance of those colonies, and the immense variety of matters arising in them, foreign to our habits, and beyond the scope of our knowledge, any judicial tribunal in this country must of necessity be an extremely inadequate court of review. But what adds incredibly to the difficulty is, that hardly any two of the colonies can be named which have the same law; and in the greater number the law is wholly unlike our own. In some settlements it is the Dutch law, in others the Spanish, in others the French, in others the Danish. In our Eastern possessions these variations are, if possible, yet greater: while one territory is swayed by the Mohammedan law, another is ruled by the native or Hindu law; and this again, in some of our possessions, is qualified or superseded by the law of Buddha, the English jurisprudence being confined to the handful of British settlers, and the inhabitants of the three Presidencies. All those laws must come, in their turns, in review, before the necessarily ignorant Privy Councillor, after the learned doctors in each have differed. . . . .

The Privy Council, which ought to be held more regularly than any other court, sits far less constantly than any, having neither a regular bench nor a regular bar. It only meets on certain extraordinary days—the 30th of January, the Feast of the Purification, some day in May, Midsummer-day, and a few others. I find that, on an average of twelve years, ending 1826, it sat in each year nine days, to dispose of all the appeals from all the British

subjects in India; from our own civil courts, to the jurisdiction of which all our subjects are locally amenable, throughout the wide extent of the several Presidencies of Calcutta, Bombay, and Madras; to dispose of all the causes which come up to the three several native courts of last resort, the Sudder Adawlots, from the inferior courts of Zilla and Circuit, comprising all contested suits between the Hindoos, the half-caste people, and the Mahomedan inhabitants. But in the same nine days are to be disposed of all the appeals from Ceylon, the Mauritius, the Cape, and New Holland; from our colonies in the West Indies and in North America; from our settlements in the Mediterranean, and from the islands in the Channel;—nine days' sittings are deemed sufficient for the decision of the whole. But nine days do not suffice, nor anything like it, for this purpose; and the summary I have in my hand demonstrates it both by what it contains, and by what it does not. It appears that, in all those twelve years taken together, the appeals have amounted to but few in number. I marvel that they are so few—and yet I marvel not; for, in point of fact, you have no adequate tribunal to dispose of them; and the want of such a tribunal is an absolute denial of justice to the subjects of the Crown in those colonies. The total number is only 467; but, including about 50, which came from India, and appear not to have been regularly entered, though they are still undisposed of, there are 517. Of these, 243 only have been disposed of; but only 129 have been heard, for the others were either compromised, from hopelessness owing to the delay which had intervened between the appeal and the sentence, or dismissed for want of prosecution. Consequently, the Privy Council must have heard ten or eleven appeals only by the year, or little more than one in the course of each day's sitting. Again, of the 129 which were heard and disposed of, no less than 56 were decided against the original sentences; which were altered, and, generally speaking, wholly reversed. Now, 56 out of 129 is a very large proportion, little less than one-half; and clearly shows that the limited number of appeals must have arisen, not from the want of cases where revision was required, but from the apprehension of finding no adequate court of review, or no convenient dispatch of business. And that the sentences in the colonies should oftentimes be found ill-digested, or hasty, or ignorant, can be no matter of astonishment, when we find a bold lieutenant-general lord chancellor in one court, and an enterprising captain president in another; and a worthy major officiating as judge-advocate in a third. In many of these cases, a gallant and unlearned lord chancellor has decided, in the court below, points of the greatest legal nicety; and the judges of appeal, who are to set him right here, are chosen without much more regard to legal aptitude; for you are not to suppose that the business of these nine days upon which they sit is all transacted before lawyers: one lawyer there may be, but the rest are laymen. . . .



5. I now, Sir, come to the administration of law in the country, by justices of peace; and I approach this jurisdiction with fear and trembling, when I reflect on what Mr. Windham was accustomed to say, that he dreaded to talk of the game-laws in a House composed of sportsmen; and so, too, I dread to talk of the quorum in an assembly of magistrates. . . . Nevertheless, considering the changes which have been effected in modern times, I cannot help thinking it worth inquiry, whether some amendment might not be made in our justice-of-peace system? The first doubt which strikes me is, if it be fit that they should be appointed as they are, merely by the lords lieutenants of counties, without the interference of the Crown's responsible ministers. It is true that the lord chancellor issues the commission, but it is the lord lieutenant who designates the persons to be comprehended in it. . . . On looking at the description of persons who are put into the commission, I am not at all satisfied that the choice is made with competent discretion; and upon this part of the question I may as well declare at once, that I have very great doubts as to the expediency of making clergymen magistrates. This is a course which, whenever it can be done conveniently, I should certainly be glad to see changed, unless in counties where there are very few resident lay proprietors. . . . Appointed, then, by irresponsible advisers, and irremovable without a conviction, let us now see what is the authority of men so chosen and so secure. . . .

In the first place, they have the privilege of granting or withholding licenses. As we all know, it lies in the breasts of two justices of the peace to give or to refuse this important privilege. It is in their absolute power to give a license to one of the most unfit persons possible; and it is in their power to refuse a license to one of the most fit persons possible. They may continue a license to some person who has had it but a twelvemonth, and who, during that twelvemonth, has made his house a nuisance to the whole neighbourhood; or they may take away a license from a house to which it has been attached for a century, and the enjoyment of which has not only been attended by no evil, but has been productive of great public benefit. And all this, be it observed, they do without even the shadow of control. There is no rule more certain than that a mandamus does not lie to compel justices either to grant or withhold a license. I hardly ever remember moving for one; and I only once recollect a rule being granted,—it was on the motion of my honourable and learned friend, the Solicitor-General. But I know that great astonishment was expressed on the occasion; that every one asked what he could have stated to make the court listen to the application; that all took for granted it would be discharged, as a matter of course; which it accordingly was, in less time than I have taken to relate the circumstance. What other control is there over the conduct of the licensing magistrate? I shall

be told that he may be proceeded against, either by a criminal information, or by impeachment. As to the latter, no man of common sense would dream of impeaching a magistrate, any more than he would think now-a-days of impeaching a minister. Then, as to proceeding by criminal information:—In the first place it is necessary, in order even to obtain the rule, to produce affidavits, that the magistrate has been influenced by wilful and corrupt motives: not merely affidavits of belief in those who swear, but of facts proving him guilty of malversation in his office. Then suppose, as not unfrequently happens, a rule obtained on this *ex-parte* statement; the magistrate answers the charges on oath; he swears last, and may touch many points never anticipated by the other party, consequently not answered; and unless the alleged facts remain, upon the discussion, undeniable, and the guilt to be inferred from them seems as clear as the light of day, the rule is discharged with costs. The difficulty of proving corruption is rendered almost insuperable, because all the magistrate has to do, in order to defend himself from the consequences of granting or withholding a license, is to adopt the short course of saying nothing at the time—of keeping his own counsel—of abstaining from any statement of his reasons. Let him only give no reason for his conduct, and no power on earth can touch him. He may grant a license to a common brothel, or he may refuse a license to one of the most respectable inns on the North road; let him withhold his reasons, and his conduct remains unquestionable; although the real motive by which he is actuated may be, that he is in the habit of using the one house, and that the landlord of the other will not suffer him to use it in the same way. Unless you can show that he has himself stated his motives, or that there are circumstances so strong against him as amount to conviction, you are prevented from even instituting an inquiry on the subject. Thus absolute is the authority of the magistrate with regard to licensing. . . . .

Nor is the licensing power of the magistracy that in which alone great abuses exist. They prevail wheresoever their authority is exercised; in the commitments for offences against the game-laws; in dealing with petty offences against property; in taking cognizance of little assaults, especially on officers; in summary convictions for non-payment of tithes, and a number of other matters affecting the liberties and property of the subject; and yet, for their conduct in all of these matters, they are not amenable to any superior power, provided, as I have said before, they only keep their own counsel, and abstain from stating the reasons by which they have been actuated, should their motives be evil. There is not a worse constituted tribunal on the face of the earth, not even that of the Turkish *cadi*, than that at which summary convictions on the game-laws constantly take place; I mean, a bench or a brace of sporting justices. . . . From their decisions on those points, where

their passions are the most likely to mislead them, no appeal in reality lies to a more calm and unprejudiced tribunal; for, unless they set out any matter illegal on the face of the conviction, you remove the record in vain. Equally supreme are they in cases where, sitting in a body at quarter-sessions, they decide upon the most important rights of liberty and property. Let it be remembered that they can sentence to almost unlimited imprisonment, to whipping, to fine, nay, to transportation for seven and fourteen years. I have shuddered to see the way in which these extensive powers are sometimes exercised by a jurisdiction not responsible for its acts. It is said that the magistracy ought not to be responsible, because it is not paid; but we ought not to forget that as gold itself may be bought too dear, so may economy; money may be saved at too high a price. Mark the difference of responsibility between the quarter-sessions and one of the superior courts of the kingdom. In the King's Bench, the name of the judge who pronounces the judgment is known, and the venerable magistrate stands before the country in his own proper person, always placed at the bar of public opinion. Here it is Lord Tenterden—it is Mr. Justice Bayley, by their names: in the other case, it is merely the quarter-sessions, which, as Swift says, is nobody's name. The individual magistrates composing it are not thought of; their names are not even published. It is a fluctuating body. If the same individuals always sat in the court, there might be some approach to responsibility. At present there is none; and where there is no responsibility, injustice will occasionally be committed, as long as men are men. It would be some correction of the evil, if the number of magistrates was fixed; if their names were always known in connexion with their acts; and if they were more easily removable on proof of their misconduct. Then comes the question—Is it, after all, gratuitous service? We are told that we cannot visit the magistrates severely, or even watch them very strictly, because they volunteer their duty, and receive no remuneration for their trouble. But although they have no money for it, they may have money's worth. Cheap justice, Sir, is a very good thing; but costly justice is much better than cheap injustice. If I saw clearly the means by which the magistrates could be paid, and by which, therefore, a more correct discharge of the magisterial duties might be insured, I would certainly prefer paying them in money to allowing them to receive money's worth by jobs, and other violations of their duty. Not only may the magistrate himself receive compensation in money's worth; he may receive it in hard money by his servants. The fees of a justice's clerk amount to a little income, often to many times a man's wages. I have heard of a reverend justice in the country having a clerk whose emoluments he wished to increase, and therefore he had him appointed surveyor of weights and measures, with a salary of a guinea and a half a-week. This person appointed a deputy, to whom he gave five

shillings and sixpence, and who did all the duty. These circumstances came under the consideration of his brother justices; when, after a strenuous opposition, and, among others, on the part of the gentleman who communicates the occurrence in a letter now lying before me, it was decided, not only not to remove the first appointed person, who it was proved was doing nothing, but to swear in the other as his assistant! My friend is not entirely without suspicion that this functionary, having so small a remuneration as five shillings and sixpence a-week, can only have undertaken the duty with a view of increasing it by some understanding with the people whose weights and measures it is his duty to superintend.

The operation of pecuniary motives in matters connected with the magistracy is more extensive than may at first sight appear. There was a Bill introduced by the Right Honourable Gentleman opposite for extending the payment of expenses of witnesses and prosecutors out of the county rates. It is not to be doubted that it has greatly increased the number of commitments, and has been the cause of many persons being brought to trial who ought to have been discharged by the magistrates. The habit of committing, from this and other causes, has grievously increased everywhere of late, and especially of boys. Eighteen hundred and odd, many of them mere children, have been committed in the Warwick district during the last seven years. Nor is this a trifling evil. People do not come out of gaol as they went in. A boy may enter the prison-gate merely as a robber of an orchard; he may come out of it "fit for"—I will not say "treasons"—but certainly "stratagems and spoils." Many are the inducements, independent of any legislative encouragement, to these commitments. The justice thinks he gains credit by them. He has the glory of being commemorated at the assizes before the lord judge, and the sheriff, and the grand jury, and all who read the Crown Calendar. On that solemn occasion, he has the gratification of hearing it fly from mouth to mouth—"He is a monstrous good magistrate; no man commits so many persons." Then there is the lesser glory acquired among neighbours; into whose pockets they are the means of putting money, by making them prosecutors and witnesses in petty criminal cases; and thus converting (as Sir Eardley Wilmot says) their journey of duty into a jaunt of pleasure to the assizes. The reputation of activity is very seducing to a magistrate; but I have known it curiously combined with things more solid than empty praise. In a certain town, which I am well acquainted with, one suburb was peopled by Irishmen and Scots, who were wont to fight on every marketday a good deal, at fair tides a good deal more, but without any serious affray taking place. Besides these two classes of the king's subjects, there also dwelt in those parts two justices of the king, assigned to keep the peace; for the better conserving of which they repaired at the hour of fight to an alehouse, conveniently situated hard by the scene of action, and

there took their seat with a punch-bowl full of warrants, ready to fill up. If the Irish happened to be victorious, the Scots came one after another and applied for commitments against those who had assaulted them. The dispatch with which warrants, at least, if not justice, were administered, was notable. Then came the other party, and swore to as many assaults upon them; and justice being even-handed, they, too, had their desire gratified; until the bowl was, by degrees, emptied of its paper investment, and a metallic currency, by like degrees, took its place.

Some of these details may be ludicrous; but the general subject is a most serious and a most important one, because these facts show the manner in which justice is administered to the people out of sight of the public, and out of reach of the higher courts of law. It is through the magistracy, more than through any other agency—except, indeed, that of the tax-gatherer—that the people are brought directly into contact with the government of the country; and this is the measure of justice with which, when they approach it, they are treated by functionaries irresponsible for their proceedings. A justice of the peace, whether in his own parlour or on the bench—whether employed in summary convictions, or in enforcing what is called, after a very worthy friend of mine, Mr. Nicholson Calvert's Act (one of the worst in the statute-book, which I hope to see repealed, and which I trust its excellent author will very long survive)—is never an ostensible individual, responsible in his own proper person to public opinion; hardly ever, unless he chooses by some indiscretion to make himself so, amenable to a higher and purer judicature.\*

This does not profess to be a complete enumeration of our courts, nor shall we pretend to fill it up. We shall only mention such names as are familiar to all, and occur to us at the moment. In the first place, there is the great class of courts—the courts of equity, which, in respect to the mass of property they dispose of, are the most important of all—including the Chancellor's Court, the Vice-Chancellor's, the Rolls Court, the courts of the masters in chancery, the commissioners in equity, and, for aught we know, more. Then we have our small-debt courts of all descriptions, courts of requests, courts of conscience; also county courts, barons' courts, courts leet, several provincial courts of the Bishopric of Durham, the Duchy of Lancaster, &c.; coroners' inquests, grand juries, and more, if we could recollect them.

It is perfectly certain that, with such a confused supply of instruments, the business of judicature must be wretchedly performed; and the phenomenon is the more hideous, when it is discovered that the mode of supplying the proper instruments is so perfectly simple, and the reason of the case so clear and

irresistible.—England has been blessed with a legislature. Nothing which required amendment ever escaped its clear and virtuous intelligence.

In this jumble of courts—one intrusted with one fraction of the business of judicature, another with another, according to no plan or system, there is one peculiarity, unknown to any law but the English,—we mean, the courts set apart for that which is called equity. This word equity has propagated an erroneous notion with respect to these courts, as if it was their business to relax the strictness of law, and supersede its provisions, when the operation of them appeared to bear hard upon one of the parties. If this were true, courts of equity would be a still greater monster in judicature than they are.

So exceedingly imperfect in their original structure were the courts of law, that, in many cases, and those of the highest importance, they were altogether incompetent to the business. A remedy was found, by chance more than design. A high officer of the king took upon him, cautiously at first, and in select cases, to yield the remedy which was so much required. The abuse (for such it was) being found convenient, was allowed to go on; and grew, by degrees, into the established system which we now behold, of judicature for the principal part of the property of the country. This mode of legislating was agreeable to the imbecility of the age. What grew up of its own accord saved all expense of thought, which was not very plentiful or the exercise of it very agreeable. And the institutions of government grew, as Sir James Mackintosh thinks they ought to do, like trees, by a sort of vegetative process; reason, according to this hypothesis, being a second-rate guide in the affairs of men; foresight, plan, combination, pregnant with delusion and miscarriage. Our law tree has certainly grown to a notable bulk, whatever the quality of its timber.

Reason, certainly, in this matter, had it been applied to, would have taken a different course from the one pursued; it would have corrected the defects in the courts of law, which unfitted them for the administration of justice, in a certain important class of cases; and would thus have secured the all-important ends of law, by placing it in the same hands in all its departments, instead of resorting to the wretched makeshift of letting a new set of hands take up what it wanted only a salutary alteration to enable the old to perform.

Lord Erskine describes the jurisdiction of the Court of Chancery in the following words:—

‘The jurisdiction of this high court, according to the great authority above alluded to, became necessary—

1. When the principles of the law by which the ordinary courts were guided gave a right, but where their powers (*for the reasons I have adverted to*) were not sufficient to afford a complete remedy.
2. Where the courts of ordinary jurisdiction were made instruments of injustice.
3. Where they gave *no right*, but where, upon the principles of universal justice, the interference of the judicial power became necessary to prevent a wrong, when positive law was silent.
4. To remove impediments to the fair decision of a question in other courts.
5. To provide for the safety of property in dispute, pending a litigation in the ordinary courts.
6. To prevent the assertion of doubtful rights in a manner which might be productive of irreparable injury.
7. To prevent injury to a third person by the doubtful title of others.
8. To put a bound to vexatious and oppressive litigation.
9. To compel a discovery, which was beyond the customary powers of other courts.
10. To preserve testimony.’

—*Armata*, Part II. p. 147.

There is only one thing more, on which we think it necessary at present to remark, in regard to our judicial establishment. How defective soever it is in all other respects, it is by far the most defective in regard to that on which the efficiency of the whole depends—the business of appeal. Of the badness of our arrangements for the indispensable security of appeal, we are not qualified to speak in detail, nor is it necessary. That the means are ill adapted to the end is notorious; and that to a degree disgraceful to the Legislature—which looks on such a grievance with indifference, and to the people who endure the apathy of such a Legislature.

A great part of the judicial business done in England is altogether without the benefit of appeal; and to that extent the people are deprived of the best security for good judicature. We have seen what Lord Brougham has said on the absence of all remedy for the misconduct of justices of the peace. And when we consider that theirs is the jurisdiction which mostly concerns the great mass of the people, and that it is left in this state to the present hour, it reads a lesson on the nature of aristocratic government. This is a

specimen of disregard of the interests of the mass of the people, continued from generation to generation, which is not exceeded by anything recorded of the most barbarous governments which have at any time been the scourge of any portion of the human race.

The provision for appeal from the decisions of the courts of common law is so extremely defective, that the benefit of it is really very little known. The defects, in the way of evidence, of the original tribunals, are remedied by a new trial, that is, with great expense, and still without appeal. Difficult questions of law are referred to more judges than one, and there is a writ of error to the House of Lords. But this is far from coming up to the idea of a regular appeal to a set of judges, regularly set apart for the business of appeal, revising the whole proceedings, and having this for their exclusive duty.—*N.B.* Nothing is of more importance in judicature, than to keep the business of original and that of appellate jurisdiction perfectly distinct. The judge in original jurisdiction should not have mixed with that jurisdiction the business of jurisdiction in appeal. They are distinct functions, which are never well performed when they are jumbled together. This is a first principle in jurisprudence.

The only real court of appeal we have upon this principle, in England, is the House of Lords. We shall not think of explaining the utter unfitness of that court, as hitherto constituted, to be a court of appeal, for there is but one opinion on the subject. And we have only to add, that the business of appeal is as ill provided for, in the case of the equity courts, as in that of the courts of common law. The Chancellor, who is a judge of original jurisdiction, and thereby unfitted to be a judge in appeal, receives appeals from the inferior equity courts; and another appeal lies from him to the House of Lords, where again he is substantially the judge. This, then, is a second stage of appeal, with all its burthen of expense, which is only an appeal from the same to the same. This looks like the sport with human happiness of some malignant demon, rather than the deliberate arrangements of human reason for human good.

After having seen what judges are required for the best administration of law, we come to inquire by what proceedings the business they are called upon to accomplish may best be performed. This is the third and last of the topics which require the attention of the law reformer. The rectification of the text of the law, the best mode of allotting the services of the judges, and the best mode of judicial operation,—these things sufficiently provided for, complete the arrangements for the best administration of justice.



We shall proceed in the illustration of this last topic in the same manner as we have done in the two preceding. We shall, in the first place, show how simply and easily common sense arrives at the expedients which are best adapted to the end in view. And then we shall adduce some evidence, to show how widely English law has departed from the proper proceedings, and how great the necessity is of a speedy and thorough reform.

It is evident, when a judge is called upon to determine which of two litigant parties is in the right, his inquiry divides itself into two stages. The first thing he has to determine is—what is the point on which the question of right hinges. That is sometimes a point of law, but most frequently it is a point of fact. Some matter of fact, affirmed on the one side, denied on the other, is that which determines, according as it is established by evidence, or not, to which of the two litigants the right to the object in dispute belongs.

This is a doctrine acted upon by English law; and so far it is distinguished to its advantage from other systems of law, in almost all of which this most important object is entirely neglected. In almost all other systems of law, the parties, in bringing forward their respective cases, are allowed to heap together whatever appears to them to improve their chance of a favourable decision,—matters secondary as well as primary,—collateral as well as direct,—irrelevant as well as those to the purpose; and even evidence, as well as the matters which are to be proved.

English law has seen, that the first business of the judge, on receiving the mass of heterogeneous matter which parties are prone to urge upon him, is—to disentangle the mass—to strip from it everything which is superfluous and irrelevant, and fix upon that which he perceives to involve the essence of the dispute.

Reason, at the first inspection, sees the necessity of this procedure to a clear understanding and satisfactory solution of the question involved in the allegations of the parties. Unless the judge is contented to decide in the midst of confusion, he must make this separation for himself sooner or later; and the advantage, as we shall afterwards see, is immense of making it at the beginning. English law has been so fully sensible of the importance of it, that it has provided a process for the purpose. It has what it calls pleadings, the object of which is to elicit what it calls the issue,—that is, some point affirmed on the one side, denied on the other, on which the question of right depends.

If anything, in the whole process of the judicial inquiry, be a business for the mind of the judge, this is. On the right or wrong determination of the point on which the decision is to turn, the

decision itself is likely to be right or wrong. This is of too much importance to be intrusted to anybody but the judge. Let us see, then, what common sense may recommend to us as the course which it is best for him to adopt in proceeding to this determination.

It is clear, first of all, that he must have information. The parties must state their case to him. The question is, should this be done by writing, or in person? A moment's reflection is surely sufficient to determine that question. A writing can answer no questions. A writing is very apt to be defective. If the party himself is present, not a moment's time is lost. Whatever information is necessary to illuminate the mind of the judge, a question from the judge produces immediately; and he never ceases putting question after question till he is satisfied that he has the whole case before him. This is what is called *vivâ voce* pleading; and its superiority to any mode of pleading by writing is too evident to need any further illustration. The simplicity and efficiency of the procedure becomes obvious at once. The plaintiff makes application to the judge, according to some convenient and established form. Admitted to the presence of the judge, he states his claim, and indicates the party against whom it is brought. The questions of the judge then commence. Your claim being as you say, on what is it grounded? It may happen that the ground on which the plaintiff lays his claim will not sustain it. The judge declares so, and the suit is terminated. There is no occasion to give the party against whom it is brought the trouble of a single attendance. This, however, is not the common case. The plaintiff commonly adduces something which, if not rebutted, would establish his claim. In that case, it is necessary that the defendant should be summoned, to answer to the claim. Both parties appear in the presence of the judge. The defendant is told what the claim is against him, and what the ground alleged by the plaintiff. Let us suppose the commonest case—an allegation of debt. Let us suppose, also, the ground of claim which is brought by the plaintiff to be—sale of a horse. He says the defendant bought of him a horse for 20*l.*, but has never paid him. The defendant is then asked what he has to say to this ground of claim; and he may deny the fact. He may deny that he ever bought a horse of the plaintiff. The issue, in that case, is found immediately. Here is a fact, affirmed on the one side, denied on the other, which decides the question in dispute. After this, there only remains the evidence of the fact, the process for taking which is called the trial, and constitutes the second part of the judicial investigation. The defendant, however, may not perhaps deny the fact of having purchased the horse, but may affirm that he paid for him. In that case there is another issue: namely, whether he paid for him or not.

Sometimes the allegations are very complicated; and it is only after a long series of questions that the point which really determines the question is elicited.

Not only is this mode of determining the issue, or what the point is on which the whole question hinges, of the importance which we have seen it is for clearing the way of the judge,—it is of vast importance in many other respects. Persons who have made choice of this mode of proceeding—of whom we have various instances among the servants of the Indian government—declare that its efficacy is most surprising in abridging litigation; that in nine instances out of ten the question of right, through the interrogations of the judge, and the admissions of the parties, becomes apparent, at the first hearing of the case, to the parties themselves; and the judge at once pronounces his decision. The courts of law in this manner operate as conciliation courts: this mode of pleading naturally makes them such, and with infinite advantages above all other conciliation courts, because there is here full and complete knowledge of the cause by him who best knows the use to be made of it.

To what a degree the mode of pleading in English law departs from this rational course, we shall presently produce the testimony of English lawyers themselves to establish. First of all, it is in writing, and therefore deprived of all the inestimable advantages of *vivâ voce* examination. Next, this important part of the judicial inquiry is not performed by the judge at all. It is performed by the parties themselves, and their legal advisers, according to the following process:—A paper is prepared on the part of the plaintiff: this is lodged in a certain office: another paper is prepared on the part of the defendant, and that also is lodged in an office. Those papers and counter-papers may go on to a considerable number. All this while the elucidation of the truth is not the object which is aimed at by any of the parties concerned in this strange correspondence. The object of each of the parties is to obscure it, as far as it is not in his favour, to the utmost possible degree. The proceedings are never submitted to the judge: they are all finished without his being made acquainted with the matter. The correspondence is seen by him, for the first time, when the issue is brought before him for trial,—that is, when the matter-of-fact, on which the question of right depends, as settled, through this marvellous kind of intercourse, by the parties themselves, is to be determined by evidence.

How unlike this is to a rational proceeding, we shall not stay to enforce. It suffices to say, that in practice it led into such a tissue of intricacies and subtleties, that it was at last discovered to be more injurious than useful to the cause of justice, and has been to a great

degree discarded by the courts themselves. But what have the courts done to supply its place? Nothing at all. They allow what they call the general issue to be pleaded: in other words, they allow the defendant to deny, in the most general terms, the justice of the plaintiff's claim, or accusation: and in all such cases dispense with the process of pleading: cut off as useless the first essential part of the judicial inquiry—that which determines the point whereon the question of right depends. The cause comes on for trial, that is for the hearing of evidence, without its being known what it is for which evidence is required. Lawyers make speeches on one side; lawyers make speeches on the other side; and the judge gathers up, the best way he can, by this extempore process, the point or points in which the merits of the case are involved. Often he does not gather it up at all; and the whole proceeding is a mass of confusion. Evidence is taken on many points, which it is altogether useless to settle; very often the decision is made to turn on the wrong point. And one great evil is constant. Whereas the parties, when the issue is settled beforehand, are called upon to produce witnesses only to the point which decides the question, they are put to the expense, in this mode of procedure, of having witnesses ready to prove every point on which, by conjecture, the decision may possibly turn.

The following picture by Lord Brougham is of so much importance, that we cannot forbear inserting it, though it occupies a greater than the convenient space:—

'We are now to suppose the parties in court, and called upon to state their cases, the claim of one and defence of the other. Anciently, this pleading, as it is termed, was by word of mouth; but in more modern times it has been carried on in writing. Originally, too, pleas were in French; afterwards in Latin; and, for a century past, by a great, but most salutary innovation, doubtless much reviled and dreaded in its day, they have been conducted in English. . . . Lord Coke deemed special pleading so delightful a science, that its very name was derived, according to him, from its pleasurable nature—"Quia bene placitare omnibus placet." Incapable of inventing a new pleasure, I would fain restore a lost one, by bringing back pleading to somewhat of its pristine state, when it gave our ancestors such exquisite recreation. Certain it is that our deviation from the old rules in this branch of the law has been attended with evil effects. Those rules, as Lord Mansfield once said, were founded in reason and good sense; accuracy and justice was their object, and in the details much of ingenuity and subtlety were displayed. But by degrees the good sense has disappeared, and the ingenuity and subtlety have increased beyond measure, and been oftentimes misdirected: nay, to such a pitch have the changes proceeded, that at last subtlety has superseded

sense—accuracy and justice are well nigh lost sight of; and ingenuity is exhausted in devising pretexts for prolixity and means of stratagem. In these really hurtful innovations, the courts of law have been the far too ready accomplices; and the legislature has been a most willing instrument to increase the evil, by sanctioning, almost as a matter of course, in each new act, the power of pleading the general issue. . . .

I regret to say, that the last century and a half has witnessed great and prejudicial alterations in the original plan: so that the record, in the great majority of cases, instead of exhibiting a plain view of what each party is prepared to prove, contains an endless multitude of words, from which, if the real matter in dispute can be gathered at all, it is only by guess work, or by communications out of the record, relating to things of which it gives not even a hint. Let us look into this a little more narrowly. The count of a declaration should convey information as to the subject of the action; but it conveys no precise knowledge of the plaintiff's demand, or indeed of what the suit is about. Take the instance of the Common Counts, as they are justly termed, in Assumpsit, being those constantly resorted to, and take the most common of these, the count for money had and received. I will take no advantage of the audience I speak before being unacquainted with legal niceties, in order to make merry with the venerable formalities of the art. All lawyers know how easy it would be in this place to raise a smile, at the least, by recounting the little fooleries of our draftsmen; but I disdain it, and will treat the subject precisely as if I were addressing professional men. The plaintiff declares that the defendant, being indebted to him for so much money had and received to the use of the said plaintiff, to wit, one thousand pounds, undertook and faithfully promised to pay it, but broke his engagement; and the count is thus framed, the self-same terms being invariably used, whatever be the cause of action which can be brought into court under this head. Now, observe how various the matters are which may be all described by the foregoing words. In the first place, such is the declaration for money paid by one individual to another, for the use and benefit of the plaintiff; this is what alone the words of the count imply, but to express this they are rarely indeed made use of. Secondly, the self-same terms are used on suing for money received on a consideration that fails, and used in the same way to describe all the endless variety of cases which can occur of such failure, as an estate sold with a bad title, and a deposit paid,—a horse sold with a concealed unsoundness, and so forth; thirdly, the same words are used when it is wished to recover money paid under mistake of fact; fourthly, to recover money paid by one person to a stakeholder, in consideration of an illegal contract made with another person; fifthly, money paid to revenue officers for releasing the goods illegally detained, of the

person paying; sixthly, to try the right to any office, instead of bringing an assize; seventhly, to try the liability of the landlord for rates levied on his tenant. What information, then, does such a declaration give? It is impossible, on reading this count, to say which of the seven causes of action has arisen; and it is not merely those seven, for each one of them has a vast number of varieties, which are declared on in the same words. In actions of Trover the case is even worse. Suppose the case of a plaintiff suing for any chattel, as a gun, the declaration will be such as may apply equally to at least eight different heads, under each of which are many different causes of action. The words in all would be the very same—that the plaintiff was possessed of a gun, as of his own proper goods and chattels; that he accidentally lost it; that the defendant found it, and converted it to his use. Now this count describes only one case—that of a gun lost by its owner, and detained by the finder. But it is employed to mean, secondly, that the gun has been taken by the defendant, under pretence of some title, or in any way not felonious; thirdly, that it was deposited with the defendant, who refused to deliver it up; fourthly, that it was stopped *in transitu*, the price not having been paid; fifthly, that the plaintiff is the assignee of a bankrupt, and seeks to recover the gun, as having been sold after the bankruptcy of the vendor; sixthly, that the plaintiff has been improperly made a bankrupt, and sues the assignees to try the bankruptcy; seventhly, that his goods have been unlawfully taken, and he sues to try the validity of an execution, on any of the various grounds of fraud, &c., which impeach the validity of the process; eighthly, that the gun has been misdelivered, or detained, by a warehouseman or carrier. All those causes of action differ from each other as much as different things can differ, and yet they are all stated in the declaration in the same way, and signified under the same form of words.

The pleadings in cases where it might be expected that the greatest particularity would be given to the statement, actions upon torts to the person, are somewhat, but for the most part, not remarkably more definite and precise in their description. The declarations on the seduction of a wife, servant, or daughter, assault, and false imprisonment, are drawn so that you can say, no doubt, what the action is about, which you hardly ever can in cases of assumpsit or trover; but the same form of words is used, whatever the particular shape of the cause may be. Of the circumstances peculiar to the transaction, the pleadings tell the defendant nothing—they tell the counsel nothing—they tell the judge nothing. It may be said that the defendant must know the cause of action himself; but that does not always follow, especially if (which may be presumed barely possible, though it seems never to be thought so) the allegations are groundless. There is, however, one person who must know the cause of action, and that is the plaintiff. He ought, for the

satisfaction of all concerned, to state it distinctly. The same may be said of the counts in trespass for taking goods. In trespass *quare clausum fregit*, perhaps, the description of the wrong done is more specific. But it happens that the circumstances here are of far less importance; damages are not in question; a shilling or so is to be recovered, the object of the action being almost always to try a right of property or an easement. In all other cases of trespass, where a knowledge of the wrong suffered is most material, the parties are left to fight, and the court to decide, in the dark; but in the case I have just alluded to, where a knowledge of the circumstances in which the trespass was committed is immaterial, everything is told them of which it is wholly unimportant that they should be informed; in a cumbrous way, no doubt, and with much fanciful statement, but still it is told. Actions for slander and libel, for malicious prosecutions, and malicious arrest, or holding to bail, with others on the case, are very particular, and form, certainly, an exception to the ordinary course of pleading; at least, as far as the declaration goes; no farther, as we shall presently see—for I now proceed to the next stage of the pleadings, namely, to the pleas which the defendant puts upon the record in answer to the plaintiff's complaints.

In this stage of the cause we encounter the same evils, but in greater abundance; for they affect those actions on the case where the count is most precise. Generally speaking, it may be said that, if the plaintiff tells us nothing in his declaration, the defendant, in return, tells us as little in his plea; in that respect, at least, they are even. This is, perhaps, a consequence of the former evil; but, be that as it may, it ought to be remedied. The plaintiff ought to tell the defendant the real nature of his complaint, and the defendant ought to make him equally acquainted with the nature of his answer. If this were always done, perjury would not so often be committed; everything intended to be proved would be stated on each side; and the parties, knowing the evidence on which the respective statements must be established, would have an opportunity of examining into the character of the witnesses, and of procuring the best evidence to elucidate the point. At present, the mystery of pleading leaves them in doubt; and the vague and indistinct statements on the record, unaccompanied by other information, open a door to the entrance of falsehood in the witnesses, far wider than any you could open, by enabling them to get up proofs in answer to those expected from the opposite side. Whenever the parties fight each other by trick, on the record in the first instance, fencing to evade telling their grounds of contention, they renew the fight afterwards by perjury in court. I will now give the House some instances of the vagueness of this part of pleading.

In the *indebitatus assumpsit*, from which I took my first example, the general issue is *non assumpsit*. Now, under that plea, no less than eight different defences may be set up; as, for instance, a denial of the contract, payment, usury, gaming, infancy, coverture, accord and satisfaction, release. All these defences are entirely different, and yet they are all stated in the self-same words. So, too, in the action of trover; take our former case of the gun: the defendant, under the plea of "not guilty," may set up as a defence that he is a gamekeeper, and took it by virtue of the statute of Charles II.; or that he had a lien upon it as a carrier for his general balance, and had, therefore, a right to detain it; or a particular lien for work done upon it; or that he had received it as a deposit, and was entitled to keep it; or that he had taken it for toll, or detained it till passage money due by its owner were paid; or the reward due for saving it from shipwreck were given. Any one of these defences may be concealed under the plea of "not guilty," without the possibility of the plaintiff discovering which it is that his adversary means to set up; so that every body will, I think, agree with me, that if the count teaches the court and opposite party little, the plea teaches them not a whit more.

2. The inconsistency of many of our rules of pleading forms the next head of complaint to which I shall direct your attention; and it is just as manifest as the vagueness and indistinctness I have been pointing out. Why are infancy and coverture to be given in evidence under the general issue, while other defences of a similar description must be pleaded specially, as the statute of limitations always, and leave and license in trespass? If it is right that specific defences, of which your general plea gives your opponent no notice, should be couched under that plea, why should you be compelled to give notice of other averments before being suffered to prove them? Why do you, in one case, multiply pleas, which, in the other, your own practice declares to be unnecessary? One or other course, the vague or the definite, the prolix or the concise, may be fitting: both cannot be right. Nay, there is often an option given as to the same thing; infancy, coverture, release, accord, and satisfaction, and others, may either be given under the general issue in *assumpsit*, or pleaded. Why, this choice amounts to no rule at all! If a ground of defence is ever to be pleaded specially, why not always?

3. Akin to this inconsistency of principle is the variety of repugnant counts and pleas allowed in all cases whatever. Where there are ten different ways of stating a defence, and all of them are employed, it is hardly possible that any three of them can be true; at the same time their variety tends to prevent both the opposite party and the court from knowing the real question to be tried. Yet this practice is generally resorted to, because neither party knows accurately what



course his opponent may take; each, therefore, throws his drag-net over the whole ground, in hopes to avail himself of every thing which cannot escape through its meshes. Take the case of debt on bond. The first plea in such an action, almost as a matter of course, is the general issue, *non est factum*, whereby the defendant denies that it is his deed; the second as usual is, *solvit ad diem*—he paid it on the day mentioned in the bond, a circumstance not very likely to happen, if it be not his deed; the third is *solvit post diem*—he paid it after the day; a thing equally unlikely to happen, if it be not his bond, or if he paid it when due; and a fourth often is, a general release. What can the plaintiff learn from a statement in which the defendant first asserts that he never executed the deed, and next that he not only executed it, but has moreover paid it off? Where pleas are consistent with each other, it may be well to let them be pleaded in unlimited abundance: where they are not only not consistent, but absolutely destructive of each other, it would be a good rule to establish that such pleas should not be put together upon the record, at least without some previous discussion and leave obtained. The grounds of action are often stated with almost as great inconsistency, almost always with greater multiplicity in the declaration. I recollect that at York, many years ago, it was my duty, as junior counsel, to open the pleadings in an action brought upon a wager which had been laid upon the life of the Emperor Napoleon. I stated to the jury in the usual way that the defendant, in consideration of one hundred guineas, agreed to pay the plaintiff a guinea a day during the life of one Napoleon Bonaparte, and so forth, alleging the breach. Thus far all was well, and the audience were not disturbed; but there was not much gravity among them when I went on to state the second count, averring another wager on the life of “one other Napoleon Bonaparte;” and indeed, though one in those days was quite enough for the rest of the world, two did not satisfy the pleader, who made mention of a third and a fourth Napoleon.\*

We give the following as evidence from the Second Report of Commissioners on Courts of Common Law:—

“The multiplication of counts and pleas has long been considered as one of the chief abuses in the system of pleading. Though in other respects the prolixity of allegation once prevalent has been materially retrenched, this particular kind of redundance has never, perhaps, prevailed more remarkably than at the present day. Records, containing from ten to fifteen special counts or pleas, are by no means rare, and fail to excite remark. Of these, the greater proportion, and frequently the whole, relate to the same substantial cause of action or defence. They are merely different expositions of the same case, and expositions of it often inconsistent with each other. The practice is productive of great and various

inconveniences. One of the most obvious is its tendency to increase the expense of litigation. The length of a count or plea is very uncertain, but cannot be stated on an average at less than four law folios, and at that length, the addition of each count or plea is an addition of four shillings to the taxed costs on the draft. The increased expense is also to be taken into the account which attends the making copies to be kept and sent into the country, the making up of the issue, the paper books, the engrossments on parchment, and court fees thereon, and the necessary increase in the length of the brief and the amount of fees to counsel. There are other consequences, however, of the practice, even more injurious in our opinion, than its effects on the bill of costs. It often leads to such bulky and intricate combinations of statement, as to present the case to the judge and jury in a form of considerable complexity; and is apt, therefore, to embarrass and protract the trial, and occasionally leads to ultimate confusion and mistake in the administration of justice. The inconvenience last mentioned is more particularly felt, when, to a declaration consisting of various counts, the pleading happens to be *special*; for in that case the pleas also, like the counts to which they are pleaded, are often framed in various forms, and the intricacy of the whole record proportionably increased. The practice, therefore, of multiplying counts and pleas presents one of the greatest obstacles to a more extended use of special pleading—a system, the great advantage of which we shall have occasion, in the course of this report, to explain and enforce.

The practice in question appears at first sight no less strange than objectionable. To allow the plaintiff or defendant to state his case in ten or fifteen different ways, more especially if the statements be inconsistent, is a custom, the reasonableness of which is not readily perceived, which is peculiar perhaps to our own system of judicature, and which seems to have been unknown even in that system at a former period. With respect to pleas, indeed, it is certain that the practice is not older than the 4 Anne, c. 16; and though it has been of much longer duration with respect to counts, yet the precedents from the time of Queen Elizabeth to that of King William and Queen Mary, show, that, in the use of several counts, the pleader was at that period incomparably more sparing than at present; and the still existing rule which requires each count always to set forth a cause of action ostensibly different from the preceding (even when in fact the same) combines with other reasons in support of the opinion that at an antecedent era one count only upon each cause of action was allowed. The present variety of statement, however, is not without sufficient motive, nor is its abolition or reform a task without difficulty. In some degree that variety may, no doubt, be attributed to the increased remuneration which the pleader or attorney obtains by lengthening

the draft. But it is mainly founded on reasons of a more honest and more cogent kind. The principal of these is the state of the law on the subject of *variance*.

At the trial of the cause, a material variance between the allegation in the pleading, and the state of facts proved, is a fatal objection, and decides the suit in favour of the objecting party; and a variance is often considered in this technical sense as material, though to common sense it may appear to be very trifling, and though it may be wholly irrelevant to the merits of the case.

Thus, in an action for a false charge of felony, (*Waller v. Mace*, 2 Barn. and Ald., 756,) where the declaration stated that the defendant went before Richard Cavendish, Baron Waterpark of *Waterfork*, a justice of the peace, and falsely charged the plaintiff with the felony, and it appeared in evidence that the charge was made before Richard Cavendish, Baron Waterpark of *Waterpark*, this variance was considered as fatal, and the plaintiff was nonsuited. So in a case (*Jones v. Cowley*, 4 Barn. and Cress., 445) where the plaintiff brought his action on the warranty of a horse, stating the warranty to be that the horse was sound, and it appeared upon the proof that the warranty was that the horse was sound except for a kick on one of its legs, this was also held to be a ground of nonsuit, though the unsoundness which was proved, and for which the action was brought, had no relation to the leg. In another case (*Shipham v. Samders*, 2 East, 4) where the plaintiff brought his action on a contract to deliver goods, though he took the precaution of stating it in two different ways, viz., in one count, as a contract to deliver within fourteen days, and, in another, as a contract to deliver on the arrival of a certain ship; yet he was nonsuited, because at the trial it was proved to be a contract in the alternative, viz., to deliver within fourteen days, *or* on the arrival of the ship; and he had no count stating it in the alternative. The cause of action, however, was the non-delivery of the goods after the expiration of the fourteen days, and also after the arrival of the vessel, so that the variance was wholly immaterial to the real merits of the case. This kind of objection is naturally looked out for by a party whose case has no foundation on the merits, and is consequently of very frequent occurrence; so that, notwithstanding the protection from it, afforded (as will presently be explained) by the use of several counts and pleas, it is one of the most frequent sources of miscarriage in the suit.\*

The following quotation, from the same authority, relates to the mode of pleading by the general issue:—

‘One of the most important questions which has presented itself in the course of our inquiries, is, whether it is expedient to continue

to any, and to what extent, the use of that kind of plea denominated the *General Issue*. Under this plea, which is in its shape a summary form of denial of the allegations in the declaration, or some principal part of them, a defendant is at present allowed, in certain actions, to put the plaintiff to the proof of everything alleged in the declaration, and in some, not only to do this, but at the same time to prove in his own defence, almost any kind of matter in confession and avoidance; that is, matter which, admitting the truth of the plaintiff's allegations, tends to repel or obviate their effect. On the other hand, there are some kinds of action in which, if the defence consists of any matter in confession and avoidance, it must be specially pleaded, and cannot be admitted in proof under the general issue; and there are others in which, properly speaking, there is no general issue, and in which all the pleading may be considered as special.

That the present state of the practice on this subject requires alteration seems to be universally felt; but with respect to the *kind* of alteration required, the views taken by different persons are surprisingly dissimilar; one set of opinions pointing to the restriction of the general issue, and another to its wider application, and to a correspondent extinguishment of special pleading. It will be found, however, on reference to the written communications addressed to us, that there is a decided preponderance of authority in favour of the former course; and we do not hesitate to declare our own strong conviction that it is the right one, and that its adoption would be attended with highly beneficial results.

We conceive that considerable misapprehension popularly prevails upon the subject of *special pleading*. That system was characterised, no doubt, at former periods of our legal history, by a tendency to prolix and tautologous allegation, an excessive subtlety, and an overstrained observance of form; and, notwithstanding material modern improvements, it still exhibits too much of the same qualities. These, its disadvantages, are prominent and well understood; its recommendations are, perhaps, less obvious, but, when explained, cannot fail to be recognized as of far superior weight. Special pleading, considered in its principle, is a valuable forensic invention peculiar to the common law of England, by the effect of which, the precise point in controversy between the parties is developed, and presented in a shape fit for decision. If that point is found to consist of matter of fact, the parties are thus apprised of the exact nature of the question to be decided by the jury, and are enabled to prepare their proofs with proportionate precision. If, on the other hand, it turns out to be matter of law, they have the means of immediately obtaining the decision of the cause, without the expense and trouble of a

trial—by demurrer,—that is, by referring the legal question, so evolved, to the determination of the judges.

But where, instead of special pleading, the general issue is used, and, under it, the defendant is allowed to bring forward matters in confession and avoidance, these benefits are lost. Consisting, as that plea does, of a mere summary denial of the case stated by the plaintiff, and giving no notice of any defensive allegation on which the defendant means to rely, it sends the whole case on either side to trial, without distinguishing the fact from the law, and without defining the exact question or questions of fact to be tried. It not unfrequently, therefore, happens, that the parties are taken by surprise, and find themselves opposed by some unexpected matters of defence or reply, which, from the want of timely notice, they are not in due condition to resist.

But an effect of more common, and indeed almost invariable occurrence, is the unnecessary accumulation of proof, and consequently of expense; for as nothing is admitted upon the pleadings, each party is obliged to prepare himself, as far as it is practicable, with evidence upon all the different points which the nature of the action can by possibility make it incumbent upon him to establish, though many of them may turn out to be undisputed, and many of them may be such as his adversary, if compelled to plead specially, would have thought it undesirable to dispute.

With respect to matters of law, the inconvenience experienced, though of a different kind, is not less remarkable; for when points of law arise upon the general issue, instead of being developed, by way of demurrer, for adjudication by the full court in *banc*, they are of necessity left to the decision of the single judge before whom the cause is tried; and their decision, upon his sole authority, deprived as he generally is of the advantage of any previous intimation of the matters to be argued, and unable to refer to books, is often found to be unsatisfactory and inconclusive. It may even happen (and that is not an unfrequent occurrence) that the controversy, under this form of plea, turns *entirely* upon matter of law, there being no fact really in dispute; and, in that case, the mode of decision by jury is not only defective but misplaced, and the trial might have been spared altogether, if the parties had proceeded by the way of special pleading, and raised the question upon demurrer.

Another ill consequence attendant upon the general issue is, that as the true point for decision has not been evolved in the pleading, it becomes the business of the judge to extract it from the proofs and allegations before him, to sever correctly the law from the fact of the case, and again, the facts admitted, from those in controversy, and to present the latter in a distinct shape to the jury

for their consideration; an analysis which the rapidity and tumult of a trial at *Nisi Prius* renders extremely difficult, and which is often defectively conducted.

Of the state of things here explained, it is the natural effect that when the general issue is pleaded, the trial fails, in numerous instances, to accomplish the purposes of justice, or even to terminate the legal dispute, and is followed by the application of the defeated party to the full court in *banc*, for a new trial. This proceeding involves the necessity of recapitulating, for the information of that court, the whole of what passed *vivâ voce* at *Nisi Prius*, of which there is no admissible report, except that of the presiding judge, upon whose alleged error in point of law the application most commonly is founded. The motion for a new trial is, for this reason, beset with peculiar difficulties; the effect of which is, that it ultimately fails in many cases (as there is reason to apprehend) where in justice it ought to succeed, and succeeds in many cases where there is in reality no sufficient ground for the application. It may be added that, even when successful, it gives no redress, beyond that of awarding a new and expensive inquiry upon the matter of fact; and that with respect to the matters of law, of which it may involve the discussion, they are less distinctly and less satisfactorily decided, upon the motion for a new trial, than when raised by special pleading, and so brought before the court in the first instance, by way of demurrer, for determination.

But these considerations give an inadequate idea of the extent of the inconvenience now produced by the great and growing frequency of the motions in question. Indeed we know of no existing abuse of which the influence is so wide, and the pressure so intolerable. They have in a considerable degree impaired the value of a verdict, which, according to the ancient and true principle of law, was of a final and conclusive character, but is now in so many instances subjected to the revision of the court in *banc*, and with so much facility set aside, that the party in whose favour the opinion of the jury is declared has comparatively little reason to rely on the permanency of the advantage he has obtained. He too often finds that it is but one successful struggle in an arduous and expensive contest, which is to end at last in defeat. But an effect still more serious is the enormous extent to which this branch of practice has encroached upon those portions of the public time properly destined to other employment. As an illustration of this, we may refer to returns received from the King's Bench and Common Pleas, by which it appears that in Michaelmas Term 1829, ninety-nine motions for new trials were made in the former court, and forty-nine in the latter; that in the King's Bench rules *nisi* were granted upon fifty-three of these applications, and not more than four rules for new trials ultimately disposed of in the course of the

term; and that in the Common Pleas there were thirty-nine rules *nisi* granted, of which ten only were disposed of. To such accumulations addition of course is made in each succeeding term; and were it not for the assistance obtained from the sitting of the three judges out of term (a jurisdiction which, in other respects, has appeared to us objectionable, and to require abolition), the result, as far as regards the Court of King's Bench, would be a total obstruction of the current of ordinary business, by the growing masses of arrears upon motions for new trials. The tendency of the general issue to give occasion for such applications, we have already attempted to explain; and we have no hesitation, therefore, in attributing to the use of that plea the far greater part of the evils to which we have thought it our duty to advert, as connected with motions of that description. We think, too, that its disuse would supply the only practicable and effective remedy.

Other inconveniences, though certainly of less moment, result from that method of pleading. It often happens that points of law, arising at the trial, receive no decision from the judge, but are reserved by him for the opinion of the Court in *banc*; or with a view to a more distinct and solemn argument before that Court, the facts proved are thrown, by consent of parties, into the form of a special case. Neither of these methods is comparable, in point of certainty, of dispatch, or of cheapness, with that which is afforded by demurrer; and their substitution for the latter operates, like the motion for a new trial, though in a less degree, to the prejudice of both the parties, and to the delay of public business.\*

There is an important communication from Sir William Draper Best, L.C.J., in the Appendix to the same Report, where he proposes *vivâ voce* examination of the parties as a remedy against the defects of written pleadings. If he had recommended this examination to take place before the judge, it would have corresponded in a great degree with our idea of what pleading ought to be.

'Assignees of bankrupts are now permitted to summon any persons against whom they bring actions before the commissioners of bankrupts, and examine them as often as they please. Assignees have often extracted, by such examinations, sufficient evidence to support their actions. If it is fit that assignees of bankrupts should be allowed to examine those whom they sue, it is equally fit that other plaintiffs should have the same privilege. And if plaintiffs are permitted to examine defendants, the latter should be allowed to examine plaintiffs. An account on the oath of any party to a cause may be obtained by a bill of discovery. This proves that it is not contrary to equity to examine parties against themselves. The bill of discovery is expensive, dilatory, and often useless. I have heard it said that an equity draftsman must be a great bungler if he cannot

save his client from perjury, and yet contrive that his answer shall be of no use to the party who calls for it. To get at truth, the examinant must be required to answer promptly: he must answer for himself, and not have the assistance of another person to find words for him. The examinant' (qu. *examiner?*) 'must have the opportunity of putting such further questions as the answers of the examinant suggest. Neither an answer in chancery, nor an examination on interrogatories, will answer all these purposes. I propose, that as soon as any action be brought (even before appearance) either party to a cause may examine on oath the other, before a barrister of five years' standing; or if the parties live more than ten miles from any such barrister, before any attorney who has practised five years, that shall be appointed by the Chief Justice of the court in which the cause is depending. The words used by the examinant should be taken down by the person before whom such witness is examined; and the examination so taken be returned to the Court. No questions should be put to any party, which cannot be put to a witness in court, or which a defendant in equity cannot be compelled to answer. The person before whom the examination is taken should be sworn to take the evidence fairly, and to report it correctly. After such examinations, in a great number of cases very few, if any, witnesses will be required. The whole of the case of each party will be fully disclosed, and nothing will remain for juries to do but to assess damages. In cases which depend on circumstances of which the parties have no positive knowledge, and which are to be proved by witnesses, the parties will, from these examinations, discover the nature of these circumstances, and each side will come prepared to make the best of their respective cases. There will remain no pretence for complaining of surprise. Some persons think that parties should not know each other's cases. Parties know each other's cases in the trial of issues from Chancery; and when causes are tried a second time, these cases are more easily and satisfactorily tried than any other. Much more mischief is to be apprehended from surprise than from the fullest knowledge of a cause. When each party is equally prepared, no tampering with witnesses—no trick will defeat truth. There will be no occasion to prove instruments, the execution of which is admitted by the party against whom they are to be used, unless he accompanies his admission by the suggestion of something that tends to impeach the validity of the instrument offered in evidence. Attesting witnesses are now brought from the most distant parts of the kingdom to prove instruments, the due execution of which there is not the least pretence for disputing.

There are parties who, ignorant of the answer their opponents have to give, think they have good cases. There are some who know that if the whole truth can be got at, they have no chance of success, but persevere in litigation, in the hope that their adversaries will



not discover their weakness, or will not be able to take advantage of it for want of proof; others are misled by their attorneys, who afterwards excuse themselves from advising their clients to proceed by protesting that their clients deceived them. These are the ways in which parties deceive themselves, or are deceived to their own ruin, and sometimes the ruin of their unfortunate opponents. The examination of the parties will dispel these delusions; the clients will know the insufficiency of their cases, and that their adversaries are prepared to take advantage of it. Attorneys will not be able to screen their characters from the reproach of having given bad advice, by the pretence of not knowing the defects of the cases they have undertaken. I am persuaded that these examinations will stop many cases, and prevent much misery.\*

It is astonishing that, in all these observations of professional men, both on the defects in the English mode of ascertaining the point in dispute, and on the remedies, to not one does it seem to have occurred, that this is a business for the judge,—that it is one great portion of the judicial inquiry,—that unless this part of the inquiry is well performed, nothing else can be well performed,—that there is no chance of its being habitually well performed, if it is not performed by the judge,—and that collateral advantages of the greatest importance result from its being made an essential part of the duty of the judge.

This is a remarkable fact, in evidence of the effect which practice produces on the minds of practising men. They look at what is. That is their habit; and to such a degree of strength is it brought, that they almost lose the power of adverting to anything else. English lawyers have never seen that this has been any part of the business of the judge; it is passed over by them, consequently, as a thing which does not require his interference, and which is fitly performed without him. To us it appears to be so completely the guiding principle of a good procedure, and so necessarily to bring along with it every thing else which is good, that we shall treat very summarily the other parts of procedure.

All the curious learning, and all the vexatious practice connected with the subjects of writs and actions, is discarded at once, if this rational mode of pleading is adopted. A notice to the defendant when his presence is wanted, is all that is necessary to bring the whole case into court. And the dealings of the judge with the parties does all the rest, till the second part of the judicial inquiry commences,—that is, the trial, or the determining, by evidence, the point of fact or of law, on which the question of right is found by the judge to depend.

Of course, the object of a good procedure is, that justice may be attained with the greatest certainty, and at the least expense. One of the great causes of expense is the attendance of witnesses. Every thing, then, should be done to prevent the attendance of unnecessary witnesses. This important object may be attained completely, if the grand instrument of *vivâ voce* pleading is used.

No witnesses should be allowed to be summoned but under the *fiat* of the judge. Of course, he will allow none to be summoned but those who can speak to the issue—to the point which determines the question. He acquires that requisite knowledge by interrogation of the parties. The party on whom the burthen of proof devolves, is desired to state what witnesses he wants to be summoned. He is then made to explain with respect to each of them, to what it is that he expects his evidence to go; and only if it appears that such evidence will be useful, does the judge allow the presence of the witness to be required. The defendant, in like manner, is made to show what it is which he expects each of his witnesses to do in meeting such proof; and, upon such showing, the judge in like manner determines which of them shall be required to attend.

On the mode of taking the evidence we think it unnecessary to enlarge. The subject, as regards evidence from all its sources, has been treated with the greatest fullness and efficiency by Mr. Bentham, and we could only repeat what he has explained. There are, however, two of the points on which he has enlarged, to which, on account of their vast importance, we think it necessary to call the attention of our readers.

Except in cases of necessity, all evidence should be delivered *vivâ voce* in open court, and fully subject to cross-examination. This is the most efficient of all securities for truth in testimony; and yet it is deplorable to learn to what an extent English law, which admits the principle, allows it to be departed from in practice; and the most important points to be decided on evidence unnecessarily deprived of this important security, and therefore of far inferior value.

One of the plainest precepts of common sense is, that evidence to the point in question should be sought from every source from which it is likely to be obtained. All systems of law have run into the most incredible absurdities on this subject, and not less than any of them the English law: its rules about the exclusion of evidence are such, that they would seem to have been drawn up by men whose object it was that the truth should not be disclosed. Reason immediately concurs in the conclusion, that no evidence should be disallowed which bears upon the point, and of which the

attainment is not so difficult as to countervail the use. We refer to Mr. Bentham for the triumphant establishment of this great practical maxim. His remarks on the wretched pretences on which the rules of exclusion have been defended, deserve to be pointed out as one of the happiest specimens of the refutation and exposure of interested nonsense.

When the point of fact or of law on which the question of right depends has been determined, nothing remains but to pronounce the decree and give it execution. The means of giving effect to the award of the judge are so simple and obvious, that they cannot escape the notice of any man whose real desire it is that the best means of attaining the object should be employed. It is not therefore our intention to lengthen this article by the needless labour of pointing them out.

Such is the compass of law reform. It is all contained in three essential particulars:—expressing the law as it ought to be expressed; employing judges to do the judicial business of the country where they can do it to most advantage; prescribing to them the mode of inquiry which leads with most certainty, and least trouble, delay, and expense, to the knowledge of the truth.

That they are simple means, that they are efficient means, and that all other means are bad in comparison, is among the clearest and most infallible of the deductions of common sense.

It is very evident, however, that they must be conjoined, in order to the attainment of the end to which they are directed. No one, and no two of them, without the other, will answer our expectation.

Suppose we have the law expressed, as it ought to be expressed; but judges employed and distributed in the barbarous and irrational manner in which the men doing judges' work in England are distributed and controlled, and doing it with the detestable procedure which they use; it cannot be doubted that the improved expression of a law administered by such instruments would go a very little way towards affording us the unspeakable benefits of good judicature. The delay, the expense, and even the uncertainty, would be very little diminished.

Again, suppose we had judges well supplied and placed, both for the original and appellate jurisdiction, but acting through an abominable procedure, and with a law abominably expressed, it is obvious under what disadvantages these judges would necessarily act, and to what an extent they would be hindered from affording to the community the benefit of a good administration of justice.

As these three things, had in perfection, are indispensable for a good administration of justice, it is obvious what must be the effect of trying to do without them, by making repairs on the despicable instruments which exist. Repair them as long as you please, you will have nothing but a pair of Sir John Cutler's stockings after all. Touch this thing or the other thing in your ill-contrived judicial establishment, it is an ill-contrived judicial establishment still. Rectify some of the vices of your system of written pleadings, it is a system of written pleadings still, and thoroughly ill-adapted to the end we desire to attain. In regard to codification, doing this piecemeal is something like a caricature of reason. If a mass of ideas, all in disorder, are to be methodized so that they may be expressed with the greatest brevity and accuracy, you must take them all together; you cannot detach a portion, and say, we will order these; because the order proper for them depends upon the order which is proper for all the rest.

We do not, however, though we think this a most important principle, undervalue the efforts of those who have pushed the work of codification in a less perfect manner. They saw that in the benighted state of mind of those on whom the decision still depended, the proposition to systematize and accurately express the whole law would be regarded as something frantic, while that of working upon a part would at any rate obtain a hearing. That hearing was, at all events, a good thing. It tended to familiarize to all men's minds the subject. It tended to make them acquainted with the reasons for and the reasons against codification; the clearness and cogency of the one, the miserable imbecility of the other. This process happily is going on; and we expect shortly to hear a call for general and comprehensive codification, as irresistible as that which has given us, at last, a commencement of parliamentary reform.

We shall, probably, be asked, how we would introduce this tripartite reform, no part of which will act well in the absence of any other?—and this we are very willing to declare. We would make all the requisite preparations. We would have the law codified to the reasonable satisfaction of those who are competent judges of such a work. We would have the judicial districts of the several judges of original jurisdiction properly marked out; and the judges, both original and appellate, carefully selected and appointed. We would also have the proper rules for settling the issue by the judge, under the interrogation of parties, and for conducting the proof of the issue, settled with the utmost care, and prescribed. We would then introduce the reform entire and at once, and without any apprehension of inconvenience for a moment. Every judge would be at his post, with an intelligible book of the law for his guidance; and with only the ordinary portion of good sense, to develop the

allegations presented to him, and an honest desire to do his duty, he would not often go wrong; because his path would be darkened neither by a mysterious law, nor a mysterious procedure. The people would find the redress of their wrongs offered to each of them at his door, without delay and without expense; and every man would congratulate both himself and his neighbours upon so great and happy a change in their situation.

It is often asked, as an objection to this reform of the judicial establishment where would you find a sufficient number of qualified men to act as judges? But this is a question very easily answered. The apprehension of difficulty arises from a confusion of ideas. The idea of the old technical system springs up; and, along with it, the idea of the men who, by a life of labour, have mastered the difficulties of some part of it. A great number of such men there would be some difficulty in finding. But there is no need of them. Our book of law is a plain book: and our system of procedure is a plain course, the dictate of common sense in every step of it. A very short apprenticeship would qualify any well-educated man of ordinary understanding to be a good judge in such circumstances.

The chief demand for high qualifications would be in the judges of appeal; but they would not be so numerous as to make it difficult to find men of the highest qualifications for their important and elevated situation.

The only part of the preparation, which would require time, would be the codification of the law; that is (be it always carefully remembered) putting it into good order and good expression. Here the quantity of the labour is great; and it cannot be divided. The law cannot be separated into parcels, one part given to one man, another to another, to codify. The marshalling a mass of ideas in disorder is essentially the work of one mind. One mind must survey the whole, to be qualified to say where every part of a confused mass should be located, in order to make it part of an organized and systematic whole.

It is very evident, however, that in order to afford the best chance for having the work well performed, more minds than one should be applied to it. This might be done by the offer of premiums. To any man who produces a code, adequate reward should be insured. A very high reward should be held out to him whose production, on the comparative trial, is the one approved. But to induce men to devote a number of their years to hard labour, something more than the mere chance of a reward must be afforded. The men who are most likely to be efficient workmen will be found to be without independent incomes; and they must be supported while the work is going on. Some arrangements would be necessary (the reward

being high) to limit the number of applicants admitted, and to guard against fraud; but these smaller matters present no painsworthy difficulty, and will be thought of time enough, when the public voice is prepared to call imperatively for this essential instrument of a people's good. Whether this call will come at a less or at a greater distance of time, it is impossible to foresee. The work will certainly be performed, whenever we have a House of Commons which truly represents the people; that is, a House of Commons chosen by the people, not nominally, as, to a great degree, it is at present, but actually, and in truth; when, and not before, we shall have a House of Commons whose thoughts will be devoted to the public weal.

P. Q.

[\[Back to Table of Contents\]](#)

## **Art. I.**

### **ARISTOCRACY.**

THE advocates of aristocracy—who are numerous, not without abilities, and of whom there will be good supply for some time to come—labour strenuously to confound inequalities of fortune with aristocratical privileges. And no wonder they do; for all the plausibility of their sophisms is derived from this expedient. Were they obliged to speak of aristocratical privilege, truly, as it is—power held by a certain narrow class to do with the rest of the community what they please—they would be treated with the scorn, which a pretension so impudent and hostile deserves. While allowed, however, to practise with the forked tongue, and talk of inequality of fortune and aristocratical privileges as the same, they can hold up the advantages accruing from inequality of fortune, and by a juggle of language make them pass for advantages of aristocracy.

This is the course which must always be pursued when a bad thing is to be vindicated. The praises of some other thing, which is good, are cunningly transferred to the thing which is bad. When the object is to defend a useless and most expensive ecclesiastical establishment, take notice that the praises of religion are transferred to it. The two ideas—that of religion in all its excellence, and that of an ecclesiastical establishment, however bad—are blended together by artful language, and so closely associated, that ordinary minds find it difficult to disjoin them. When this association of ideas is pretty generally formed, the ecclesiastical sophists proceed at their case. Their business is only to declaim and abuse:—‘Base men! would you destroy religion?’ Or, if in Ireland, ‘Base men! would you destroy Protestantism?’ When all the while there is no question about either religion or Protestantism, but only about an ecclesiastical establishment which is inimical to both.

Take another example, in the abuses of government. They who desire to maintain in existence the causes of evil strive to confound them with the causes of good; and by taking them in the lump, apply to the causes of evil the praise which belongs to the causes of good. We are told of the advantages of the constitution: that is, in their sophistical language, the benefits of government in the aggregate. Well, we are as sensible of the benefits of government as they are; but we will not allow them to transfer the credit of those benefits to things which are not the causes of them, but the

reverse—causes of evil, not of benefit. They may compliment causes of evil with the name of part of the constitution, as long as they please; we shall not be inclined to suffer them any more on that account. Those parts of the constitution which we hold sacred are the causes of good. By casting off the things which are the causes of evil, we think we are doing service to the constitution, in the only sense in which it deserves a particle of our respect.

Reformers are far from thinking evil of inequalities of fortune: on the contrary, they esteem them a necessary consequence of things which are so good, that society itself, and all the happiness of human beings, depend upon them: a consequence of those laws whence the generation and augmentation of property proceeds. That the prosperity of nations may advance, there must exist motives to accumulate. But these motives will operate on some men more, on some less, on some not at all. There will be different degrees, therefore, of accumulation:—and this is the origin of all inequality of property. Nor can the tendency to it be checked, were it desirable to do so, without checking accumulation, and all the advantages which are to be derived from it.

But, abstracting from the consideration that we cannot have other things which are good for us in the highest degree, without having inequalities of fortune along with them, we consider inequalities of fortune as themselves good—the cause of most admirable effects. To have men of high intellectual attainments, we must have men who have their time at their command: not under the necessity of spending it wholly, or in greater part, in providing the means of subsistence:—in other words, we must have men of independent incomes. And that we may have this happy effect, in the desirable degree, we must have them not few in number; we must have them a more than inconsiderable proportion of the population. Where the only men who are in circumstances to devote themselves to intellectual pursuits are few in number, there is not sufficient stimulus. There must be a public capable of appreciating such attainments, sufficiently numerous to give a weight to their esteem, before a motive can be generated sufficiently strong to induce any considerable number of men to take the trouble, long and laborious, of making themselves knowing and wise.

Besides this first and all-important effect, a class of men possessing leisure is absolutely necessary for cultivating the elegancies of life. This cannot be expected from men absorbed in the labours and cares of earning a subsistence. A society composed of such men would be necessarily coarse, and would have a tendency to grow more and more so: a taste even for cleanliness and neatness would be apt to be lost among them. But the laborious classes are prone to the imitation of those who are in circumstances above them; and



when they see elegance, are fully capable of discerning its superiority to that which is coarse; they are refined by imitation; and it is of prodigious importance to have in each community a standard of behaviour to which they may look up; and even of household accommodation, which they may strive to imitate—if not in the costliness of the materials, at least in the style of the arrangement, and even the beauty of the forms.

Ingenuas didicisse fideliter artes  
Emollit mores, nec sinit esse ferros.

And even to be conversant with the refinements of life, the simple, unaffected, and true, is a kind of drawing into the path of virtue.

But while we thus value the advantages of inequality of fortune, we must say a word for the prevention of a common, but grievous mistake. They are the natural inequalities of fortune, not the unnatural, to which all these advantages are attached. By the natural inequalities of fortune, we mean those which are the result of the natural laws of accumulation; not those which are the result of unnatural restraint put upon the natural laws of distribution—that a man shall not leave his property to whom he will, or that it shall not go in equal portions to those whose proximity of relation to him is the same. The inequalities which are owed to this source are mischievous in every way—restraining the salutary effects which flow from inequalities of the natural kind, and operating otherwise as a disease in the body politic.

A few reflections will make this evident; and it is a truth which deserves our most profound attention.

The first effect of those artificially-made, unnatural inequalities, is to raise up a small number of enormous fortunes, which stand by themselves, and constitute a little class. We have only to think of the situation of the persons in whom those masses of property, which cannot be used for any useful purpose, are vested; and the influences which thence act upon them, at every stage of their lives.

What motive have they to cultivate the intellectual virtues? or any other virtues? Their business is pleasure. Distinction is created for them, by the command which they have over the things which all men desire.

Not acquiring the intellectual virtues, it is their interest to profess contempt for them, and to the utmost of their power to prevent the esteem of them from rising in the community. They hate men of intellect, and drive them away. Observe the character of those

whom, not distinguished by the same gifts of fortune with themselves, our English nobility raise, as they term it, to their familiarity. Have men of intellectual superiority been much found among them in any age? The men whom they delight to honour are rhymesters, story-makers, pretenders to literature but true parasites, singers, fiddlers, dancers, painters, joke-crackers, and buffoons.

The effect of this is very great in keeping down the value of intellectual acquirements in the nation—lessening the motive to the acquisition of them, and diminishing the number of those who reach them; for this class have the power of setting the fashion, and their example forms the general taste.

This is one deplorable effect of these artificially-created and unnatural inequalities of fortune;—that they keep down the standard of intellectual excellence in the nation; in which they are potently assisted by the clergy of a vicious establishment, to whom the prospect of growing intellect in the community is despair.

Nor is their influence less potent in preventing the general diffusion of a taste for the elegancies of life. The distinction of men overflowing to excess with wealth is not to have beautiful things, but costly. A passion for running after the costly things, in preference to the beautiful, is created and diffused; the universal emulation is to put forth the gaudy signs of being rich, to the ruin of many of those who enter into this barbarie competition. Cost and elegance becoming synonymous terms, the very thought of seeking for elegance—which in this sense they cannot afford—is extinguished in the breasts of those among whom it is of most importance that the taste of real elegance should be diffused: because from them it descends with greatest ease to the body of the population.

It would be very instructive to illustrate this observation in detail, and to show how the operation of large fortunes tends to the corruption of taste, in everything to which the word elegance is with propriety applied. But we must confine ourselves to a few instances.

To begin with architecture, which is one of the noblest of the fine arts, and of which the creations, when really tasteful, have the power of calling up such a train of interesting associations as constitute some of the highest of the pleasures of imagination. By the strength and durability of their materials, uniting one age with another—by the charms of proportion, and the superaddition of appropriate and harmonious beauties to the parts essential to the use for which the building is designed—in the ornaments of which,

for every purpose of taste, the idea of fitness, or the useful, must always predominate—trains of the most agreeable ideas are incessantly renewed; and with this great advantage, that the creations of architecture are of necessity public; and the enjoyment of them, like the light of day, is as much the property of the poor as of the rich.

The unmanly and frivolous state of mind which characterizes a class overloaded with wealth has actually extinguished architecture among us as one of the fine arts. It has become a low trade of mimicry, or rather apery—misjudging, misapplying—forming incongruous monsters, revolting to good sense as well as to good taste. Who but people whose taste is gone would have thought of erecting, as ornamental, a triumphal arch, in an age, and a country, in which there are no triumphal processions, and in which the reality of that barbarous and inhuman exhibition would not be endured? A man of taste would as soon think of ornamenting his drawing-room with the thumb-screws and bootikins with which the hierarchical churchmen of Scotland tortured the Presbyterians, as to ornament his street with a triumphal arch!—not to mention the bright idea of setting it astride, not a public street, through which only would a triumphal procession pass, but a by-path, leading to a private dwelling.

We have also some beautiful specimens of the rich man's taste, in gates. A gate is an opening through the inclosure of an inclosed space. The gate of a walled city is an opening into the city through its wall;—a gate into a park or a field is an opening through the fence of the park or the field, into the field. But it is evident that there is no sense in a gate higher or more elaborate than the fence, of whatever sort it be, through which it affords admission. Take, then, as a specimen of congruity, proportion, or good sense, the extraordinary piece of stone and mortar at Hyde Park Corner, which lets people into a green field, through a paling four feet high;—and, as another specimen, the thing set before the palace at Buckingham Gate, standing totally detached from the building, like a pillar of salt, and put there it should seem only (by the superiority of its material) to make the palace look dirty and mean.

But the thing which deserves most reprobation is the despicable mimicry, substituted for ornament, in the ordinary class of expensive buildings. Every idea of appropriate ornament seems to be abandoned, in order to stick about them the appurtenances of a Grecian temple. The men of Greece did what men of sense and taste will always do—they considered what were the substantial, indispensable parts of their buildings; to these they endeavoured to superadd such shapes, proportions, and decorations as harmonized with them. The essential parts of Grecian buildings, particularly

temples, of which almost solely any specimens have remained for our inspection, were pillars, and the roof which they were placed to support. The chief thing which admitted of ornament here were the pillars. What grace and beauty the Grecian architects contrived to bestow upon them is known to all. The substantial, indispensable parts of buildings in our climate are solid walls, with holes cut in them for doors and windows. The study of our architects should, therefore, have been, the ornaments which could be applied to solid walls, windows, and doors—as well by variety and grace of form, as by other congruous decorations. But our architects, under guidance of the wealthy man's taste, have abandoned the very thought of this, and have dreamed of nothing but giving us the supports of a Grecian roof, where all roofs are otherwise supported: exhibiting mere affectation, and the utmost barrenness of invention. What an image is presented to a man of cultivated taste, when he sees that which is the appropriate support of the roof of an open building stuck into the heart of a solid wall, or standing a little space before it, with something laid on its top, to make a mock show that it has got something to do!

Music, fortunately, it has not been in the power of our rich man's taste to spoil. It is not of home growth. The man of wealth is obliged to take it as it is made for him, in places more favourable to the wholesome cultivation of it; and one of his affectations is to profess a delight in it, which is beyond both truth and reason. In this, too, his conduct is very unfavourable to the progress of taste. The profession of the intense in the enjoyment of the fine arts, tends to working for the intense in the productions of them; and then truth, and nature, and all that is of fine relish in them, goes. There is a peculiarity well worth remarking in our rich man's concern for music: he hates that the enjoyment should go down to his poorer neighbours. Yet it is obvious that this is a very desirable thing. In the first place, it is an innocent pleasure; and in so far as it exercises agreeably the vacant time of the labouring man, it is a good *per se*, and moreover a diversion from the pursuit of pleasures which are otherwise than innocent. But there is another effect of still greater importance. Sweet music is in unison with all the sympathetic affections of the soul, and by drawing out trains of such emotions tends to make them habitual in the mind. A really wise and beneficent legislature would reckon it a great point to cultivate a taste for music among the common people, and to afford it to them of a good kind. The conduct of our legislature, under influence of the rich man's taste, and the churchman's hypocrisy, is altogether its own. There never was anything like it in the world. It treats the common people as unworthy to enjoy the pleasure of music. Latterly the taste in music had so much improved, that the strolling musicians, who practise in the streets, had become no bad performers; and very tolerable music might be heard in the streets.

That was the moment for declaring war against it; and now it is all but prohibited: as it is, in those only other places, where it was in the power of the common people to enjoy it—the places of cheap resort. If there was danger, as no doubt there was, of improprieties in those places of unregulated resort, what was to be done? Why, to afford the same, or better amusement, in places properly regulated.

In painting and sculpture, the taste of the man of wealth is notorious and proverbial: it is pure selfishness. His money is all lavished on old pictures—the reverse of encouragement to the making of new—and on portraits. The old pictures he carries home, where he is proud of them as signs of his wealth, and shuts them up from public inspection, which is almost their only use. Portrait-painting, and portrait-sculpture, the very lowest branches of the art, are the branches which he really encourages: so that, in the higher departments, very few attempts are made; and the art in this country is stationary, or worse. We do not, however, regard this as much of a misfortune. To the body of the population, pictures and statues can never render very valuable service: they are but poor arts; and the pleasures they give are but little connected with any of those mental states which we are interested in cultivating. The exhibition of the human form in its ideal perfection is the best thing they do; and that is something. The perfection of the female form calls up ideas of love; and of the male form, ideas of dignity, or of force. But these are states of mind which nature provides for. In telling a story, to call out the affections, the brush and the chisel are very defective: their resources are confined. Except by some hideous exhibition, as that of the Laocoontes, or Ugolino, the emotions raised are faint.

In respect of this art, there is in the behaviour of the men of wealth in this country to the rest of the community, something characteristic, and singularly worthy of attention. Under pretence of improving the taste of the people, they get the community, as often as possible, to buy certain articles, which serve exclusively for their own enjoyment; and while they are doing so, exclude the people, about whose taste they are so anxious, from the enjoyment of the beauties of nature—a source of the greatest improvement—by shutting up paths, which are the people's right, and from which they are excluded only by the right of the stronger, or, in plain English, robbery.

We are accustomed, no doubt, to acts of rapacity on a larger scale; but there never was in degree a more profligate instance of the abuse of public money than the purchase of two Corregios the other year, by money extracted from the pockets of an overburthened population. Why did not the men of wealth, if they wanted such things—nobody else did—purchase them with their

own money? The pretence that the purchase was for the good of the people, even after all our experience of impudent pretences, was astounding. Our legislators gave 11,000*l.* for two Correggios, and had but 20,000*l.* to spare for the education of the people, and could not at all relieve them from the taxes on knowledge! Oh, brave!

We come now to an art, which is of greater importance, than all the rest taken together, the art of conversation.

When a society exists, well constituted for the pursuit of intellectual attainments and of the elegancies of life, a style of social intercourse is cultivated, which whets the understanding, and improves at once the morals and the taste. Men of independent, but few enormous incomes, sufficiently numerous to form a class and a public, are obliged to seek distinction among themselves by qualities which recommend them to the respect and affection of their fellows. These are, the high qualities of the intellect, the practice of virtue, the endearing affections, and elegance of deportment in life. In the social intercourse of persons so circumstanced, the principal ambition must be to make manifest the possession of such qualities. It needs but little stretch of imagination to see the consequences. Think what a society must be, in which all that is respectable in intellect and correct in conduct is the object of display: what effusions of knowledge,—what ingenuity of discussion,—what patience with the ignorant,—what gentleness in the contest of differing opinions,—what tasteful disquisitions on the slighter ornaments of life, and what grace in the enjoyment and display of them! Social intercourse of this kind is a school of all that is grand and lovely in human nature. And where such is the style of that intercourse in the leading class—a class not separated from, but intimately mixed with, the rest of the community, the imitation of it is inevitable. The community becomes intellectual and refined. Please call to mind that this is the state of things, which a vapouring man, a needy dependent of the aristocracy, said was to tread down all that is ornamental in society “under the hoofs of a swinish multitude:” a formula which was greedily taken up by those who thought themselves made of a different clay from the “swinish multitude;” and actively made use of, till they found it would no longer do. The “swinish multitude” now know that they are a potent multitude; and they will no longer be trodden down under heels however high-born and genteel.

We have now to consider the style of social intercourse which is generated by the circumstances of a society composed of men of overgrown wealth. The distinction of these men arises from their wealth; and for the most part they seek no other distinction. This is a fruitful source of consequences. High mental qualifications, not

being the cause of distinction to such men, are not possessed by them. They cannot take part in conversations where these are displayed. They therefore banish them from their society. It is voted ungentle to be the introducer of a serious subject; and the frivolity of the conversation in the high circle is proverbial and notorious. Pope, who often hit off characteristic features with great felicity, gave a taste of aristocratic conversation, in speaking of the heads of the aristocratic circle, Kings:

—————“Heard every lord declare  
His noble sense of op’ras and the fair.”

The writers of books of entertainment, in verse or prose, and suited to the aristocratical taste, also men who can vent the cant of criticism, or who have got by heart and can spout flashy passages out of books, and come out occasionally with bits of knowledge or pretended knowledge, are admitted into this high society; but men of solid acquirements are not there; and the others are admitted on terms sufficiently humiliating. Mr. Moore, though one of the most favoured of the admissibles, complains that he was invited not as part of the company, but as one who could help to entertain the company. Observe also the distinctions they make; who they are whom they favour, and who they are whom they neglect; they make this man a pensioner, the other man a baronet; and the only great poet we have had since Milton, they made a gauger.

So much for what is gained in intellect by the social intercourse of high people. Let us next see what is gained in morals and refinement. Their conversation has two tones, and two only; that of mockery, and that of vehement admiration. These are the tones naturally assumed by men who think themselves superior to all others, and that upon the worst of grounds. To talk of plain things in a plain way is below the dignity of such people; the herd of mankind do that: they never talk but to show what they think of themselves; that is, with contempt of all the rest of the world; and with strained admiration of their own set, and the things which distinguish it. How prodigious their admiration of pictures!—because pictures are a luxury confined to themselves; of expensive music, for the same reason: of fine houses, fine horses, and fine dogs. The intense in admiration is in itself bad; hostile in the highest degree to the progress of taste; and the infallible criterion of a feeble understanding. When it is exclusively bestowed on frivolous objects, it is hostile to every thing that is valuable in the human mind.

But if their admiring tone is thus injurious, their disdainful tone is infinitely more so. What is desirable above all things in society is a spirit of mutual benevolence; a kindly feeling towards one another

pervading the whole community. To this the tone of scorn and mockery is in direct hostility. Sympathetic kindness does not inhabit the breast along with contempt. Scorn is the natural expression of the hostile mind, where other manifestations of it are not permitted; and the indulgence of scorn is the plentiful feeder of the hostile mind. The hostile mind, therefore, is proved; and that we do not feel the more cruel effects of it, is only because they in whom it exists dare not attempt them. How deeply we are indebted to our power of striking terror! If it were not for this, we should be in the condition of the most miserable of mankind. Do you ask any further proof than the nature of the case affords? Look at Ireland.

It is thus evident, that society derives no improvement from the style of conversation and social intercourse which take place in a class of men of overgrown wealth. It is, on the other hand, the main cause why the state of intellect, of morals, and of taste, is in this country at the low point at which, in each of these respects, it remains; nor will there be any change for the better, till the influence of that class ceases to be predominant.

We have as yet considered only the effects upon society produced by a class of men possessing large fortunes, secured by special laws against distribution, without political privileges. We are now going to consider what effects are produced by the addition of political privileges.

A privilege means, a beneficial something conferred upon an individual, or class of individuals; in which the rest of the community are not permitted to share. These privileges are always some one of three things—money, or dignity, or power. The privilege is the most perfect when it combines, as it commonly does, all the three. Let us see how they, severally and respectively, work.

By the money-privilege is not meant the enjoyment of a man's own property, whether large or small; for that belongs to every member of the community, one as much as another. It is money peculiarly allotted. The most remarkable case of this which has been actually exemplified, is that exemption from taxes which formerly was one of the privileges of the nobility in France. The sinecure places in England, once of great amount, reserved for distribution among the people of rank, is another instance of the same thing. It is not necessary to allude to more; and it is very evident what this benefit in the case of the few is composed of. It is composed of oppression to the many. There is so much taken from the many, that it may without reason be given to the few. This kind of privilege therefore is always wicked. And we must not permit the friends of this wickedness to confound it, which they like to do, with another thing



which is not wicked,—the reward of important service. That is no privilege. What is so bestowed by the people is bestowed for their advantage, to secure them a supply of eminent services; and if such rewards are honestly conferred, any individual in the community, as much as another, may aspire to them.

The reflections which apply to factitious dignity are of kin to the above. We say *factitious* dignity, because it is that alone which has anything of privilege in it. Dignity, from its natural sources, from superior wisdom, superior beneficence, superior elegance, is open to the aspirations of all the community; even the dignity which springs from the associations we have with superior wealth, the effects of which are of a more mixed character, is not withheld from any member of the community who can manage to become rich. The dignity we mean is the dignity which is conferred by artificial distinctions; by titles, by precedencies, or any of the other contrivances, by which, apart from the natural causes of dignity, elevation is given to an individual or a class.

A reflection is called forth upon this subject, which is of the highest importance, and which has been far too long in attracting the notice which it ought; for, out of what is this dignity to the one, or to the few, created? The answer is indisputable: the degradation of the rest. A man is elevated above others, only by making others lower than him. But if I am made lower than another man without reason, that is an injury to me: it is injustice and oppression. If another man's pocket is filled out of mine, all the world acknowledges the oppression; but my dignity is dearer to me than my wealth. If then my dignity is lessened to augment the dignity of another man. I am injured in a more precious part.

The contrivance to degrade a community for the elevation of a few is not a happy contrivance: it is unrighteous in the purpose, and it is grievous in the effects. A degraded community is not an object of comfortable contemplation. It is a community, in which all the valuable qualities of human nature are in a lower state than they would be, if that fatal cause of depression did not exist.

When a man has attained to eminence by intellectual acquirements, by a course of beneficent conduct to his fellow-creatures, by presenting a model of what is amiable in his amusements and tastes, or, lastly, by the honourable accumulation of wealth, why should he be robbed of any portion of the dignity which those merits are calculated to confer? But this robbery he sustains, when a portion of dignity is taken from him, in order to make an addition to the dignity of somebody else: when an elevation to somebody else is created out of his degradation. The motives to the highest degree of well-doing in every line are then the most operative when

this well-doing leads to the highest distinction. But the highest distinction is to be at the top. To whatever extent therefore the highest degree of well-doing is prohibited from reaching the top, to that degree the motive to it is taken away; and to that degree is the virtue of the community kept down. Then only will virtue be at the highest when the *præmia virtutis* are at the highest. But artificial ranks are a contrivance to prevent the *præmia virtutis* to be at the highest. To have a high rank, therefore, we must have a low virtue; that is part, and but a part, of the price we must pay for the article.

But of the kinds of privilege, that which consists in political powers is by far the most important. We do not mean to enter into a detailed exposition of its effects; but the particulars to which we shall advert will be allowed to deserve the most profound attention.

A privilege made of political power, must be made either of judicial power, administrative power, or legislative power. In our own country we have specimens of all the ways. The highest of all our tribunals, the tribunal of last resort, is composed of hereditary judges. The whole of the administrative power in a mass, is placed in the hands of an individual by the right of descent; which individual has also a great share of judicial power, in the exclusive right of pardoning: and as the legislative power in this country, according to the received theory of the constitution, is divided into three parts, two of the three parts exist in the shape of privilege, and only one is free.

No one disputes, that there ought to be no political power which does not exist for the good of the community; and that if in any quarter there is a single particle of it, in any shape, which is not for the good of the community, it ought to be abolished. And why?—not merely because it is superfluous; but because it is noxious. Political power is the power of commanding; and that implies the obligation of obeying. But why should I be subjected to the degradation, and the hardship, which may be to any degree, of submitting to the commands of any one, when it is for no good? Above all, why should the millions composing the community be subjected to the degradation and oppression of obeying any one's commands, when it is for no good?

But the most weighty consideration of all yet remains to be stated. All political power which exists in the shape of privilege has a tendency to be mischievously used. This in fact is true of all political power; and therefore all wise men are for putting adequate checks upon it; that is, so ordering matters, that it shall be against the interest of those who hold it, not to make a good use of it. But all that portion of it which is allotted in the shape of privilege, is, to a certain degree, placed out of the reach of check. So far as it is so,

it is most unwisely allotted. It is a power put into the hands of individuals, to be used for their own advantage, at the expense of the rest of the community.

But to set up a class or order of men, by giving them powers which they may use for their own advantage, at the expense of the rest of the community, is to set up a body of enemies to the rest of the community; for they will be sure to act like enemies; which is, to prosecute their own advantage to the utmost, regardless of the mischief they do to the rest of the community. Their constant endeavour will be, to give to their power the most extensive operation possible. It will be gilded with all sorts of false colours. Writers will be hired, some with money, some with smiles, to serve it with all the powers of sophistry. The writers who expose it, will be pursued with calumny, if there be no more direct mode of persecuting and putting them down. If there be, they will be thrown into gaols, and robbed of their property, till their ruin is consummated.

Such men full well know, that in the attainment of good government their power of serving themselves at the expense of the community will be taken away. There is nothing, therefore, which they hate with so much intensity as any approach to good government, and the men who are working with any effect towards the attainment of it. If they could poison all such men with their looks, what a heartfelt joy it would be to them! In the meantime, they do what they can with their pestilential breath: they strive to poison their reputations. The man who appears as an advocate for good government they call a wretch, who wants to destroy government and substitute anarchy; the man who exposes the abominations of an unwholesome ecclesiastical establishment they call an Atheist, and would have us believe that he is as much detested by the Almighty as he is by them.

It is very unfortunate, when a state possesses within itself a body of enemies, such as this. However, in committing the folly of giving the powers which make men the enemies of their fellow-citizens, the greatest mischief is done by giving legislative powers. So long as the legislative power is well placed, there is a remedy. The command of the legislative power is the supreme command; and it can set bounds to the exercise of all subordinate powers, and keep it within the path of utility—at least, of harmlessness. But when the power of legislation is put in the hands of those who have an interest in using it for their own purposes, the descent to evil is prone and irresistible.

In making these reflections, no man can forbear turning his thoughts to the situation of England in respect to its legislature.

Nearly one-half of the legislative power is placed in the hands of men who, by the tenure on which they hold it, are of necessity converted into a body of enemies, of the kind we have just described. The great object of their dread is, as we have seen, every approach to good government. Their earnest desire, of course, is to prevent it; and the fact is—a lamentable fact assuredly—that they have it completely in their power to do so.

The existence of this power is an evil, so great, that all other grievances in the state sink into nothing compared with it. That a clear-sighted and resolute people will not always endure it, is not to be feared; but how long it may contrive to carry on its work, by fair words, and by little concessions, well-timed, it is not easy to foresee: especially so long as those who take the lead of the people in opposing them, afford them so much encouragement, by the faintness of their desire for the progress of good government, and the feebleness with which they urge even the reforms which they approve.

In the meantime, it behoves the people of this country deliberately to mature their thoughts, about the mode of meeting so great an evil, the removal of which is a matter of necessity.

In taking measures for removing evils in the machinery of government, it is good to accomplish the object (if accomplished it be, for half measures only indicate a weakness, which gives boldness to resistance, and adds to the difficulties of farther improvement)—with as little change as possible. We think that the power of the Lords to effect the incredible mischiefs, involved in their power of frustrating all schemes of improvement, might be taken away by a change very little perceptible. Let it be enacted, that if a bill, which has been passed by the House of Commons, and thrown out by the House of Lords, is renewed in the House of Commons in the next session of parliament, and passed, but again thrown out by the House of Lords, it shall, if passed a third time in the House of Commons, be law, without being sent again to the Lords.

What is put forward, as the great, and almost sole advantage of having two houses of legislation, is the security which it provides for mature deliberation; for it never can be thought by any man who has the blessing of reason, that there ought to be two authorities in a state, the one capable of barring whatever the other would do. This would be a scheme to arrest the powers of legislation, and set the whole vessel afloat without a carpenter and without a pilot. It is quite certain that if there be two authorities, one or other must have the means of prevailing in the long run. The only question then is, to which of our two houses of parliament that

power should belong. And this, we believe, we may consider as a question decided. We do not suppose that the Duke of Wellington himself would pronounce for the House of Lords. Whether he would discern the consequences may be doubtful; but this he would certainly see, that it would not be submitted to. If anywhere there be two legislative assemblies—one under efficient obligations to legislate for the good of the community, the other under no obligations but to legislate for their own good—the power of prevailing in the long run, given to one or the other, involves the whole of the difference between good government and bad. The powers of legislation exercised for the good of the people is good government; the powers of legislation exercised for the good of any set of men is bad government, and is naturally carried to excess; for the good of the set can only be pursued at the expense of the community. The set are, therefore, always in fear. Fear is essentially cruel. Every thing which looks like opposition is savagely punished; terror is the security in which they confide; and the reign of terror is theirs.

The expedient which we propose would be an effectual antidote to those evils, and would at the same time afford all the security against precipitate legislation which can be derived from a House of Lords. We are happy to see that Mr. Roebuck has taken up the idea of this expedient, and has given notice of a motion on the subject for next session of parliament. We think, however, that he has given too little time for consummating the operation. The evil will be alleged of postponing good measures; but on most of the measures on which immediate decision is of importance, there is not much likelihood of opposition between the two Houses; and on the great questions of constitutional improvement a little delay is not a great evil. Take, for example, the questions of the ballot, of shortening the duration of parliaments, of equalizing the constituencies, the interval which we propose between the first passing of a bill for any of these great objects in the House of Commons, and the time for its becoming law independently of the votes of the Lords, would not have many evil consequences, and the strong attention which would be kept fixed upon it in the meantime, would make it better understood, and more sure in its operation.

If we are told that this expedient of ours would no doubt be effectual to its end, if we could obtain it, but that to such a measure as this the Lords will never give their consent; we answer that, in a case of necessity, what cannot be obtained in one way must in another; and the probability is, that this being seen by the Lords, they will not hold out to the last. But if they do, the House of Commons have only to proceed a step farther, and declare that bills, as passed by them a certain number of times, and at certain

intervals, are law. This resolution the people would had with transport, and make the enactments laws by their obedience; and from that moment the House of Lords is blotted out. The thing would be done as quietly as passing a money bill. Collision! What could they do? They would draw the sword. So do a gang of as many smugglers on the coast, but this does not alarm the nation.

We shall be told perhaps, that the judges would not recognise such laws, and would refuse to enforce them. A good many of them would have an itching that way, we have no manner of doubt; but they are men who look which way the wind blows. When the nation, and the nation's representatives, in their determination to effect the removal of an intolerable evil, have not allowed the House of Lords to stand in the way, the judges will not be slow to infer that neither will they be allowed to stand in the way. It is easy to supply the place of judges who set themselves up against the legislature.

It has been hinted by Lord John Russell (for he is one of those who like to make themselves known by circumlocution, rather than by plain speaking, when their inclinations and those of the community are not quite in accord) that there is no occasion for any reform of the House of Peers; and in this he has been copied, which was a matter of course, by the Attorney-General. To be sure, their arguments are not calculated to make great impression. The Lords, they tell us, will grow wiser. We therefore have their word for this great event, on which so much of our happiness depends; and it much concerns us to consider the value of it. First of all, we must think who the men are, who call upon us for such a stretch of our confidence, upon a matter to us of infinite moment. What if they are mistaken in their word, thus pledged for the Lords? Will it not be a great satisfaction to us to find ourselves the victims of aristocratic misrule, because Lord John Russell and the Attorney-General told us not to expect it? Let us, therefore, deliberately ask ourselves, whether it is more likely that they are mistaken in this word of theirs, or the contrary? If we should suppose, with them, that the light which is shining upon the rest of the community, and which may be expected, as they justly say, to shine every year with greater and greater force, will not permit the Lords to remain in the same thick darkness in which they are as yet immersed, will their greater degree of intelligence render them less disposed to pursue their own interests? Is such a supposition as this agreeable to our experience of human nature? Will not the Lords like to have power, as well after the wisdom of their inferiors has forced itself in some degree among them, as before? And will they not like as well to make that power available to their own ends, at the expense of the community? It is not to the ignorance of the aristocracy that we owe all our evils, but to a much deeper rooted cause—the preference which every man has of himself to another. Do Lord

John and the Attorney-General really advise us to submit to the miseries of aristocratic misrule, till the wisdom of the Lords gets the better of this propensity? The shallowness of the view in which such a thought could originate is not the least remarkable thing in this emphatic advice. Lord John and his colleagues only expect this degree of wisdom to exist among the Lords, when it exists to such a degree in the community that they cannot remain devoid of it. This implies a state of things in which no man prefers himself to his neighbour—a state in which every man values his neighbour's good as much as his own; for assuredly Lord John and his colleagues will admit that the Lords are the very last portion of the community whom this angelical spirit will reach. But is it possible Lord John and his colleagues should not see, that when the human mind has reached this stage of perfection, every man governs himself accurately, according to the truest principles of well-doing; and all government by others becomes useless; government ceases to exist. It follows with the force of demonstration, that we may trust to the wisdom of the Lords for their assent to good government, then, when government altogether becomes unnecessary, and not one moment sooner.

There is only one other pretence we can think of, which can be held up in favour of Lord John's advice—that the Lords will grow wise enough to see the danger of resisting the will of the people.

To trust to this security is not in our opinion a wise scheme of governing; and to recommend it would assuredly be a great inconsistency in Lord John. Lord John is one of that class, or tribe, or sect, who dread the people. The impetus of the people is, according to them, one of the great evils in society, against which adequate securities can hardly ever be taken; and yet it is here proposed to make it an ever-acting power in the state. Where one power is employed for the counteraction of another, it must work whenever the other works. But the will of the Lords to benefit themselves at the expense of the rest of the community is in perpetual action;—so then must the impetus of the people, which restrains it. This, in the opinion of reformers, is not a desirable state of things, even if we were to admit the inadmissible supposition that it could exist permanently. It would imply a state of perpetual excitement; and what would add enormously even to that evil—a feeling of hostility between the higher and other classes in perpetual and vehement action. To be in this state is, as far as it goes, to be in a state of anarchy. The aim of all the arrangements of government, so far as they have not grown like trees, as Sir James Mackintosh would have them, but have been made under the guidance of reason, with a view to public good, is to trust no important series of results to uncertain causes—to impulses, which may or may not have place.

Lord John, and they whose thoughts run in the same channel with his, talk to us loudly about institutions; hold a language about institutions, as if no body had a regard for them but themselves; taking care, a large proportion of them, to include all abuses under the name of institutions. Well, then, we desire them to remark, that we, whom they calumniate as the enemies of institutions, because we are the enemies of abuses, are for checking the Lords by an institution; just as we are for securing all the other points of good government by institutions, and not by the irregular impulses of the people. Our institution, too, is the simplest thing in the world. It is merely that the assent of the Lords to a law deemed necessary for the public good, by the nation's house of legislation, shall, after a period of refusal, be unnecessary. Is not this better than bringing down the people upon them on every occasion? Does not Lord John think enough, to perceive, that the people have only two modes of acting in such a way as to coerce a body of powerful men?—It is either by violence; or the prospect of violence, so near as to be terrifying; and this prospect of violence, so near as to be terrifying, is what Lord John proposes to make the habitual medicine of the state. Also we, the reformers, who wish to gain all our ends by institutions, that is, by established organs, adequate to the purpose, are the people to be distrusted for their want of regard to institutions. If, indeed, nothing is to be institution, in the language of our aristocratical revilers, but established organs for preserving aristocratical abuses, we are their enemies, and will assuredly persevere till we have destroyed them.

In taking away, however, from the Lords such power of legislation as we cannot secure from being used for bad purposes we would grant to them other powers, the mischievous use of which we should have the means of preventing. They should obtain both the right of voting for members of the house of representatives, and the right of being chosen members. We think that this would be attended with several good effects. It would hold out motives to all the young men of that class who had ambition for high place in the service of the state, to cultivate the qualifications which would give them pre-eminence in the field of free competition, and recommend them to the highest trusts. It would make a spontaneous change in the education of that class; they would seek to become, and therefore would become, intellectual men; and they would have adequate motives to cultivate the good opinion of the people, by the practice of all the virtues which render men valuable and acceptable to one another. They would become men of worth, in the highest and most endearing sense of the word; and possessing the means of doing good to others in a higher degree than men of inferior wealth, they would be more looked up to, and their wishes would be more consulted. They would still, if they chose, be the



foremost men in the state, and with a happiness of which at present they have no conception.

We shall speedily, no doubt, hear, from those who make loyalty a virtue, whether well or ill bestowed,—that is to say, from those with whom in affairs of state the good of the people passes for nothing, but whom at last the people have learned to know, and are prepared, when the season comes, to treat as they deserve,—a loud accusation.

We shall be told, that, by this reasoning of ours, we destroy the foundation of monarchy as well as of aristocracy.

But those men, who have the monarchy appetite, at least the cant of it, for their virtue, and care for no other, are very shallow politicians; they never see more of a thing than its outside. We tell them, that monarchy rests on grounds totally different from those of aristocracy; and they are the great enemies of monarchy, who try to confound the two.

There is a great deal of foundation for what was urged with so much earnestness by the French Economistes, and by the penetrating philosopher, Hobbes,—that the interest of the monarch, and the interest of the people, are not opposite, but identical.

Let us take the leading particulars, and look at them for a moment.

The greatness of a King, to begin with that, is doubtless dependent upon, and measured by, the greatness of his people. What has made the King of England for centuries hold the high rank which he has done among the sovereigns of the earth? Not the numbers of his subjects. Not the riches of his soil. What then? The riches, that is, the productive powers of his people; who were prompted to exert themselves, because they knew that what they produced, they should have liberty to enjoy. Queen Elizabeth appears to have had more than a glimpse of this truth. When told that she was reproached for being shabby, what did she reply?—"My riches," she said, "are in the pockets of my people, where they are much better placed than in mine; and therefore it is my resolution to take out of those pockets, not as much as possible, but as little."

Next, for his glory. Abstracting from the greatness, the grounds of which we have explored in the preceding paragraph, what can that consist in but the high qualities of his people—their copious possession of all that contributes to well-being—their fame for high intelligence, for their skill in all the arts which supply the conveniences or ornaments of life—their love of their country,

which gives them happiness—their social and domestic virtues? To be at the head of such a people, is to be at the very summit of glory.

And what, after this, has a king to wish for? A people, who themselves abound in all the means both of comfortable and of elegant living, will consider it for their own decoration that their king shall be pre-eminent in this, as in other respects. A king indeed, placed in these elevating circumstances, will be far above entering into a competition with his subjects in the tasteless display of wealth, or thinking any part of his dignity to consist in being able to make more waste than any other man in his dominions. He has better means of distinction.

How is it then, it will be asked in contradiction to us, that our kings of England, for example, have always been so much misled? When have they considered their greatness as identified with the freedom and happiness of their people? When have they considered it their glory to be at the head of a people eminent for their intellectual attainments and their moral worth? Experience, we shall be told, is against us.

The account of this matter is (for the fact is not to be disputed) that our kings have always linked themselves with the aristocracy, and have committed the grievous blunder of thinking the interests of the aristocracy the same with their own. They have degraded themselves by becoming the creatures of the aristocracy. They have no independent power, because they have separated themselves from the people. The aristocracy, after making them dependent upon themselves, have made a stalking-horse of them;—have talked in very lofty terms of their authority, and the obedience due to it, because they can employ it all for their own use, and with the vast advantage of having the king for a screen. The power of the sovereign has been converted into their power: no wonder they like it. But till that was brought about, how did they behave? Let history answer the question. They were the king's antagonists, and his oppressors; and it was only by the aid of the people that he was ever able to make head against them. What was the contest with the Stuarts, but a contest to determine whether the king was to be master, or the aristocracy? If the king could rule without a parliament, the king was to be the master; if he could not, the aristocracy was to be the master, because the aristocracy at that time made the parliament. In this contest the aristocracy had the advantage, for the first time, of drawing the people to their side—gulled as they were by the name representative—as if a man, because he was called a representative, would take care of the people's interests, though put into parliament only to take care of the interests of the aristocracy, and turned out when he failed to do so.

This contest was decided against the king, for ever; he discovered that he could not rule but in subservience to parliament. And what, in consequence, has he done? He has put his neck into the collar of the aristocracy, and to this hour tugs like a pack-horse at their waggon. He might have done better for himself, and better for the state;—he might have joined with the people in rescuing parliament from the gripe of the aristocracy; and then he would have been really subservient to nothing but the public interest, which he would have felt to be his.

Ever since the expulsion of the Stuarts, what has been the situation of the King of England in the hands of the aristocracy—his master, as well as the people's? Read the authentic documents in Coxe's biographical works, from Marlborough to Pelham inclusive. What was the government of England during the reigns of William, of Anne, of George the First, and George the Second, but a disgusting struggle among the aristocracy who should have the power of plundering the people? without its being thought necessary by a man among them to make even the pretence that a regard for the public good entered among his motives. There is no where else to be found such a display of immorality—of the utter abandonment of principle—of hardened, unblushing rapacity, as characterized the aristocracy in those days. The business of a minister was, by his intrigues, by his personal or family interest, to get a majority of those marauders to support him in parliament. The man who had obtained this, the king was obliged to make minister; and George the Second, with great bitterness, told the Chancellor Hardwicke, that whoever was minister was king in this country—not the cypher who bore the name.

There is no doubt that when a king is afraid of his people, and believes that he is only safe by being able to crush them, he has cogent motives to govern ill, and that in every possible way; to hinder his people from knowing; to hinder them from speaking; to plunder them to the utmost, for the sake of gorging those whose profligate assistance he may require; and to subject them to the most atrocious revenge for any appearance of a disposition to dispute his will. But when a king is satisfied that his throne is established on the rooted conviction in the minds of his people that it is good for them, he has no fear to provide against; no blackguards to hire, either to debase the understandings of the people, or to shed their blood. He has no higher ground of rejoicing than the blessings in which his people rejoice—plenty of the good things of life, with minds sufficiently cultivated to use them all to the best advantage.

And if it be true, that the interest of a king is not irreconcilable with the interests of his people, it is not yet proved that his office is

an unnecessary one, or unattended with advantages which in no other way can be so perfectly attained.

A first magistrate is necessary; that is a fixed and undisputed point. The necessity of unity in matters of administration, the use of concentrated responsibility, and many other considerations, seem to place the balance of advantage on the side of the individuality of the first magistrate. He should be one, and not two, or more.

But if so, the only question which remains is,—whether he should be hereditary, or elective.

The chief advantage urged on the side of electiveness is the security for talent. With an hereditary first magistrate, the degree of talent is a matter of chance; with an elective, a high degree is tolerably certain.

If we allow this to be so, we have still the question to answer, whether the security for talent in the chief magistrate is a matter of much importance.

As it is very certain that he must govern in subservience to parliament; and as parliament will soon be chosen by the people, and responsible to the people, we should say that it is not in this country a matter of much importance.

It is clear to reason, and well proved by experience, that when the chief magistrate attempts to act as his own minister, he does no good, but evil; and if he chooses for his ministers, as in the above circumstances he must do, men agreeable to the parliament, he cannot go far wrong: they will always be, if not the very best men, among the best that are to be had.

In these circumstances, there are advantages of a very solid nature, on the side of the hereditary principle. The choice of the chief magistrate, if he is elective, must be given either to the parliament, or to the people. The evils are so obvious of giving the choice of the great administrative organ of government to the legislative organ, that we believe it has never been seriously contemplated. It would be the most effectual of all contrivances to fill that body with faction, to light up the evil passions, and to engross the minds of members with any thing rather than the interests of the country, the care of which, even in minute detail, is their great and infinitely important duty. The choice by the people is perhaps less pregnant with evil. But the agitation which must be created by so important a choice as that of head of the state, even for a few years, pervading the whole mass of the population, and carrying with it all the solicitations, all the intrigues, all the misrepresentations, all the

calumnies, and all the estrangements, which it creates, is very unfavourable to all that is good in the minds of the people; among whom quietness and harmony, when they know that the securities for good government are firmly placed in their hands, are most desirable for every kind of prosperity—their prosperity in wealth, their prosperity in intellect, their prosperity in morals, and in all the ornaments of life.

If ever the King of England becomes clear-sighted enough to see that he has been very ill-advised, in leaning upon a corrupt aristocracy, and a corrupt church, as the two crutches without which he could not stand; and that he may rest with assurance on the solid advantages to the people, inherent in his office: he will occupy a far more exalted station in the social union than he has hitherto done. He will feel that he reigns in the reason and understanding of his people; which is a more steady reliance, than that reigning in their hearts, which he has hitherto heard so much about, and to so little purpose.

P. Q.

[\[Back to Table of Contents\]](#)

## **Art. XIV.**

### **WHETHER POLITICAL ECONOMY IS USEFUL?**

*A Dialogue between A. and B.*

**A.**

I LIKE law better than political economy.

**B.—**

There is no disputing of tastes.

**A.**

I say, law is the more useful.

**B.—**

If the difference is only in degree, political economy may still be honoured with a high, though not the highest, degree of your esteem.

**A.—**

I really mean, that political economy is of no use at all.

**B.—**

Do you speak this of your own knowledge—or have you taken it upon trust from others?

**A.—**

Partly one, and partly the other.

**B.—**

I defer very much to your authority, and am always happy to be cured of an error; but I want something to my complete satisfaction, in adopting your opinion on this subject; and would, if

I might take the freedom, ask a few questions. I am not sure that, by political economy, you and I mean the same thing.

**A.—**

Why should you suppose we do not mean the same thing?

**B.—**

I think it very often happens that, when men differ, they do so, because they do not mean the same thing. My suspicion, in the present case, arises from this, that I do not imagine you think the difference between truth and falsehood of no importance.

**A.—**

Certainly not.

**B.—**

You deem truth to be useful;—falsehood, or error, hurtful?

**A.—**

I do.

**B.—**

And the more useful, or the contrary, in proportion as the subject, to which the truth or falsehood relates, is the more important?

**A.—**

Yes.

**B.—**

What, then? do you think the subject to which political economy relates—the wealth of nations, a subject of no importance?—the causes by operation of which are produced and multiplied all the things, not spontaneously produced, which contribute to the subsistence and enjoyment of mankind; the distribution which the laws of nature impose upon them after they are produced; and the ends in subservience to which they are consumed?

**A.—**

The subjects themselves I think of great importance.

**B.—**

True propositions, respecting things of great importance, you have allowed are useful; erroneous, or false propositions, hurtful. The difference between truth and error, on these subjects, is hence of great importance. I therefore think I have your confession that political economy is of great importance.

**A.**

How so?

**B.—**

From this single circumstance, that truth on important subjects is important.

**A.—**

Do you call political economy truth?

**B.—**

I do.

**A.—**

What! when so many contradictory doctrines are held?

**B.—**

Do you know anything more contradictory than truth and error?

**A.—**

I do not say that I do.

**B.—**

Do you know any subject, on which true opinions and erroneous opinions are not liable to be held?



**A.—**

Certainly not.

**B.—**

But, on all subjects, the true opinions are held to be the science of that subject; the wrong opinions not the science, but the reverse of the science. For example, the Newtonian system of astronomy is reckoned true, the vortices of Descartes, and the cycles of Ptolemy, erroneous systems; is not the Newtonian system, therefore, alone called the science of astronomy, the other two systems not?

**A.—**

It is so.

**B.—**

I doubt not, therefore, you see what follows.

**A.—**

What is it that follows?

**B.—**

That the science of political economy, if propriety of speech is observed, means, a combination of true propositions respecting the supply, distribution, and consumption of the articles or things composing the wealth of nations; putting aside and disallowing all erroneous propositions. This is what I call political economy.

**A.—**

I confess that what I have been calling political economy was not exactly this. What I understood by it was, a collection of propositions, partly erroneous and partly trifling.

**B.—**

Such was my supposition, when I ventured to say that, very probably, you and I, by the term political economy, did not mean the same thing. It appears now that we mean things very different indeed; and hence it is no wonder if, in speaking of them, we have used different and contradictory language—our meaning, all the while, being possibly the same. I, at least, should speak of your thing certainly in the language which you do,—that erroneous or

trifling propositions, on the topics of national wealth, are not only useless but hurtful; and, possibly, you will allow, that true and important propositions on these topics are useful, and greatly so?

**A.—**

If there are propositions deserving that character. That true propositions are made on those topics, it is not necessary to dispute; but I think it very doubtful whether there are any which are important.

**B.—**

That is a point, unquestionably, from which all doubt should be removed, if it shall be found that any rests upon it. The question is one of vast importance, and ought to be thoroughly investigated. You have no objection, probably, to state your reasons for thinking that all the true propositions in political economy are trifling.

**A.—**

My reason is, that I do not know one which is of any importance.

**B.—**

Shall we then state the proposition directly, that we may have something precise about which to dispute, and say that there is no proposition of political economy of any importance?

**A.—**

You may, if useful to the dispute.

**B.—**

Even that, if conceded, would not be a solution of the question, because there are two cases. It may be, that no important proposition may yet have been made upon such or such a subject; while yet it may be possible that very important propositions are capable of being made.

**A.—**

Is it not sufficient, for calling political economy nonsense, if it should appear that it actually contains no proposition of any importance?

**B.—**

I think not; because the admission leads to consequences which, I believe, you will admit to be absurd.

**A.—**

What are they?

**B.—**

I can best make them appear, I believe, if I proceed in this way. Are you not of opinion that all sciences have had a beginning? That there was a time when, in all the great departments of human knowledge, nothing was known; and that the sciences have all been built up by degrees?

**A.—**

I believe that to have been the case.

**B.—**

There was a time, then, when it might have been said of astronomy, might have been said of chemistry, might have been said of mechanics, might have been said of logic, that they actually contained no proposition of importance.

**A.—**

I do not deny that.

**B.—**

Could it, however, have been truly and properly said, even at that time, that astronomy, chemistry, mechanics, logic, were all nonsense?

**A.—**

I think not.

**B.—**

And the reason, I may presume, is, that even when no important propositions had yet been formed in these branches of knowledge, important propositions were still capable of being formed.

**A.—**

True.

**B.—**

To maintain your proposition, that political economy is nonsense, you must be prepared to show, not merely that no important proposition has yet been formed on the subject, but that no important proposition is capable of being formed.

**A.—**

I am not prepared to go so far as that. But is it not sufficient for calling a science nonsense, when as yet it contains nothing else?

**B.—**

I think it is an abuse of language to do so.

**A.—**

How is that made appear?

**B.—**

In the first place, the word nonsense, in such an application, is equivocal, and tends to convey a wrong opinion—not that a science which may be of the highest importance, is in its infancy, but that it cannot be made important. Thus we say of the ontology of the schoolmen, that it is nonsense; meaning, not merely that it actually contains nothing sound and useful, but that no useful proposition can be formed on such subjects. In the next place, it is a misappropriation of the term science, to apply it to a string of erroneous or trifling propositions. Science means a combination of propositions, both true and important, and so completely embracing the whole subject to which the propositions relate, as that nothing material in it shall be found, which some of the propositions do not include. Science is useful when it reaches all this; and the name is not deserved, and is not in correct language applied, till a near approach is made to that state of perfection.

**A.—**

How then would you express yourself, respecting a body of doctrine on a subject, the importance of which is not disputed, which doctrine you think to be nonsense?

**B.—**

One thing I am certain of—which is, that I should not call a parcel of nonsense propositions, science; I should as soon think of calling them wisdom. I should begin by calling them not science, but nonsense; which I do not reckon the same, but opposite. The proper language, I think would be, that the subject had not yet the benefit of science, and all that was known of it was of no use.

**A.—**

Well, then, let us apply your language to political economy, and say that the subject has not yet been allowed the benefit of science; that the propositions hitherto framed about it, are either untrue, or insignificant.

**B.—**

Taking this as your proposition, we have next to inquire whether it be well founded or not.

**A.—**

Be it so. Let that be the inquiry.

**B.—**

We need not, I imagine, go far into the question whether any of the propositions in political economy are true; because it is easy to form true propositions, if the value be neglected, on any subject. Thus we may say, that labour produces commodities; that labour is painful, and only exerted with a view to some reward—that a man will execute more work with tools than without them: so also, we can say it is warmer in summer than in winter; an ox is commonly heavier than a sheep, and so on. The question you really propose is, whether there be in political economy, any proposition of great utility.

**A.—**

It is so.

**B.—**

It appears to me, here again, to be necessary to inquire, whether, when you employ the word utility, and I employ the word utility, we are both of us thinking of the same thing; not thinking, the one of us of one thing, the other of another.

A.—

Do you think that can be the case?

B.—

We shall proceed with much more satisfaction in our inquiry, if we first ascertain that point. And a few questions, I think, with your answers, will afford us the requisite information.

A.—

Be it so.

B.—

I can anticipate your answer to the first question I shall put—whether you think all utility to be that which is represented by pounds, shillings, and pence? You will say you do not.

A.—

I do.

B.—

You are, then, of opinion that there are more species of utility than one?

A.—

Certainly.

B.—

Shall we endeavour to ascertain its more general species—in this way, I mean; by asking ourselves if the nature of man does not consist of two parts, the body and the mind?

A.—

It does.

B.—

May we not, corresponding with these parts, consider as one class of useful things, those which conduce to the welfare of the body; another, those which conduce to the welfare of the mind?

**A.—**

We may.

**B.—**

By conducive to the welfare, I mean things serving to yield pleasure, or ward off pain, and that whether directly, or mediately, and indirectly.

**A.—**

I do not object to that definition.

**B.—**

One class of useful things, therefore, are those which serve to produce bodily pleasure, or ward off bodily pain: another, those which produce mental pleasure, or ward off mental pain.

**A.—**

These are the two most comprehensive species.

**B.—**

I do not think we are called upon, for the settling of the present question, to discuss their relative value, and ascertain whether, upon the whole, the well-being of the body, or the well-being of the mind, is of most importance. It is, no doubt, your opinion, that both are of great importance.

**A.—**

I think so.

**B.—**

And for our present purpose that is enough. The next step of our inquiry, is this:—As some things give pleasure to the body, without producing any other effect, and are useful on that account; are there not certain things which give pleasure to the mind, and are held useful, without regard to any ulterior effect? I may allude to astronomy as a sufficient illustration. That science, beyond some of its more familiar results, yields no guidance for the affairs of life. It is contemplative, and the pleasure which it yields is purely mental. But the pleasure which the mind receives, when it comprehends within its grasp a multitude of great objects, and traces distinctly

their mutual operations and dependencies, is known to be very great. You do not hesitate, I suppose, to admit this?

**A.—**

Certainly not.

**B.—**

This pleasure, therefore, is a good; and that which procures it is useful.

**A.—**

That follows.

**B.—**

We need not inquire scrupulously into the comparative value of this pleasure. It is well-known how small is the value of all the merely corporeal pleasures, when taken nakedly by themselves, and without the addition of anything mental. The man who relishes most the pleasures of eating and drinking, flies from a solitary meal, and confesses that his enjoyment in it is reduced to little. Of the pleasures of love, we see that the bodily part is little valued when stripped of the mental, and that it is only the lowest of our species, who are found to be seriously under its influence.

**A.—**

All that is true.

**B.—**

You see to what this train of thought leads.

**A.—**

You mean the conclusion, that the purely mental pleasures, those which begin and end in the existence of pleasurable thoughts, hold a high rank among the enjoyments of our nature, and the causes of them among the things which we denominate useful.

**B.—**

You have traced the consequences clearly and well. We have now, therefore, agreed in certain points, which I think may be applied with advantage to the inquiry we are engaged in.



**A.—**

I shall be happy to hear in what way.

**B.—**

The matters which form the subject of political economy are matters in the highest degree interesting to mankind. They are, in fact, the multifarious operations concerned in producing, distributing, and exchanging; placing, in a word, in the hands of the consumers, all the things which constitute the wealth of individuals and of nations: the things for which, almost exclusively, the labours, the schemes, the cares, of human beings are expended. These operations are of many kinds, and are connected together in a system of great complexity,—following one another according to certain laws, checking one another according to certain laws,—aided by one set of arrangements, impeded by another. This complicated tissue of causes and effects, subordinate to ends the most interesting to human kind, it cannot but be an agreeable exercise to an ingenious mind to explore,—to trace the course of such things,—to mark their concatenations. And if it succeed, by its meditations on the order of events, in discovering how they follow one another in trains, so as to reduce them all to a moderate number of trains, by which they can, as a whole, be held all at once in the mind's eye, and the mode in which every thing comes out can be distinctly comprehended; as a man raising himself to an eminence, from which he can look down upon a scene of the highest possible interest, not only beholds the numerous objects of which it consists, and their visible motions, but the causes of them, and the ends to which they are directed, and thence derives the highest delight;—is it not certain, that a similar commanding view obtained by the mind over a most interesting and complicated mental scene, must yield it a gratification of the highest value, even if no further consequence were to be derived from it?

**A.—**

Undoubtedly, such a commanding view of so great a part of the field of human action, in which operations so multifarious, and tending to such interesting results, are taking place, cannot but yield a high degree of pleasure: and he must be one of the lowest of his species, who will not acknowledge that such a gratification of the highest part of our nature—the intellectual part, must hold a foremost place among the pleasures we are capable of receiving.

**B.—**

I applaud this liberal declaration, and expected it from you. And now we, perhaps, have light to show us something of a matter which you, I expect, will acknowledge to be of the highest importance, but which is not often well understood; and by people who do not understand, and nevertheless are precipitate enough to judge without understanding, treated as of no importance.

**A.—**

What is that?

**B.—**

The connexion between that commanding view which we have been considering, and the kind of utility which these men understand,—the things which they can taste, handle, smell, and see,—the things, in short, which they can sell and buy in a market, and to which the term practical utility is by them appropriated. If this intellectual operation should be found to have a commanding influence even on this same practical or market utility, may we not expect them to change their opinion with respect to the value even of the mental process?

**A.—**

Certainly, that which increases the utility of other things, is itself useful.

**B.—**

Very justly said. You do not deny that arrangement, when applied to a multitude of operations, all contributing to some desirable end, renders those useful operations still more useful?

**A.—**

I do not.

**B.—**

As little will you deny that such operations do not commonly make the best arrangement of their own accord; that if left to themselves, one operation may obstruct another; the same thing may be done oftener than is needed, and the result of the whole be less than it would have been, if the causes at work had been better directed.

**A.—**

Nobody can doubt that.

**B.—**

Is not that arranging process, which you acknowledge to be of so much importance, that is, utility, wholly intellectual, the immediate result of that commanding view we have just been considering?

**A.—**

How so? I do not perceive that clearly.

**B.—**

Look at it thus. Can things be arranged which are not all taken account of? Can any thing be put in its place if it has not been considered; and considered in conjunction with all the things among which it is to have its appropriate place?

**A.—**

Certainly not.

**B.—**

For this arrangement, then, a comprehensive view—a view which takes in every thing, is indispensable?

**A.—**

It is.

**B.—**

But if things are to be arranged with a view to their operations on one another, and the tendency of all those operations to the producing of a certain effect, a much greater number of particulars must be taken account of. We may illustrate the case by a reference to a detached and very narrow portion of the matters comprehended within the vast province of political economy. The number of things and persons required in a cotton mill is considerable; and the effect which they are intended to produce is accomplished, more or less perfectly, quantity and quality considered, the more perfectly the productive means are arranged: is it not so?

**A.—**

Granted.

**B.—**

We may assume (may we not?) that the arrangements in the principal establishments of this kind are excellent in the extreme; that every thing is placed exactly where it ought to be placed,—that its operation comes in at the very moment when it ought to come in,—that every thing is formed to suit exactly the things by which it is acted upon, and the things upon which it acts,—that every power is exactly proportioned to the effect which it has to produce,—and all this to the end that there may be no waste of power, but that the ultimate produce may be obtained with the smallest possible expenditure of power?

**A.—**

I assent to all that.

**B.—**

Now, then, is it not necessary, for effecting a combination of all these things, so exquisite as to make them conspire, in the best possible manner, to the production of a particular effect, that the arrangement should be made by some pervading mind which takes a comprehensive view of the whole; which leaves nothing out of its consideration; which contemplates every part of the great co-operation; marks wherever there is any thing either too much or too little, where any one thing stands in the way of another, where any thing is wanting to the complete operation of another thing; and which, by help of this knowledge, places and proportions every thing? Does it appear to you possible, that a thing can be organized as a whole, without a knowledge of the whole? Can the general of an army arrange the multiplied operations of a battle without holding them all in his mind, by a comprehensive view, which enables him to arrange them, each one so perfectly in connexion with all, that each contributes in the utmost degree to the production of the general end—the defeat of the enemy?

**A.—**

This cannot be disputed.

**B.—**

The officer of a company, or the head of a division, knows the particulars of his own subordinate part, and makes therein the appropriate arrangements; but it is only the general over all—he whose mind pervades the operations of all—it is he who combines them into one co-operative scheme—it is he alone who, by aid of his comprehensive and commanding view, is in circumstances which enable him to do so; and it is the man who makes use of that knowledge the most skilfully—who arranges the several parts of his force so as to turn it to the best possible account, and derive the greatest assistance from it in the accomplishment of his end—that is the man who is the greatest general.

**A.—**

It is so.

**B.—**

We may then, I think, lay it down, with your consent, as a general proposition, that wherever a great many agents and operations are combined for the production of a certain result, or set of results, a commanding view of the whole is absolutely necessary for effecting that combination in the most perfect manner.

**A.—**

I agree.

**B.—**

But a commanding view of a whole subject, in all its parts, and the connexion of those parts, is it anything but another name for the theory, or science of the subject? Theory (θεωρία) is literally view; and science is *scientia*, knowledge: meaning view, or knowledge, not solely of this and that part, but, like that of the general with his army, of the *whole*.

**A.—**

I see the inference to which you are proceeding: you mean to say, that the theory or science of political economy is a commanding view of the vast combination of agents and operations engaged in producing for the use of man, the whole of the things which he enjoys and consumes: in other words, the things which he denominates the matter of wealth—the great object to which almost all the toils and cares of human beings are directed.

**B.—**

You have anticipated me correctly.

**A.—**

You would farther proceed to ask me, I have no doubt, whether the innumerable operations which take place in subservience to that end, may not take place in more ways than one; in short, in a worse way, or in a better way? Whether it is not of importance that they should take place in the best way? And whether the difference between the best way and the worst way, is not likely to be very great?—great, I mean, in respect to the particular end, the production of the matter of wealth. And to all these questions I should answer in the affirmative.

**B.—**

I should become in love with controversy, if I always met with such controvertists as you. Not only do you never resist conviction, by contending for a point after you see it is untenable, but when you have assented to a proposition which you formerly rejected, your mind moves forward, describes the other propositions to which the newly-admitted one conducts, and embraces them with the readiness of a practised and sincere pursuer of truth.

**A.—**

I should be unworthy of the name of a man, if I did not embrace a proposition, the moment I see that there is evidence to support it.

**B.—**

There are those who take the name of men, and names which they value higher, who do not feel this delicacy, and act under no such obligation. But this is from the purpose. Admitting, as you have done, that on the proper ordering and conducting of the great and numerous trains of operations, subservient to the production and use of wealth, a great deal depends; that between good ordering, and bad ordering, the difference in respect to beneficial results is immense; you will, I doubt not, allow, as you have done in general, that in this particular case, every thing cannot be well arranged without taking account of every thing; that the man who sees all is he alone who can arrange all—he alone who can discover if all the parts are, or are not, in co-operation; and how any change can be made in one part without affecting injuriously some other; in short, that the general, commanding, and complete view of the subject, which is properly denominated the science, is that alone which can

with reason be looked to for the greatest of all possible benefits in the great affair, making everything concerned in it contribute in the highest degree to the attainment of the end.

**A.—**

The conclusion seems to me to be incontrovertibly made out.

**B.—**

I may now, then, reckon you a convert to my opinion—that the science of political economy is an important science?

**A.—**

If there be such a science, and if that which goes by the name, instead of being that all-comprehensive view which you have been speaking of, and the importance of which I fully admit, be not mere scraps of a view—mostly incorrect, and leading to no useful conclusion.

**B.—**

I grant to you most readily that it is a fair inquiry, whether the doctrine taught under the title of political economy deserves the name of science or not. In order to determine the question, perhaps you will point out which you think the criteria, or tests of a science—the marks or characters by which any combination of doctrines may be known to be, or not to be, science.

**A.—**

I doubt whether I am competent to such a task as that.

**B.—**

But if we have not in our minds a pretty accurate conception of what is and is not a science; that is, if we have not some standard by which to try every scheme of doctrine offered to us for science, what can we do? We cannot consider ourselves entitled to pronounce either for it or against it; to say whether it is science or not science, unless we know by satisfactory marks what is a science, what not.

**A.—**

True; and I see that I have not acted very rationally in pronouncing the doctrine of the political economists no science, unless I had

been better advised respecting the constituents of a science. But still I am of opinion that one may see enough of a set of doctrines to say of them that they do not come up to the height of a science, even if he has but an indistinct notion of the essential qualities of a science; he may see either that the propositions are disputed, or that they do not explain all the subject.

**B.—**

You have here announced two marks which you think distinctive of a science; 1st, That the propositions be not disputed; 2ndly, That they explain the whole subject. Have you any more?

**A.—**

Not at the instant; but I think these, upon considering them, are sufficient.

**B.—**

To determine that point have we not two questions to resolve; 1st, Whether they are true marks; and, 2ndly, Whether they are adequate?

**A.—**

Are they not true marks?

**B.—**

With respect to the first of them, is it not possible for a proposition to be true and yet to be disputed?

**A.—**

I cannot deny that; yet truth, it is said, prevails in the long run.

**B.—**

You remember, I doubt not, the saying of Hobbes, so often quoted and approved, that if the truths of mathematics had been opposed to the interests of men having power, they would have been disputed against and denied; and the people persecuted who maintained them?

**A.—**

I do.



**B.—**

When the men, whose power enables them to set the fashion in opinions, as in dress, deem a set of doctrines opposed to their interest, were it but the interest of their ease, calling upon them for a disagreeable exertion of thought to learn and understand them—do you not see the possibility of these propositions being disputed for a long time, however true they may be—of their being honestly rejected and deemed of no importance by the greater number of men?

**A.—**

I see how often that occurs, and I cannot but admit that few men form their opinions upon the evidence of their truth; that the feeling of interest sways the minds of the greater number in what they believe or disbelieve, and to such a degree, that some men are under a sort of incapacity of thinking but as their interests direct; and I admit that the general supineness of men's minds makes them ready, even for the saving of trouble, and when the opinions do not concern any other interest, to take for granted the truth of those which are inculcated upon them, particularly by those who have an ascendancy, from their power, station, or reputation.

**B.—**

I do not think, therefore, that you will insist upon it as a clear index against the scientific character of a set of opinions, that they are disputed, because we know that the Newtonian theory of astronomy was long disputed; that the utility of the Star Chamber was long maintained; that a government really representative of the people was long treated as a mischievous delusion.

**A.—**

Let us change the term *undisputed*, to *true*; you will not object to truth as one of the tests?

**B.—**

Certainly not, if I am enabled first of all to test the truth. Your two marks, according to the change you propose, will then be, 1st, That the propositions be truth; 2ndly, That they completely expound the subject. And nobody will deny that a set of true propositions, fully expounding a subject, are the science of that subject. But these marks avail us nothing till we have the means of determining what are true propositions, and whether they do embrace the whole of

the subject. Can you name any tests by which either of these points can be determined?

**A.—**

I cannot; but are we then to rest in the opinion that it is impossible to determine whether there is any science or not?

**B.—**

I should say not, if we can do anything better; and I think we should by all means inquire how far we can advance, in determining either that a proposition is true, or that a set of propositions contain the entire exposition of a subject. On the latter question it is easier to approach the point of assurance than on the former, which is a reason for considering that in the first place, if you see no objection.

**A.—**

I see no objection.

**B.—**

It appears to me, that a subject may be contained within a definition or description, in such a manner that it may appear little less than certain that no part of it is left out, though to attain that certainty the doubt may be incurred whether more is not included than enough.

**A.—**

I assent to that opinion.

**B.—**

When the whole of a subject is thus before the inquirer, he may divide it into portions, and afterwards subdivide those portions into other portions, small enough and simple enough for easy and sure comprehension.

**A.—**

He may do so.

**B.—**

Propositions expounding those portions may therefore be made with tolerable ground of certainty; and when the propositions on all such portions are put together, they cannot but constitute a full exposition of the subject.

**A.—**

That is true.

**B.—**

Let us apply to political economy the points we are thus agreed upon. Is it possible to make a definition or description of the subject of political economy, of which we may be sure, though it may include something which belongs not to the subject, that it leaves nothing out? As for example, if we say the subject of political economy is the system of operations concerned in the producing and using of the matter of wealth, may we not conclude, with some assurance, that our definition includes the whole of the subject? Let us consider thus:—In regard to any object of human pursuit, do not the end and the means comprehend all that we are interested in knowing about it? Thus, in regard to medicine, the end is the removal of diseases, the means the whole resources of the medical art. Well, then, the science of medicine is the knowledge of diseases, and of the means of cure.

**A.—**

All this is sufficiently evident.

**B.—**

In what regards wealth, for which men watch and toil, and on the plentiful or scanty supply of which the happiness or misery, the power or weakness of nations so greatly depends, the use is the end, the production the means. The question is, whether the doctrines of political economy entirely embrace these objects. Let us first examine if they do so in regard to production. The two great instruments are human labour, and that with which, and upon which, labour is employed—the two last included under the term capital. If political economy, therefore, expounds the natural laws, according to which labour and capital are employed in production, they fully comprehend this part of the subject. Without going into details, I suppose we may assume, as this is not a controverted part of political economy, that the doctrines do embrace, without any omission, this part of the subject?

**A.—**

Allowed.

**B.—**

The first act of using, subsequent to production, is possessing, that is, reception of shares. The next act of using is, when that which is thus possessed by any one is not the article he wants, but may be, and is, exchanged for it. The next, and last act of using is consumption. Appropriation, exchange, and consumption are, therefore, the three divisions of this last portion of the subject of political economy. Though, with respect to the truth of all the expositions of these subjects, there is not a perfect agreement among inquirers, I believe there is no dispute as to the completeness with which they embrace them. There is no dispute, for example, that the whole of the annual produce falls into three shares—one to the labourers, one to the capitalists, and one to the owners of land. The great question is, what regulates these shares, and determines so much to one and so much to another. It is well known, that the attempts of philosophers to ascertain the principle of wages, the principle of profits of stock, and the principle of rent, are attempts towards the solution of that question, and that whether their conclusions are true or false, they embrace all the parts of it. Next, with regard to exchange—its two great divisions are, exchange of home commodities for one another, exchange of home for foreign commodities. And the questions are, what are the purposes to which these exchanges are respectively subservient; what are the laws which regulate them,—in other words, which determine the quantity of one commodity which shall be given in exchange for another, in the several cases of home and of foreign exchange; and what is the nature and principles of money, the great instrument of facilitating exchanges? Whatever difference of opinion there may be as to the conclusions which inquirers have come to upon these subjects, it is not doubted, I believe, that they comprehend the whole of what it is useful to know in regard to them. We come now to the last part of using, which is consumption. That is divided into two kinds. There is no doubt, that whatever part of the annual produce falls to the share of any man, he uses it in one or other of two ways; either in the way of production, for the sake of what it may again yield, or for some purpose of necessity or pleasure to which it is sacrificed. And these two kinds of consumption, the productive, and the non-productive, include everything; the wealth of every member of the state, and by aggregation, of the state itself. The nature and consequences of these modes of consumption are embraced by the doctrines of political economy. And from this deduction it appears, that the

science of the wealth of nations is entirely embraced by political economy.

**A.—**

It does so appear.

**B.—**

Political economy, therefore, possesses one of the qualities which you represented as essential to a science, that it should explain the whole of the subject to which it relates.

**A.—**

It is so.

**B.—**

The next of your essentials was, that the doctrines should be true. What, then, is the test to which we shall apply the doctrines of political economy, in order to know whether they are true?

**A.—**

The disagreement about them, of political economists themselves, is a sufficient proof of the uncertainty, at least, of all their conclusions.

**B.—**

Is it your opinion, that all doctrines which are disputed are untrue, or at least unproved?

**A.—**

Not always, perhaps, but generally.

**B.—**

Then I claim the benefit of the exception for political economy: its doctrines are true, but not undisputed.

**A.—**

How do you prove that it is an exception?

**B.—**

How do you prove that it is not?

**A.—**

I do not undertake to prove it; but I esteem disagreement a reason for disbelief.

**B.—**

This, as a rule of conduct, would carry you far. There is disagreement on a question of right, in every case of litigated property. Do you conclude, in all such cases, that there is no right on either side? There was a time, when all the men and women in Europe believed the Pope to be infallible: was that proposition, then, true? A time came, when it was disputed: did it then cease to be true? When Galileo affirmed that the earth travelled round the sun, not the sun round the earth, his proposition was universally disputed: was it, then, untrue? It is now, in civilized countries, at least, universally believed: is it now, therefore, true?

**A.—**

I do not say that, being disputed, makes a proposition false; it only shows that it is not proved to be true.

**B.—**

Is it, then, your opinion, that truth is never disputed; never after it is proved? You would, in that case, reduce the number of established truths to a short catalogue. It is even denied that the establishment of property is useful, or the institution of government.

**A.—**

I do not consider it a presumption against an opinion, that it is disputed by a few wrong-headed people.

**B.—**

I will not suppose, also, that you hold it a presumption against an opinion, that it is opposed by a multitude of people, however great, if the subject be one which they cannot understand.

**A.—**

No; the opinion of people who are capable of understanding the subject, and who have used the due means of understanding it, are the only people whose opinions afford a presumption either for or against any proposition or propositions regarding it.

**B.—**

Then you think that the opinions of those who, with a due degree of intellect, have used the due means of understanding the doctrines of political economy, that is, of the political economists themselves, are the only opinions which afford any presumption either for or against the doctrines which go under that name?

**A.—**

I think so.

**B.—**

And, thinking so, I have no fear that you will run from the consequences.

**A.—**

What consequences do you mean?

**B.—**

One is, that the doctrines of political economy are of great importance.

**A.—**

How does that appear to be a consequence?

**B.—**

You have said that the opinions of sensible men, who have studied a subject, are the only opinions which form a presumption in favour of any proposition relating to it. Now all political economists, in whatever else they disagree, are all united in this opinion, that the science is one of great importance. There is, therefore, according to you, the strongest presumption of its importance.

**A.—**

I do not dispute the importance it might be of, were a set of propositions embracing the whole subject actually established. But I am justified in holding it of no importance, so long as nothing important is established.

**B.—**

Will you allow me to observe, that you have as yet offered no test of defective establishment, but a want of general concurrence. Do you not allow that a proposition is established, when it is proved?

**A.—**

I allow that. But the proof may be supposed to be defective, when it is not generally admitted.

**B.—**

You do not mean, when it is not admitted by the generality of those who know nothing about it?

**A.—**

No; I mean of those who study it.

**B.—**

But what proof have you, that the generality of those who study and know political economy, are not agreed about its doctrines?

**A.—**

See what contradiction there is, on almost all the leading points, among the writers on the subject.

**B.—**

I believe you are here led into an error, by a superficial appearance.

**A.—**

How do you mean?



**B.—**

You take the proportion of the writers who oppose the standard doctrines, for the proportion of the well-instructed people who oppose them; but the fact is very different. The writers are some half-dozen individuals, or less. And who are the people who write in such a case? Why, any creature who takes it into his head that he sees something in a subject which nobody else has seen. On the other hand, they who, after studying the subject, see the truth of the doctrines generally taught, acquiesce in them, hold to them, act upon them, and do not write. Every creature who objects, writes: they who believe, do not write. You thus know all the objectors, you have the knowledge of them forced upon you; you are ignorant of the thousands who do not object. And what can be gathered unfavourable to any doctrine, from the circumstance that some half-dozen individuals are found, with vanity enough, to think that they are wiser on that subject than the sum of all the other men who have studied it? Are persons ever wanting of that description, to oppose any system of propositions, however well established?

**A.—**

I acknowledge the weight of the observation thus far; that those who desire to make objections commonly print, those who receive the doctrines do not print; and that the believers, therefore, may be a much greater number than they appear. But we have very strong evidence, that the number of those who admit the objections is also great. Do not the members of the legislature, the greater part of them, not only disclaim all confidence in the doctrines of political economy, but treat its pretensions to science as imposture?

**B.—**

Of those members who disclaim all confidence in political economy, how many do you suppose speak with knowledge, how many without it?

**A.—**

If I am to speak my opinion honestly, I doubt whether any. The greater part of them disclaim the knowledge, as well as the confidence; and those who do not so, leave nobody in doubt of the fact.

**B.—**

But of those who know, and those who do not know a subject, of which are the opinions of any value? Were a blind man to give you

his opinion upon the colours of any assortment of things placed before him, would you not treat the man as foolish, and his opinion good for nothing?

**A.—**

The opinion of a man without knowledge must be allowed to be worth nothing at all. I think it ought not to be called an opinion: it is only so much unmeaning sound. He who utters the propositions, neither puts together nor separates ideas: he only puts together positive or negative terms.

**B.—**

If ever so many people were to utter these unmeaning sounds—some on one, some on the other side of any question—they could not be considered as adding anything whatsoever to the presumptions on either. The people, therefore, in the legislature, void of knowledge, who say they distrust and despise political economy, make no presumption against the doctrines against which they vent only a senseless noise.

**A.—**

I cannot but agree with you.

**B.—**

Even with regard to the supposition on which they mainly build, that there is such a diversity of opinion among political economists as raises a presumption against their doctrines, the fact is the reverse. Among those who have so much knowledge on the subject as to entitle their opinions to any weight, there is a wonderful agreement, greater than on almost any other moral or political subject. On the great points, with hardly any exception, there is general concord; and even on those points on which controversy is maintained, the dispute is about words, the ideas being in almost all cases the same. Take a summary view of the subject. In the great doctrines concerning production, distribution, exchange, and consumption, you find perfect concurrence; it is only as to some of the minor questions involved in these great doctrines that there is any dispute; and I might undertake to show that in few instances is even that dispute other than verbal.

**A.—**

I should like to hear you do so, if an inquiry, which must run into great detail, would not require more time than we can afford.

**B.—**

But if this undertaking of mine is not more than I can perform, the question is at an end. There is no branch of human knowledge more entitled to respect; and the men who affect to hold it in contempt afford indication only against themselves.

[\[Back to Table of Contents\]](#)

## **Art. IX.**

### **THEORY AND PRACTICE.**

a dialogue.

**X.**

Sir, I am no theorist.

**Y.**

Will you then give me leave to ask what you are?

**X.**

I follow experience.

**Y.**

You will probably accuse me of only starting a foolish paradox, if I affirm that experience and theory are the same; and that, of course, in saying that you follow experience and not theory, you declare your ignorance of both.

**X.**

What, sir, theory and experience the same! Are they not direct contraries—the one opposed to the other?

**Y.**

In my opinion they are not; and I am willing, if you think it worth your while, to enter upon the inquiry with you; and to seek for the means of determining whether your opinion or mine be correct.

**X.**

There can be no means of showing me that experience is the same with theory. Why, sir, is not theory speculation, and is not experience practice? Are not practice and speculation opposed to one another?

**Y.**

I admit that the terms are often opposed to one another. Many a man speaks of the one as good, the other as evil; but in the minds even of those men there is no opposition in the ideas. What they praise under the name of experience, is theory; what they blame under the name of theory, is practice.

**X.**

This is potently affirmed; you are on a way to reach the summit of paradox in time.

**Y.**

I expected your accusations. But accusations, if they are not just, need only to be examined. I am, therefore, anxious to commence with you the examination of yours.

**X.**

Well, sir, will you begin?

**Y.**

Willingly, if you prefer that I should. You think there is a great difference between theory and experience. If I ask you to state the difference, do not accuse me of seeking in inanity the reputation of subtlety. I wish to narrow, as far as possible, the field of our investigation, and imagine that this single question involves the whole. I deny there is any difference; you say there is; it is for you to show what it is.

**X.**

It seems no difficult matter to state the difference between theory and experience. In following experience we follow facts; in following theory we follow fancy.

**Y.**

The difference you adduce is the difference between following facts and following fancy. What we have to do, then, is to compare the following of facts with the following of fancy. But in order to do so we must compare the ideas, and not merely the terms. We must, therefore, begin by stating the ideas.

**X.**

We must do so.

**Y.**

Will you then state what appear to you to be the ideas respectively designated by those two expressions, or will it be more agreeable to you that I should state them?

**X.**

As you propose to make the comparison, it seems convenient that you should place in your own light the things to be compared.

**Y.**

To this I have no objection, provided I carry you along with me; otherwise you are sensible that my comparison would not answer our common end, that of a mutual discussion.

**X.**

Certainly not.

**Y.**

I can only know that I carry you along with me, if you allow me, setting aside thus far the laws of modern politeness, to put my statements in the form of questions, you signifying in reply your assent or dissent.

**X.**

I see that the form of question and answer will give facilities to our disquisition, and that the substance of politeness may be preserved though we dispense with some of its formalities.

**Y.**

The first thing I have then to do is to set forth the ideas involved in the phrase 'following examples.'

An example is a past fact; it is an event of yesterday, or the last week, or year, or more distant period. But it is not every event which is an example. A man died last week, a bird flew in the air: these are events, but not examples, meaning by example an act to be repeated. An act to be repeated, or an example to be followed, is

an act followed by certain consequences. These consequences also must be agreeable consequences. Does this accord with your idea of an example? Shall we call it a past act followed by agreeable consequences?

**X.**

This seems to be the proper account of it.

**Y.**

But a past act is a thing done, and cannot be revived. There may be a series of acts one after another, but for an act to be after it has been is an evident impossibility. Your act of to-day is not your act of yesterday, nor is your act of any one moment that of the preceding moment. When an act is finished it is gone, and gone for ever. What then is it that you mean by following a past act?

**X.**

Doing one that is like it.

**Y.**

Expecting, I presume, a similar result. Because a man who has thrown corn on the ground has reaped a greater quantity than that which he sowed, we too throw corn on the ground expecting a similar advantage.

**X.**

Expectation of a similar result is doubtless included in the idea of following an example.

**Y.**

An example, then, is a sequence; it includes at least an antecedent and a consequent.

**X.**

It does so.

**Y.**

This is one point of importance, and we may consider it settled; but here we have to remove a difficulty. A solitary fact yields no guidance. It is an admitted principle that from an individual

instance no conclusion can be drawn. A man may have fallen from a high tower and have received little injury; he who should follow this as an example would probably pay dear for being so practical a man.

**X.**

I think, sir, you may here be accused of some misrepresentation. In defining a practical man, two sets of cases are to be distinguished; the cases which may be regarded as constant, and the cases which are accidental. Practice does not follow the latter, but the former.

**Y.**

You say well, sir, and have gone a great way towards proving my proposition, that what is called practice is in reality theory.

**X.**

How you are to make good that affirmation it is for you to discover.

**Y.**

It is so; then observe. Did you not say that practice was following cases of constancy?

**X.**

Yes.

**Y.**

What is it then we understand by cases of constancy? Is it not cases in which like antecedents have been followed by like consequents many times?

**X.**

It is.

**Y.**

But to follow these cases we must know them: to follow them without error we must know them accurately, and distinguish them in every instance from cases merely accidental. It is very evident that all good practice must depend upon this knowledge, and whatever contributes most to render this knowledge perfect and unerring, contributes most to the perfection of practice.



**X.**

No one will dispute that proposition.

**Y.**

We acquire our knowledge of a case of constancy by having observed the event—an antecedent followed by a consequent in a variety of instances—first one, then another, then another, and so on. Having observed these instances we remember them; so far our knowledge consists of the remembrance of our observations. But this knowledge is only of the past; all practice regards the future. You will to do a certain thing not yet done, and you will to do it for the sake of a certain consequence. How is it that your knowledge of the past becomes a guide of the future?

**X.**

Nothing is easier than the reply to that question. As things have happened in the past, so do they in the future. This we have always observed, and this we expect.

**Y.**

That you expect, it is true; but how do you expect it? Why should things be in the future as they have been in the past?

**X.**

The reason is because they have been always observed to be so.

**Y.**

A like antecedent has been followed by a like consequent, not once, but many times. The remembrance of this is the first step of the proceeding which you call practice; the second is the act, performed by you under expectation of the usual consequence: the expectation, you say, grounded upon the remembrance. But the grounding of an expectation upon a remembrance is a metaphorical expression, and ought to be translated into simple language. Will you have the goodness to do so?

**X.**

It may be done, I imagine, thus:—the antecedent *A has been* constantly followed by the consequent *B*; therefore the antecedent *A will be* constantly followed by the consequent *B*.

**Y.**

That is to say, you frame from your past experience a general theorem: having observed that A has been followed by B, you say, indefinitely, A is followed by B; and on this theorem you ground your practice. According to you, therefore, to draw up a theorem from observation of the past, and to act upon it, is practice?

**X.**

It is.

**Y.**

But is it not also theory?

**X.**

How do you make it appear to be theory?

**Y.**

Because theory consists in drawing up a theorem for the guidance of the future from the observation of the past.

**X.**

That I should not call theory at all.

**Y.**

Do you know any theory that is any thing else?

**X.**

Certainly I do—many; for example, the vortices of Descartes.

**Y.**

As you began this discussion by expressing a preference of experience to theory as a guide of practice, I concluded that we had in view only that class of theories which have a reference to future practice; not those attempts sometimes called theories, to account for certain phenomena, that is, bring them under some law which is already ascertained. The nature of this last class of theories I have no objection to discuss, as the consideration will confirm rather than invalidate the proposition I maintain. But as they are things which, though often confounded under one name,

are very different in their nature, I should wish, with your leave, to confine our attention in the first instance to theories forming the groundwork of practice; such as the mercantile theory in political economy, the Brownian theory in medicine. Do you know any theories of that kind which are not essentially theorems drawn up from the observation of the past for the guidance of the future?

**X.**

Yes, I think I can mention various theories, the mere offspring of fancy as I called it at the beginning; the fancy, for example, of the alchemists about finding gold.

**Y.**

It is not a very apposite example, as it may be alleged to partake more of bad practice than bad theory; unless you will call the gamester a theorist, and tell us that he commits his folly by quitting practice and pursuing theory.

**X.**

This is a forced similarity, and neither proves that the gamester is a theorist, nor disproves that the alchemist is one.

**Y.**

A short examination will show us whether the similarity is imaginary or not. The alchemist has observed very strange and unexpected results from chemical compositions and decompositions. He says to himself, why may not gold be among these results? He sees no reason why, nor can any man see a reason why. So far he theorizes, and so far only; and so far he proceeds correctly. He next advances to practice, and there he errs. The gamester has also observed very strange turns of fortune at the gaming table in favour of various individuals as well as himself. On each renewed occasion he says to himself, why should there not be a turn of fortune highly favourable to me on this occasion? No man can deny that there may be. Thus far he also theorizes, and theorizes correctly. He proceeds, however, immediately to a practice which is wrong. Is there not now something of a similarity?

**X.**

There is the appearance at least of a similarity; but there seems to be also an essential difference. Because certain remarkable things have resulted from certain known chemical operations, to suppose that gold will result from certain unknown chemical operations is a

very different thing from expecting that dice will turn up in a way in which they have turned up before.

**Y.**

All comparisons hold only in certain respects. A dog taking arsenic and a man taking arsenic are very different things; with respect to the arsenic and its effects the cases are similar. So in the cases of the gamester and the alchemist, the similarity to the purpose in hand is complete. In the case of the alchemist there is a chance of his making gold, but there are many chances against him; in the case of the gamester there is a chance of his having good luck, but there are many chances against it. Each of them chooses to act upon the one chance and disregard the many. This is not theory: all theory shows that the many chances are better than the few. The instances you have produced are not, therefore, instances of theories drawn up from fancy. It still remains to be known if you can produce others which are.

**X.**

Though it may not be possible to produce a theory which has not some reference to facts, which is not in some degree founded on the observation of the past, (for any theory laid down for the guidance of the future, which is not in some degree founded on the past, would be a mere exhibition of insanity,) yet I think any theory drawn from a very insufficient observation of the past, any theory inconsistent with facts and an erroneous guide for the future, may be justly enough denominated the creature of the fancy.

**Y.**

If we give up the existence of theories which are not founded on the observation of the past, and allow that all theories are founded on it, we have then but two classes of theories—those which are accurately founded on an observation of the past, and those which are not accurately founded on it. The former, I suppose, you would not call fancies, but only the latter.

**X.**

Only the latter.

**Y.**

I have no objection to your calling them by any name you please, provided only you do not confound them with the other; and having

advanced thus far it is time to see what conclusions we are prepared to draw.

**X.**

I shall be happy to hear what they are.

**Y.**

We have seen that all practice, all at least which deserves the name of rational, is founded upon an observation of the past, have we not?

**X.**

We have so.

**Y.**

We have also agreed that all theories are founded, though some correctly, some incorrectly, upon an observation of the past Theory and practice therefore are both founded on the same thing.

**X.**

They are so; but few theories are correctly founded.

**Y.**

Is there not such a thing as erroneous practice?

**X.**

There is, but not so common as erroneous theory.

**Y.**

Is not erroneous practice that which is not correctly founded upon the observation of the past?

**X.**

I tis.

**Y.**

Is not erroneous theory that which is not correctly founded upon the observation of the past?

**X.**

It is.

**Y.**

Error of practice and error of theory then are both owing to the same thing?

**X.**

It seems so.

**Y.**

We have said that all practice, which is the producing antecedents for the sake of consequents, is acting according to the remembrance of constancy in many instances?

**X.**

We have.

**Y.**

The remembrance of the constancy of sequence in many instances, when put into language, is a theorem. Thus, corn thrown into the ground produces corn, and the quantity produced is greater than the quantity producing. This is the remembrance of a constant sequence, and it is a theorem. The practice of sowing corn, is founded upon this remembrance; it is, therefore, founded upon the theorem. Is it not so?

**X.**

It is.

**Y.**

But what is the difference between a theorem and a theory?

**X.**

They seem indeed to be pretty closely connected.

**Y.**

The theory is merely a name of the thought or idea, and theorem is the name of the proposition which gives it expression.

**X.**

It seems so.

**Y.**

In following a theorem, therefore, or the remembrance of a constant sequence, we are following a theory; and as all practice follows this remembrance, all practice is founded upon theory, and there is no practice without theory?

**X.**

I cannot deny that it is so.

**Y.**

But if there is no practice without theory, it is altogether absurd to set practice in opposition to theory; and those people who condemn others by saying you follow theory, and extol themselves by saying we follow practice, only show the wretched state of their own minds; they know not what practice is. When a man says that he follows practice, he says by the same words that he follows theory. All men, therefore, in every rational action of their lives are followers of theory; and they may be divided, may they not, into the two following classes—those who follow good and those who follow bad theory; the first sort acting always right, the second always wrong?

**X.**

The conclusion is legitimately drawn.

**Y.**

The inquiry then of principal importance is what are the properties of a good theory and a bad?

**X.**

Certainly.

**Y.**

We have already made some progress in that inquiry. We have seen that in the formation of all theories the object is to ascertain a case of constant sequence; when that is correctly ascertained and correctly expressed in words, the expression may be said to be a correct theory. Any set of words, on the other hand, which professes to set forth a case of constant sequence, but sets forth as constant a case that is not constant, or sets forth one that is, incorrectly—such set of words may be termed a wrong theory. May we not assume these, as just descriptions of good theories and bad theories in kind?

**X.**

I think we may.

**Y.**

But good theory as a kind is a very lumping expression, and combines species which he who would arrive at clearness of ideas on this important subject must not neglect to distinguish.

Of two theories, each the expression of one constant sequence, the sequence expressed by the one may be a sequence on the due or undue observance of which much of human happiness or misery may depend; the sequence expressed by the other may be one with which good or evil to mankind has little or no connexion. Thus, the sequence of night and day is one, the knowledge of which is of vast importance to mankind. The regular revolution of the satellites of Jupiter round that planet is a sequence, the knowledge of which is of little importance. Theories are of importance, therefore, in proportion as the sequences of which they are the expression have much or little influence on human life.

**X.**

That is true.

**Y.**

A theory may express correctly the tracing of a sequence, but a tracing which has proceeded only a certain way. A theory may also express correctly the tracing of the same sequence, when the



tracing has proceeded a greater way. The theory expressing the tracing which has gone the furthest is of course the most valuable. Instances to illustrate the observation are innumerable. The tendency of bodies to the earth was traced at an early period, and the sequence was at last correctly expressed in the theorem, that the tendency of bodies to the earth, or the time required in falling to it, is as the squares of the distances. The sequence was traced much further when Sir Isaac Newton discovered that the same law regulated the motions of the planets, and to this enlargement of the comprehensiveness of the theory the greatest honour was attached.

**X.**

And very justly.

**Y.**

We may, therefore, lay it down, with your consent, as a rule, that a theory is always the more valuable the greater the extent of sequence which it correctly announces. This, in reality, is neither more nor less than saying that more knowledge is better than less.

**X.**

The truth of this is sufficiently clear.

**Y.**

Every theory, therefore, the more general and comprehensive it is, the more valuable it is.

**X.**

Certainly.

**Y.**

The man whose mind contains the greatest number of general theories, is the man best furnished for correct practice; the man whose mind contains the smallest number the least.

**X.**

I see it is so.

**Y.**

The whole business of philosophy consists in the endeavour to render each theory as comprehensive as possible. The whole business of philosophy, therefore, is to furnish men as completely as possible for practice; and the best philosopher is by necessary consequence the best practitioner.

**X.**

It must be so, however wide of my former notions.

**Y.**

The evidence is irresistible. All practice proceeds upon the supposition of an ascertained sequence, meaning by sequence constancy of sequence. As far as the sequence is correctly ascertained, that is, as far as the theory goes, the practice founded on it is correct. Suppose a sequence in regard to the human body ascertained as far as the entire species is concerned, this collected information, or theory, is of far more importance than if the sequence had been traced as far only as men of a particular description. Suppose the sequence is next traced through horses: the theory is now enlarged, and is so much the more valuable. It would receive an additional value if the sequence were traced through another species and another; it would become exceedingly valuable if it were traced through all; and it would become the most valuable possible if the sequence were traced through all the objects of which our system is composed.

**X.**

It would so.

**Y.**

It thus appears, that the proper business of philosophy is to trace every sequence as far as possible, and ascertain its greatest extent. It is very often found that sequences, which at first view, appear to be different, and to constitute a variety of species, are, when more closely examined, found to be one. And it is not at all impossible, it is on the other hand very probable, that all the changes which we observe in this world, innumerable as they seem to be, may be the result of a small number of sequences, traceable through all terrestrial beings.

**X.**

I allow it all.

**Y.**

If philosophy shall ever discover these sequences, and it is making constant advances, all knowledge competent to human nature will be correctly summed up in a few propositions; and mistaken practice will be no longer possible.

**X.**

What a magnificent idea you present of the importance of theorizing, and what a revolution you have produced in my mind since our conversation began!

**Y.**

From this doctrine it is very difficult not to draw some practical conclusions.

**X.**

Why should we abstain from drawing those conclusions if we think they are of importance?

**Y.**

I am willing to give a specimen of them if you consent.

**X.**

I heartily consent.

**Y.**

We have seen that the language which contrasts theory and practice, setting the one above the other, is the very consummation of ignorance—that it proves a man to be unacquainted with the very first elements of thought, and goes a great way towards proving his mind to be so perverted as to be incapable of being taught them.

**X.**

It is impossible not to assent to this.

**Y.**

This appearing with a clearness and cogency of reason not inferior to demonstration, let us next turn our eyes upon a few historical facts. The language, demonstrative of this ignorance, has been a prevalent language in our two Houses of Parliament time out of mind. Our leaders in Parliament have always used it so profusely as if they did it in emulation of one another, and as a proof of their wisdom. We need not go too far back; let us begin with Pitt. It became a settled formula with him and his school. Fox was not behind him, in a nimble use of the same instrument; nor Windham, nor Grenville. Burke outran them all. Nor has there been any intermission. All the great men who have taken the lead in Parliament, from these men to the present, the greatest of all (the present are always the greatest), have been equally eager in the use of the same language, and have taken equal credit to themselves for the reach of mind which it displayed. History will find its advantage in this. It affords a measure of the men, perfectly accurate. They great men, who do not know the relation of theory to practice, and of practice to theory!

Another melancholy fact is, that this language, the offspring and display of the most deplorable ignorance, has always been peculiarly acceptable to the Members of both Houses of Parliament. They crow and look triumphant whenever they hear it. Whenever a great man gets up, and with a commanding voice and manner says, 'Away with such or such a scheme of improvement! We will have no theories! Give us practice!' the *hear hims* are more fervent than on almost any other occasion.

The Scripture tells us that on one occasion our Lord said, 'My people perish for lack of knowledge.' Well may this be said of the people of England, when their rulers in both Houses of Parliament have their heads in such a state.

The cry of practice against theory began to be used when the force of the cry against philosophy began to grow feeble, and it grew rife as the cry against philosophy died away.

The cry against philosophy was raised as soon as the eyes of the public began to be prying. There is never anything which needs amendment in the state, but there are numbers of men who see it is their interest to fight against the amendment; because they make their profit out of the abuse. All this disposition to pry into abuses was imputed to philosophy. If philosophy, that is, the disposition to inquire, could be successfully cried down, men would be quiet; and those good things which good men had so long enjoyed at the expense of others, would rest in peace. The clergy of such a church

as the Church of England form the great section of the men who fight against amendment. Their establishment being altogether one overgrown abuse, a desperate attachment to abuses is a necessary part of their nature. Philosophy, therefore, they have always treated as their great enemy. Their accusations, like those of all impostors, are vague. Philosophy was very dangerous to men's souls. The clergy are always remarkable for their care of men's souls, when it is synonymous with care of their own interests. Philosophy being dangerous to men's souls, God hates philosophers; and philosophers hate God. This foundation well laid, everything followed of course.

But men began to distrust the clergy. They found that philosophy was a thing originally of good repute. The highest eulogiums, and by the wisest men, had been bestowed upon it. Also, when they began to look into the thing itself, they could easily perceive that though there might be evil in it, there was also good. Men might be the better for it. What, then, could be the reason of the abhorrence of the clergy? That soon appeared. The light of philosophy made apparent the enormous abuses accumulated in such a thing as a corporation of priests set up with exorbitant wealth, and hence influence and power. The outcry against philosophy immediately lost a great share of its power, and the statesman needed a more usable instrument. Practice against theory was found very suitable to his purpose, and accordingly it superseded the other. Not but that a sneer at philosophy is still very acceptable to honourable and noble houses. To call a man a philosopher, in the way of contempt, is still sure of a cordial cheer; and it is probable that the two Houses of the British Legislature will be the last places on earth where, in an assembly of men pretending to be educated, philosophy will be treated with disrespect.

P. Q.

[\*]Feeling, in this and other passages, is mererly employed as a generic word to express the objects of consciousness.

[\*]Priestley's examination of Reid, &c. p. 57. Ed. 2.

[†]Ibid. 59.

[‡]Ibid. p. 80.

[\*]Inquiry into the Sublime, &c. p. 1, sect. 19.

[\*]See Hicckes's *Thesaurus*, T. II. *Dissertatio Epistolaris*, p. 20, 22.

[\*]*The Life of the Hon. Sir D. North*, &c. By the Hon. Roger North, p. 179.

[\*]The only part of Mr Mill's pamphlet to which it is of any use at present particularly to refer, is where he proves, that a balance necessarily exists between production and consumption; and that no amount of production can ever be without a market; a doctrine of cardinal importance, first illustrated by M. Say, in his very able work, entitled *Traité d'Economie Politique*, but of which the evidence will perhaps be found more clearly deduced in this pamphlet than in any other treatise yet published.

[\*]There is one brilliant authority on the side of Helvetius: "It was a favourite opinion of Sir William Jones, that all men are born with an equal capacity of improvement." Lord Teignmouth's *Life of Sir William Jones*, Vol. II. p. 211.

[\*]*An Inquiry into the Nature and Origin of Mental Derangement, &c.* By A. Crichton, M. D. I. 274.

[\*]*Chrestomathia*, being a collection of papers explanatory of the design of an institution proposed to be set on foot, under the name of the Chrestomathic Day-school, &c. By Jeremy Bentham, Esq.

[†]We mention, with extraordinary satisfaction, that an idea of education, hardly less extensive than what is here alluded to, has been adopted by that enlightened and indefatigable class of men, the Baptist Missionaries in India, for the population, poor as well as ignorant, of those extensive and populous regions. A small volume, entitled, "*Hints relative to Native Schools, together with the Outline of an Institution for their Extension and Management*," was printed at the mission press at Serampore in 1816; and, as it cannot come into the hands of many of our readers, we gladly copy from it the following passage, in hopes that the example may be persuasive with many of our countrymen at home:

"It is true, that when these helps are provided, namely, a correct system of orthography, a sketch of grammar, a simplified system of arithmetic, and an extended vocabulary, little is done beyond laying the foundation. Still, however, this foundation must be laid, if any superstructure of knowledge and virtue be attempted relative to the inhabitants of India. Yet, were the plan to stop here, something would have been done. A peasant, or an artificer, thus rendered capable of writing as well as reading his own language with propriety, and made acquainted with the principles of arithmetic, would be less liable to become a prey to fraud among his own countrymen, and far better able to claim for himself that protection from oppression, which it is the desire of every enlightened government to grant. But the chief advantage derivable from this plan is, its facilitating the reception of ideas which may enlarge and bless the mind in a high degree,—ideas for which India must be

indebted to the west, at present the seat of science, and for the communication of which, generations yet unborn will pour benedictions on the British name.

“1. To this, then, might be added a concise, but perspicuous account of the solar system, preceded by so much of the laws of motion, of attraction, and gravity, as might be necessary to render the solar system plain and intelligible. These ideas, however, should not be communicated in the form of a treatise, but in that of simple axioms, delivered in short and perspicuous sentences. This method comes recommended by several considerations: it agrees with the mode in which doctrines are communicated in the *Hindoo Shastras*, and is therefore congenial with the ideas of even the learned among them; it would admit of these sentences being written from dictation, and even committed to memory with advantage, as well as of their being easily retained; and, finally, the conciseness of this method would allow of a multitude of truths and facts relative to astronomy, geography, and the principal phenomena of nature, being brought before youth within a very small compass.

“2. This abstract of the solar system might be followed by a compendious view of geography on the same plan, that of comprising every particular in concise but luminous sentences. In this part it would be proper to describe Europe particularly, because of its importance in the present state of the world; and Britain might, with propriety, be allowed to occupy in the compendium, that pre-eminence among the nations which the God of Providence has given her.

“3. To these might be added a number of popular truths and facts relative to natural philosophy. In the present improved state of knowledge, a thousand things have been ascertained relative to light, heat, air, water, to meteorology, mineralogy, chemistry, and natural history, of which the ancients had but a partial knowledge, and of which the natives of the East have as yet scarcely the faintest idea. These facts, now so clearly ascertained, could be conveyed in a very short compass of language, although the process of reasoning, which enables the mind to account for them, occupies many volumes. A knowledge of the facts themselves, however, would be almost invaluable to the Hindoos, as these facts would rectify and enlarge their ideas of the various objects of nature around them; and while they, in general, delighted as well as informed those who read them, they might inflame a few minds of a superior order with an unquenchable desire to know *why* these things are so, and thus urge them to those studies, which in Europe have led to the discovery of these important facts.

“4. To this view of the solar system of the earth, and the various

objects it contains, might, with great advantage, be added such a compendium of history and chronology united, as should bring them acquainted with the state of the world in past ages, and with the principal events which have occurred since the creation of the world. With the creation it should commence, describe the primitive state of man, the entrance of evil, the corruption of the antediluvian age, the flood, and the peopling of the earth anew from one family, in which the compiler should avail himself of all the light thrown on this subject by modern research and investigation; he should particularly notice the nations of the east, incorporating, in their proper place, the best accounts we now have both of India and China. He should go on to notice the call of Abraham, the giving of the decalogue, the gradual revelations of the Scriptures of Truth, the settlement of Greece, its mythology, the Trojan war, the four great monarchies, the advent of the Saviour of men, the persecutions of the Christian church, the rise of Mahometanism, the origin of the papacy, the invention of printing, of gunpowder, and the mariner's compass, the reformation, the discovery of the passage to India by sea, and the various discoveries of modern science. Such a synopsis of history and chronology, composed on the same plan, that of comprising each event in a concise but perspicuous sentence, would exceedingly enlarge their ideas relative to the state of the world, certainly not to the disadvantage of Britain, whom God has now so exalted as to render her almost the arbitress of nations.

"5. Lastly, It would be highly proper to impart to them just ideas of themselves, relative both to body and mind, and to a future state of existence, by what may be termed a Compendium of Ethics and Morality. The complete absence of all just ideas of this kind, is the chief cause of that degradation of public morals so evident in this country.

"These various compendiums, after being written from dictation, in the manner described in the next section, might also furnish matter for reading; and when it is considered that, in addition to the sketch of grammar, the vocabulary, and the system of arithmetic, they include a view of the solar system, a synopsis of geography, a collection of facts relative to natural objects, an abstract of general history, and a compendium of ethics and morality, they will be found to furnish sufficient matter for reading while youth are at school."

Why should not the same idea be pursued in England, and as much knowledge conveyed to the youth of all classes at school, as the knowledge of the age, and the allotted period of schooling will admit?



[\*] It may be remarked, that the conclusion to which we have thus arrived coincides exactly with the doctrine of Locke: “The great and chief end,” says he, “of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property.”—*Second Treatise concerning Government*, ch. ix. This the more certainly appears, when it is considered that by far the greater part of injuries to person committed by human beings are, in some way or other, on account of property.

[\*] An acute sense of this important truth is expressed by the President Montesquieu: “C’est une experience eternelle, que tout homme qui a du pouvoir est porté à en abuser; il va jusqu’ à ce qu’il trouve de limites.”—*Esp. de Loix*, II. 4.

[\*] A most instructive display of these and similar artifices for the preservation of mischievous power, after the spirit of the times is felt to be hostile to it, may be seen in Father Paul’s *History of the Council of Trent*.

[\*] See the writings of Kant and his followers, *passim*; see also Degerando, and others of his school, in various parts of their works.

[\*] Nothing which can in any degree interfere with the rights of conscience, including whatever interpretation any man may put upon the words of Scripture, is here understood. It is the object of the legislator to encourage acts which are useful, prevent acts which are hurtful, to society. But religious hopes and fears are often applied, not to promote acts which are useful, prevent acts which are hurtful, to society; in which way, alone, they are capable of conducing to the views of the legislator; but to mere ceremonies. And cases are not wanting in which they are applied to produce acts that are hurtful, prevent those that are useful, to society. As far as religious motives are attached to the useful, instead of the useless or hurtful objects, society is benefited. It is this benefit which it is recommended to the legislator to pursue.

[\*] We are happy to say, there are hopes that this part of Mr Bentham’s writings will soon be presented to the public by M. Dumont, the first of translators and redacteurs, in that happy form which he has given to other portions of that philosopher’s manuscripts.

[\*] If evident fraud were committed in contracting the debt, or if the property of others obtained by loan, had evidently been dishonestly spent, or dishonestly risked, such fraud, or dishonesty, being crimes, not a debt, might justly subject a man to imprisonment, or any other sort of due punishment.

[\*] See Hansard's Parliamentary Debates, New Series, i. 227.

[\*] Hansard's Debates, *ut supra*, ii. See July 18, 1820.

[\*] Hansard's Debates, ii. 205, April 6th, 1824.

[\*] Hansard's Debates, v. 339.

[\*] Hansard's Debates, v. 451.

[\*] Hansard's Debates, v. 604.

[†] *Ib.* vii. 51.

[‡] *Ib.* viii. 1260.

[||] *Ante*, p. 576.

[\*] Hansard's Debates, vii. 106.

[\*] Hansard's Debates, viii. 1273.

[\*] Hansard's Debates, viii. 1279.

[\*] Vol. x. pp. 411, 412. &c.; and vol. xiv. pp. 287. 300. &c.

[\*] See the Newspapers for the 2d of January, 1824.

[\*] A brother of the late Lord Ellenborough.

[\*] These are in some places maintained by contributions of labour, or by compositions in lieu thereof.

[\*] The Quarterly Review, in a laboured article on the ecclesiastical revenues, has endeavoured to prove, among other things, that tithes do not operate as a tax on the general consumers of corn, by raising the price of the article.

If, the writer argues, tithes were abolished, land of the lowest quality, which now pays no rent,—the produce being equal only to the payment of tithes in addition to the expenses and ordinary profits of cultivation,—this land would pay in rent what it now pays in tithes. But the reviewer keeps out of sight this important circumstance, that if tithes were abolished, all that portion of land would be brought into cultivation which now not only cannot pay rent, but cannot even after the first seven years pay tithe in addition to the expenses and ordinary profits of cultivation. In such case, the nearest means of supply being increased, the price of corn would fall.

The reviewer thinks he has gained a great point in asserting that there are no cultivated lands in Britain which do not pay some rent; but he is ignorant that with regard to this, the true question is, not whether the *land* pays rent, but whether *the last application of capital* to the land pays rent. Thus, suppose lands 1, 2, 3, 4, successively decreasing in fertility, it commonly happens that before 2, 3, 4, or the inferior lands are cultivated, capital can be employed more productively on those lands which are already in cultivation. It may perhaps be found that by doubling the capital already employed on No. 1., though the produce will not be doubled, it may be increased three-fourths; and that this quantity exceeds what could be obtained by employing the same capital on No. 3. In such case, says Mr. Ricardo, "capital will be employed in preference on the old land, and will equally create a rent; for rent is always the difference between the produce obtained by the employment of two equal quantities of capital and labour."—"The capital last employed pays no rent."

But admitting, if the reviewer pleases, that tithes do not raise the price of corn, and consequently do not operate as a tax on the consumer, it still remains that the clergy of the established church are supported by a modification of property the most pernicious that ever was devised by the barbarity of ignorant and superstitious ages.

It is admitted, on all hands, that tithes operate as a constant source of irritation between parson and parishioner, and as a constant check upon agricultural enterprise and improvement. They do not, it is true, prevent the person who employs his capital on land from obtaining in the long run the same rate of profit as every other capitalist, but they divert from land a great portion of capital, which, but for the institution of tithes, would infallibly be employed on it, and employed to the promotion of abundance.

A farmer, for instance, has taken 100 acres for a term of seven, fourteen, or twenty-one years; he is willing to lay out 100*l.* or 1000*l.* in draining, manuring, or irrigating; the improved and increased produce will just repay his expenses, with the ordinary profits of capital, but it will not do this and pay tithes too: the parson is inexorable,—of course quite regardless of himself, but he has "a duty which he owes to his successors,"—he refuses to relinquish his tithes even for a period, till the farmer shall have been indemnified for his expenses; and the farmer, who has not piety sufficient to raise the parson's income to his own loss, abandons the projected improvement. This is no imaginary or uncommon case, and within our personal experience we could point out repeated instances in which the process we have just described

has literally been gone through.

Now, as the institution and maintenance of property in general can be supported on no other ground than that it is productive of general good, the most corrupt and ignorant legislatures have never hesitated from time to time to abolish such modifications of property as have been proved to be clearly pernicious to the community at large. Thus Henry VIII. suppressed the monasteries; Charles II. abolished feudal wardships, and the oppressive remnant of feudal services; and yet the feudal guardians had as good a right to certain proceeds out of the estates inherited by their wards, as the established clergy to a portion of the produce raised by their parishioners. Not only have legislatures been in the habit of abolishing modifications of property inconsistent with the general good, but it has been and is their daily practice after allowing some compensation (generally inadequate) to the individual injured, to invade property on no other ground than that on the occasion in question, the advantage to the public is so great as entirely to counterbalance the loss and inconvenience to the individual; and this in cases where the property invaded, instead of being of an objectionable kind, would, but for the projected advantage to the public, have been enjoyed consistently with the general interest of the community at large; as where the park or farm of an individual, is, against the will of the owner, appropriated by act of parliament to a canal, a road, or a fortification.

As to the time and mode of abolishing pernicious modifications of property, and the compensation or substitution to be made to the holders of it; these are questions for the enlightened and humane legislator, which at present we are not called on to discuss. However the reviewer's main argument in favour of tithes, is the advantage which he says a parish derives from the residence of a person educated as our parochial clergy usually are. As to the existence of this alleged advantage we are directly at issue with him, and shall take an early opportunity of showing that no such advantage as that described, exists;—admitting, however, that it does exist, it furnishes no argument in support of tithes. The residence of a parochial clergy would be much more effectually secured (as in Scotland) by the payment of a salary on condition of residence, than by the perception of tithes from two or three parishes, one of which only can be inhabited at the same time by the same percipient.

[\*]The dollar has throughout been calculated at 4s. 3d.

[\*]"The *Federalist*." See No. XLI, p. 155. We have every reason to believe, exclusive of the authority of the *Federalist*, that this infernal fact is true to the letter. Why should it be thought

incredible of the *gougers* and *gander-pullers* of Kentucky? We have piles of their own papers before us, and we read in them that public subscriptions are raised in order to bestow rewards for bringing in Indian scalps (provided both ears are on); and it is but a step from a scalp to a razor strop, both of them, no doubt, considered as trophies equally glorious. *Note of the Quarterly Review*.

[\*] Southey's Preface to the Vision of Judgment.

[\*] Est autem *portio legitima* pars bonorum lege definita, liberis, parentibus, et, certo casu, fratribus et sororibus, a testatore sine onere relinquenda. Ea initio fuit quarta portionis ab intestato debitæ. At postea Justinianus constituit, *ut si liberi* (vel parentes, fratresve vel soreres) *sint quatuor vel pauciores* (connumeratis etiam exhereditatis), *tunc portio legitima sit triens: sin quinque vel plures; semis bonorum*. See Heineccii *Elementa J. C. secundum ordinem Pandectarum*. Lib. v. Tit. 2, Lib. xxviii. Tit. 2. 3.

[\*] See the discussion on the 913th article of the Napoleon Code, in the *Conférence du Code Civil*. The original draft of the Code having been first submitted to the Judges of the several Courts of Cassation and Appeal, and having undergone various alterations at their suggestion, was discussed, article by article, in the Council of State. The *Conférence*, in 8 vols. 8vo., contains a Report of these discussions.

[†] See Articles 745, 913, of the Civil Code.

[\*] See his Commentaries, b. 2, c. 14. Third rule of Descent. Even Gibbon, though he condemns "the insolent prerogative of primogeniture," thinks that it may have its uses in sharpening industry. See that part of his celebrated chapter on the Roman Jurisprudence, which relates to inheritance and succession.

[\*] We would recommend to the reader the perusal of chapter 6, vol 2, of Bentham's *Traité de Législation*. If the reviewer had looked into this, and the following chapters, he would not have imagined that the questions about wills and succession had always been treated in the technical and senseless manner which he speaks of.

[\*] "C'est ce qui arrivait en Normandie, en Gascogne, où les cadets, dépouillés par la coutume, *végétaient* dans les privations et la misère à côté d'un aîné qui nageait dans l'abondance et le superflu." — *Conférence du Code Civil*. Tom. iv, p. 195.

[†] In the collection called *Politique de tous les Cabinets de l'Europe*, we distinctly remember, though we cannot turn to the book just now, a very lively account of these haughty beggars.

[\*] Some idea of these restrictions may be obtained from Condorcet's interesting life of the great and good Turgot.

[\*] By a pedantical misapplication of the Roman law term, *peculium*, which imports a totally different idea, he says that they received a *pécule*. His meaning, however, is plain.

[\*] The military testament (says Montesquieu, Liv. xxvii) "ne fut établi que par les constitutions des empereurs; ce fut une de leurs *cajoleries* envers les soldats."

[\*] "Ita jure novo. *Olim* enim, qui ex testamentis capere non poterant iis fidei-commissa relinquebantur." Heineccius ad Inst. § DCLIX. Augustum primum jussisse Consules auctoritatem interponere, ac postea Claudium Imp. binos Prætores fidei-commissarios creasse, qui de fidei-commissis jus dicerent, discimus ex §. i. *Inst. h. t. Suet. Claud.* Et ex eo tempore fidei-commissa *vim juris* acceperunt." Heineccius ad Pandect. Pars V. §. ccxvii.

[\*] Novella Constit. CLIX. *Ut Restitutiones fidei-commissi usque ad unum gradum consistant.* "Justinianus constituit (*says Gothofred, explaining the effect of this law*) si inter filios (*the sons of the first taker*) facta sit *precaria substitutio*, ut non porrigatur ultra filiorum gradum"—*Corpus Juris Civilis.*

[†] Pars V. § ccxviii.

[‡] The sketch which we have ventured to lay before our readers, of the Roman *Substitutions* and Entails by way of *Fidei-commissa*, has been extracted as carefully as possible from two treatises of Heineccius. Such of our readers as may wish to pursue the subject are recommended to look into the Treatises themselves, where it is unfolded by that prince of expositors with his usual perspicuity and precision.—*Elementa Juris Civilis secundum ordinem Institutionum* Lib. ii. Tit. XV. XVI. XXIII. *El. J. C. sec. ord. Pandectarum.* Lib. xxviii. Tit. VI. Lib. xxxvi. Tit. I. Lib. v. Tit. VI.

[\*] See in the *Conférence du Code Civil*, the argument on Articles 896, 7, 8, 9, of *M. Bigot-Préameneu*, one of the Committee who prepared the Original Draft.

[\*] See articles 595, 896—899, 1048—1051, and the discussions in the *Conférence* on art. 896—899.

[\*] Napoleon, then a young man, frequently took part in the discussions on the projected code. Though we are no very vehement admirers of that extraordinary person, we must admit that he appears on these occasions to striking advantage. He affects no despotical airs, replies calmly to the arguments opposed

to his own, and seems intensely anxious that good laws should be given to the French people. The clearness with which he discerns, and the dexterity and conciseness with which he puts the essential points, may be guessed at from the following passage. The question is, whether the parent shall be allowed to substitute in favour of his *unborn* grandchildren? “Il faut surtout pourvoir à ce que le mécontentement du père ne dépouille pas toute la postérité du fils. C’est ce qui arriverait, si la disposition ne pouvait être étendue aux enfans à naître. L’aïeul mécontent de son fils lui préfère ses petits-enfans. Un seul de ces derniers existe alors: l’aïeul l’appelle, non parce qu’il l’eût préféré à ses frères, mais parce qu’il ne lui est permis de choisir qu’entre ce petit-fils unique et son fils: l’aïeul meurt; des frères surviennent à l’appelé; et ces frères, qui eussent été également appelés s’ils eussent vécu lors du testament, se trouvant, contre le vœu du testateur, déshérités sans retour.” — *Conférence*, vol. iv. Art. 896—899.

[\*] Such as the *Tatler* or *Spectator*; Fielding’s or Richardson’s novels.

[†] “Les substitutions” (says Napoleon) “telles qu’elles existaient dans l’ancien droit, n’étaient destinées qu’à maintenir ce qu’on appelait les grandes familles et perpétuer dans les aînés l’éclat d’un grand nom.” *Conférence*. Art. 896—899. “Toute substitution *emporte avec elle* l’idée de l’exclusion de la généralité des membres de la famille: c’est un *seul* qui écarte tous ses proches.” See the argument of *M. Bigot-Préameneu*, *Ibid*.

[\*] “L’expérience a prouvé, depuis deux siècles, que les substitutions, pour être ainsi réduites, quant au nombre de degrés ne s’en perpétuaient pas moins par le *renouvellement*.” See the argument of *M. Bigot-Préameneu* in the *Conférence*, Art. 896—899. He adds very well, “La substitution d’un seul degré pouvant se *renouveler* à chaque génération, elle aura les mêmes inconvénients que les substitutions de plusieurs degrés.”

[†] “Lorsque les substitutions n’étaient pas dans une famille puissante, les parens dépouillés ne pouvaient avoir dans leur misère aucune ressource.” *Ibid*.

[‡] “Si la famille était puissante, les parens dépouillés auraient sans doute préféré une existence assurée dans la propriété d’une partie des biens, plutôt qu’une protection précaire et humiliante. Mais cette ressource qui existait dans un temps où les familles puissantes avaient pour tous les emplois lucratifs un privilege exclusif, n’existe plus sous un régime où ce privilege, *qui lui-même était une espece de substitution*, n’existe plus.” *Ibid*. “La substitution est dangereuse, parce qu’elle existerait sans les

ressources qui corrigeaient son influence sous un régime qui n'est plus. Il n'y a plus de couvents pour les filles; plus de canonicats, plus de régiments *affectés par privilège aux cadets que les substitutions avaient ruinés.*" *Ibid.*

[\*] If any one sincerely think that good government is a vision, let him simply look at the regulations by which *all* commissions are filled up in the United States' army.

[\*] If the reader have more confidence in great names than in the suggestions of his own good sense, he may take the propositions in the text on the authority of Machiavel. "It is the constant aim of the nobles" (says he) "to oppress; the only aim of the commonalty is to avoid oppression."—"Senza dubbio se si considera il fine de' Nobili e degl' Ignobili, si vedrà in quelli desiderio grande di dominare, ed in questi solo desiderio di non essere dominati, e, per conseguente, maggiore volontà di vivere liberi, potendo meno sperare d'usurparla che non possono li Grandi: talchè essendo i Popolari preposti a guardia d'una libertà, è ragionevole ne abbino più cura; e non la potendo occupare loro, non permettino che altri l'occui."—*De' Discorsi*, Lib. i. Cap. 5. Not only is he convinced that the mass of the people is alone interested in having good government, and ought, therefore, to have the control of the government; but he is equally satisfied of their capacity to discern their own interests, and to take the measures most likely to promote them. The reason which he gives for the prevalence of the contrary opinion is so true, and is expressed with such strength and simplicity, that we cannot refrain from adding it to the passage which we have cited above. "L'opinione contra ai Popoli nasce, perchè de' Popoli *ciascun dice male senza paura*, e liberamente ancora *mentre che regnano.*"—"The prevalent belief of the people's incapacity arises from this; that under monarchies or aristocracies every one may speak ill of *them* with complete impunity; and no attempt is ever made by the people themselves to restrain this licence, where the government is democratical."—Lib. v. Cap. 58.

Of all the tools of the oligarchy, counting from Burke downward, who have employed their talents, great or small, in traducing the mass of mankind, not one, most certainly, has been punished as for libel on the people. How and to what end they have been rewarded at our expense, we know and feel. The other branch of Machiavel's reason is equally confirmed by recent experience. In the United States, where the *people reign*, the partizans of the federalist or aristocratical faction have ever vented their spleen and abuse with perfect impunity. Whilst that faction was in authority, they passed a Libel Law, which the democratical party, on their accession to power, might have used as a weapon against their adversaries. But with the wisdom and magnanimity peculiar to popular counsels,



they disdained the poor advantage: and one of the first acts of Mr. Jefferson's glorious administration was, to repeal the odious Law, and to permit that unbounded censure of public men and measures which has ever since been exercised by writers of all parties.

We cannot close this note without another remark. The cool and sagacious statesman, whose authority we have just cited, had had ample experience of Princes, Nobles, and Democracies; but he was a stranger to an *instructed* people and a *Representative* Government. If such was his opinion of popular goodness and wisdom, even in his own dark age, what would he have thought had he known the middling classes of England, or the people and Government of America?

[\*] "I offer it," he says, "to fathers [quære, *mothers*], which they may put into the hands of their children." We shall presently see what sort of a manual it is.

[†] An account of Ireland, Statistical and Political, by Edward Wakefield v. ii. p. 344.

[\*] 'I have given an account of this saint in the *Quarterly Review*, vol. xxii. p. 79. And the reader who is desirous of seeing another example, not less curious, of Roman Catholic superstition in its excess, is referred to the sketch of P. Joam d'Almeida's life, in my *History of Brazil*, vol. ii. p. 684.'

[\*] 'Will even Mr. Southey venture to compare, in point of Christian morality and piety, a Peter Bruys with his great opponent St. Bernard? a Tanchelin with St. Norbert? or a Wickliffe, with his enemy William of Wykeham? Will he compare Thomas Cranmer with Sir Thomas More? or Ann Boleyn with Catharine of Arragon? or Queen Elizabeth with the Queen of Scots? Conscious that no miracles have ever illustrated any other church than that to which its Divine Founder promised a continuation of them,\* the Poet on every occasion treats these supernatural events, however strongly attested, as refuted impostures. He is particularly indignant at the stigmata of the devout contemplative St. Francis, which, though witnessed by numerous persons of the highest credit, he, on his own personal credit, pronounces to be "atrocious effrontery and blasphemous impiety." Referring afterwards to a book called, *The Conformities of St. Francis with Christ*, which he knows was condemned by the Church, he also quotes, at considerable length, another absurd legend, *The Eternal Gospel*, in order to render the Church odious and ridiculous; at the same time that he himself acknowledges it to have been condemned by her.' — *Merlin's "Strictures,"* p. 23.

[\*] Mr. Butler, however, notwithstanding all his polish, can be thoroughly foul-mouthed, and a good deal worse, when he thinks there is something to gain, and nothing to fear from it. "There is not," (he says p. 111, speaking of the abuse of Indulgences) "in the universe, a territory in which, in every secular, and every ecclesiastical department, some abuse does not exist; are we on that account, to conclude with the Lollards, and other Manichæan radicals, that all government is evil." "Manichæan" is an old *religious* term of reproach; "Radical" is a modern *political* term of reproach, and Butler applies them both, in the true spirit of Catholicism, to blacken the memory of the first reformers; with the same truth as if he had told us, that each man of them had seven heads and ten horns. The Lollards were Wicliff and his followers. The character of Wicliff is given us by Mr. Gilpin, in his work intitled, "Lives of the Reformers," in the following words:

'Such was the life of John Wicliff; whom we hesitate not to admire as one of the greatest ornaments of his country; and as one of those prodigies, whom Providence raises up, and directs as its instruments to enlighten mankind. His amazing penetration; his rational manner of thinking; and the noble freedom of his spirit, are equally the objects of our admiration. Wicliff was in religion, what Bacon was afterwards in science; the great detector of those arts and glosses, which the barbarism of ages had drawn together to obscure the mind of man.

'To this intuitive genius Christendom was unquestionably more obliged than to any name in the list of reformers. He explored the regions of darkness, and let in not a feeble and glimmering ray; but such an effulgence of light, as was never afterwards obscured. He not only loosened prejudices, but advanced such clear incontestible truths, as, having once obtained footing, still kept their ground, and even in an age of reformation wanted little amendment. How nearly his sentiments, almost on every topic, agreed with those of the reformers of the succeeding century, hath been made the subject of set inquiries, and will easily appear from a general view of his opinions.'

Mr. Gilpin pursues the history of the Lollards through the Life of Lord Cobham, which contains so many liberal sentiments, finely expressed, as redeems many awkward attempts of his brethren in the cause of illiberality. We should like to quote, but must content ourselves with referring to, the following passages: that containing the character of Lord Cobham, at p. 100 to 103; and a clear exposition of the ground upon which Mr. Butler presumes to say, that the Lollards held "all government an evil," at p. 126 to 131, both in the first volume. The reader who looks at these passages will be satisfied, that Mr. Butler's defamatory facts, as well as Mr.

Southey's, stand in need of authentication.

Mr. Butler may have copied this abuse from his fellow labourer Merlin (Milner.) "Nothing so easy," says John, "as to calumniate. Accordingly the Poet, by a fiction of his own, says, 'the corrupt lives of the clergy provoked inquiry into their doctrine, and caused the first Reformers, meaning the Wicliffites and Hussites, to fraternize with the inhabitants of the Alpine and Pyrenean countries, who,' he says, 'had preserved the truth of better ages,' meaning, the obscene Manichæans, called Albigenes, and the seditious fanatics, the Vaudois."

The Catholics have the strongest motive to blacken the character of these Puritans; for dreadful is the account which stands against them, for that persecuted people.

Mr. Butler's charge against our first Puritans was, that they were Manichæan and radical. Milner's charge against the first continental Puritans is, that they were Manichæan, radical, and obscene. Obscenity and sedition were imputed to the early Christians, by the Pagans; and regularly, after Christianity was established, by the party in power, to those who dissented from them. As it was in the beginning, it is now, but so it ever shall not be. The term Manichæan embraced a great variety of sects, which were all put down by the triumphant Catholics, their books destroyed, and their name made a term of reproach, by which to denote whomsoever the Catholic wished to point out for abhorrence. This became a habit so inveterate, that a Catholic, we see, cannot even now leave it off.

"Obscene." On this point we must quote an entertaining passage from Bayle, [Réponse aux Questions d'un Provençael, 4me Partie, ch. 16.] "Cet Historien" [Léger, Histoire des Eglises Vaudoises] aiant rapporté le témoignage que deux Inquisiteurs ont rendu aux bonnes mœurs des Vaudois, le fortifie par un passage de M. de Thou, et par ces paroles de Baronius. *Valdenses tactum omnem mulierum refugisse, qu'ils ont fuy toute fréquentation de femmes, c'est à dire, toute fréquentation illicite, et par la belle preuve qu'en donne Radulphus Cogeshalensis, Moine Anglois . . . où il confirme ce qu'il dit de la sainteté de la vie des Vaudois, et particulièrement de leur chasteté par l'exemple d'une fille, qui sc trouvant fort pressée par un jeune homme lascif de se laisser aller à la paillardise, répondit: Dieu ne veuille jamais permettre, ô bon jeune homme, que je devienne jusques-là ton amie, ni l'amie d'homme vivant; car je sçai bien que si j'avois prostitué ma virginité et souillé mon corps, je serois éternellement damnée. Quod audiens Magister Gervasius, ajoûte-t-il, intellexit protinus hanc esse de impurissima secta Valdensium; c'est à dire, ce qu'ayant ouy nôtre*

*Maître Gervais, il reconnut d'abord qu'elle estoit de la trèsimpure secte des Vaudois: remarque cher Lecteur, à quoy ce brave Maître reconnoît l'impureté de la secte Vaudoise, assavoir à la chasteté exemplaire de leurs Filles."*

Of the corresponding defamation of the Manichæans, which, among instructed and honest men, is now mentioned only to be laughed at, we should not have thought it necessary to adduce any exposure, if the following had not lain open before us in the same page of Bayle.

*"Voici ce que Fauste le Manichéen disoit aux Catholiques chez Saint Augustin: Vous me demandez si je reçois l'Évangile? Vous le voyez en ce que j'observe ce que l'Évangile prescrit: c'est à vous à qui je dois demander si vous le recevez, puis que je n'en voy aucune marque dans votre vie. Pour moy j'ay quitté père, mère, femme et enfans, l'or, l'argent, le manger, le boire, les délices, les voluptez, content d'avoir ce qu'il faut pour la vie d'un jour à l'autre. Je suis pauvre, je suis pacifique, je pleure, je souffre la faim et la soif, je suis persecuté pour la justice, et vous doutez que je reçoive l'Évangile?"*

M. l'Evêque de Meaux, qui raporte ces paroles, venoit de dire que les Manichéens du XIII. siècle *avoient un extérieur surprenant*. Enervin, ajoûte-t-il, "les fait parler en ces termes: *Vous autres, disoient-ils aux Catholiques, vous joignez maison à maison et champ à champ; les plus parfaits d'entre vous, comme les Moines et les Chanoines réguliers, s'ils ne possèdent point de biens en propre, les ont du moins en commun. Nous qui sommes les pauvres de Jésus Christ sans repos, sans domicile certain, nous errons de ville en ville comme des brebis au milieu des loups, et nous souffrons persécution comme les Apostres et les Martyrs*. En suite ils vantoient leurs abstinences, leurs jeusnes, la voye étroite où ils marchaient, et se disoient les seuls sectateurs de la vie Apostolique, parce que se contentant du nécessaire, ils n'avoient ni maison, ni terre, ni richesses. *A cause, disoient-ils, que Jésus Christ n'avoit ni possédé de semblables choses, ni permis à ses disciples d'en avoir*. Selon Saint Bernard, il n'y avoit *rien en apparence de plus chrétien* que leurs discours, *rien de plus irréprochable que leurs mœurs*. Aussi s'appelloient-ils les *Apostoliques*, et ils se vantoient de mener la vie des Apostres.

Voïons présentement ce que je vous ai promis; voïons, dis-je, les Catholiques Romains tenir le même langage que les Protestans qui rejettent les macérations, les vœux monastiques, les abstinences."

It would have been satisfactory to have said something on the charge of "*radicality*," or "*sedition*," or "*liberty and equality*, in the

disorganizing sense," as Mr. Butler expounds it, "which," he says, "in this age are so loudly called for, and the loudness of the call increases every day," [p. 144.] This subject, however, must not be lightly treated. Mr. Butler must not be left to alarm, as he pleases, those who have a stake; and we must return to this upon another occasion. In the mean time, we content ourselves with another reference to Gilpin, who shows, vol. i, p. 69 to 72, how much ground there was, in the opinions of Wicliff, for the zeal of the clergy to defame him and his followers, and how much reason there is for us to detest their defamation.

[\*] The following passage from the Narrative of Archbishop Abbot is conclusive evidence to the character and habits of Laud:—

"This man (he was then bishop of St. David's) is the only inward counsellor with Buckingham; sitting with him sometimes privately whole hours, and feeding his humour with malice and spight.

His life in Oxford was, to pick quarrels in the lectures of the public readers, and to advertize them to the then bishop of Durham, that he might fill the ears of James with discontents against the honest men that took pains in their places, and settled the truth (which he called Puritanism) in their auditors.

He made it his work to see what books were in the press, and to look over epistles dedicatory, and prefaces to the reader, to see what faults might be found.

It was an observation, what a sweet man this was like to be, that the first observable act he did, was the marrying of the earl of D. to the lady R., when it was notorious to the world that she had another husband, and the same a nobleman, who had divers children then living by her. King James did for many years like this so ill, that he would never hear of any great preferment of him, insomuch that the bishop of Lincoln, Dr. Williams, who taketh upon him to be the first promoter of him, hath many times said, that he, when he made mention of Laud to the king, his majesty was so averse from it, that he was constrained oftentimes to say, that he would never desire to serve that master, which could not remit one fault unto his servant. Well; in the end, he did conquer it to get him to the bishopric of St. David's; which he had not long enjoyed, but he began to undermine his benefactor, as at this day it appeareth. The countess of Buckingham told Lincoln, that St. David's was the man that undermined him with her son; and verily such is his aspiring nature, that he will underwork any man in the world, so that he may gain by it."

[\*]“The following is an account of the reception Prynne’s works met with. ‘Hi Books,’ says one of Wentworth’s correspondents to him, ‘are so valu by the Puritanical party, that a sister lately dying in London, bequeathed a legacy to buy books for Sion-college in London, and in her will desired that Mr. Prynne’s works, in the first place, might be bought for that use.’—[*Straf. Let. and Disp.* vol. i, p. 217.] There is undoubtedly immense research in all his books, and, occasionally, most important information.”

[\*]“Heylin’s Life of Laud, p. 8.”

[†]“Whitelocke, p.18.”

[‡]For proof of this, the reader is referred to the *Quarterly Review*, vol. x. pp. 99—101.

[\*]“Clar. vol. v. p. 136, *et seq.* Rush. vol. vii. p. 943, 944, 952, 1131. Whitelocke, p. 308. Cob. Parl. Hist. vol. iii. p. 896.”

[†]“Clar. vol. vi. p. 572. Of the temper of Charles’s court, some idea may be formed from the correspondence between Nicholas and Ormonde: “But I must tell your lordship,” says the first, 6th April, 1651, “the harangues in council, and discourses in the court at Breda, were, that honour and conscience were but bugbears; and that the king ought to govern himself rather by the rules of prudence and necessity.” Carte’s Let. vol. i. p. 435.”

[‡]“Hackett, in Life of Williams, part ii. p. 225.”

[\*]Clar. Papers, vol. ii. p. 341, *et seq.* particularly p. 411.

[\*]‘Laing, vol. ii. p. 83. 151.—And through the whole of book vii. & viii. of his history.’

[\*]We cannot withhold the following instance:

Southey imputes to the Puritans the death of Chillingworth! In this he servilely copies Clarendon, and, with or without knowledge, suppresses the fact, that in every subsequent historical work Clarendon’s falsehood has been corrected.—

“The treatment, indeed, of the loyal Clergy was, to the last degree, inhuman. Chillingworth fell into the hands of sir William Waller as a prisoner; he was of feeble constitution and ill at the time; but instead of shewing that reverence to his person, which he would have obtained from any noble enemy, the Puritan clergy, who attended Waller’s army, used him with such barbarity that he died

within a few days; nor did their inhumanity cease even with his death, for Cheynel, &c.”—*Book of the Church*, vol. ii. p. 406.

“As soon as his person was known, which would have drawn reverence from any noble enemy, the clergy that attended that army prosecuted him with all the inhumanity imaginable, so that by their barbarous usage, he died within a few days to the grief of all who knew him, &c.”—*Clarendon, Hist. of Rebellion*, b. viii.

Being seized with sudden illness, after assisting the Royal army by the invention of battering engines, Chillingworth took refuge in Arundel Castle, then besieged by the Parliament forces. The *Royalist* officers of the garrison, regarding him as a Spy, behaved to him with great harshness, and aggravated his complaint. When the town was taken, he would have gone with the garrison to London, but his illness assumed an alarming appearance. He was carefully sent to Chichester, accommodated in the Bishop’s Palace, attended by sir W. Waller’s own private physician, and, by command of the Governor of Chichester, lieutenant Golledge and his wife nursed him with the greatest tenderness. Cheynell, who sent for his college friends, also attended him with the same assiduity, though unable wholly to restrain his zeal for the salvation of his heretical soul. Chillingworth did not die for some weeks after his capture, and left legacies to his Puritan attendants. These facts are now undisputed, and are amply verified in Des Maizeaux’s *Life of Chillingworth*, in Cheynell’s *Chillingworthii Novissima*, 4to. 1644. Anthony Wood says, he “was used very civilly,” and Chillingworth’s own apothecary published a high testimonial to the care and kindness bestowed upon him in his last moments. Thus it is that Southey makes a good case for the Church!

Chillingworth’s defence of Protestantism, advocated the right of religious liberty, and if it is good for the Church against the Catholics, is equally good for the Puritans against the Church. Chillingworth himself in 1637, refused the offer of preferment by the keeper of the Seals, because he could not take the oaths *ex animo*, and subscribe to the 39 Articles. If the Archbishop of Canterbury would give access to a large volume of the Manuscripts of Chillingworth in the Lambeth Library, the real opinions of this able man would be much better known. In 1638, Archbishop Sheldon overcame his scruples with or without the prevailing arguments involved in the Chancellorship of Salisbury, the Prebend of Brixworth, and the Mastership of Wigstan’s Hospital in Leicester. The Laureat Historian was not minded to touch upon these points, though somewhat importing the truth of history.

We must also beg the reader to look at what is said by Southey of lord Brooke, vol. ii. p. 409, and then to ponder on the following

passage:

“Lord Brooke was probably a man of great virtue; for the Royalist writers condescend to say, that if he had lived a little longer, he would, probably, have seen through the designs of his party, and deserted them. This silly sort of apology has been made for other patriots, and by higher writers than mere genealogists, as if nothing but the probability of a conversion could excuse those heroes who withstood the arbitrary proceedings of Charles and his ministers, and to whose spirit we owe so much of our liberty. Our Antiquaries weep over the destruction of convents, and our Historians sigh for Charles and Laud!”—H. Walpole. “Royal and Noble Authors.”

[\*] A specimen of them appears in the tythe case of Charlemagne:—“His esteem for the piety and knowledge of the clergy tempted him to intrust that aspiring order with temporal dominion and civil jurisdiction; and his son Lewis, when he was stripped and degraded by the bishops, might accuse, in some measure, the imprudence of his father. His laws enforced the imposition of tythes, because the demons had proclaimed in the air that the default of payment had been the cause of the last scarcity.”—*Gibbon*, chap. xlix.

[\*] Lectures on Ecclesiastical History, by George Campbell, D.D. Principal of Marischal College, Aberdeen.

[\*] Hume’s History of England, chap. xli.

[\*] Hume’s History of England, chap. lxiv.

[†] *Ibid.*

[\*] Holt, Law of Libel, 67.

[\*] Warburton’s testimony to this fact will probably be held sufficient evidence. “Indeed,” says he, in his dedication to the Free-thinkers, “were it my design, in the manner of modern dedicators, to look out for powerful protectors, I do not know where I could sooner find them, than amongst the gentlemen of your denomination; for nothing, I believe, strikes the serious observer with more surprise, in this age of novelties, than that strange propensity to infidelity, so visible in men of almost every condition; amongst whom the advocates of Deism are received with all the applauses due to the inventors of the arts of life, or the deliverers of oppressed and injured nations.”

[\*] Minute Philosopher, Dial. ii.



[\*] Divine Legation, b. i. § 3.

[†] Ib. b. iii. § 6.

[\*] Locke, on the Conduct of the Understanding.

[\*] Locke, on the Conduct of the Understanding.

[†] *Ibid.*

[\*] Memoires de Madame de Genlis, t. 5. p. 55.

[\*] The distinction has been subsequently presented to view in an admirable pamphlet, entitled "Statement of the Question of Parliamentary Reform," and published by Baldwin, Cradock, and Co. in 1821.

[\*] 'Tyranny and oppression never wanted either a plea or an advocate for whatever they did: for the majority of the lawyers, the divines, and all quæstuary professions, will be sure to run over to the stronger side, where will passes for law, and rapine for Providence.'—*L'Estrange, Fab.* 483.

[\*] The nature of these resources was well understood by Chillingworth: 'It is an argument of a despairing and lost cause to support itself with these impetuous outcries and clamours, the faint refuges of those that want better arguments; like that stoic in Lucian who cried, *ω καταρατε, oh, damned villain!* when he could say nothing else.'—*Relig. of Prot., Ep. Ded.* Again,—'Men are engaged to act this tragical part only to fright the simple and ignorant, as we do little children, by telling them, *that bites*, which we would not have them meddle with.'—*Ibid.*

'Sir, I am always inclined to suspect a man who endeavours rather to terrify than persuade. Exaggeration and hyperboles are seldom made use of by him who has any real arguments to produce.'—*Dr. Johnson's Parliamentary Debates*, vol. ii., p. 39. 'Sir, to discourage good designs, by representations of the danger of attempting and the difficulty of executing them, has been at all times the practice of those whose interest has been threatened by them.'—*Ibid.* p. 42. In illustration of this comprehensive proposition take the following instance:—'This was the famous act (2 Hen. c. 7) against the Lollards, upon which many of those people suffered. In the preamble they are loaded with the imputation of state crimes, as a pretence to delude the people into a concurrence with the churchmen in their persecution. They are said to be united in confederacies to destroy the king, and all other estates of the realm, both lay and spiritual,—and all manner of policy,—and finally

the laws of the land.’—*Reeves’ Hist. of English Law*, vol. iii. p. 260. He further says, (*Ibid.* p. 235,) speaking of the first law which was made against the Lollards (2 Hen. IV. c. 15)—‘The meetings of heretics in their conventicles and schools are stigmatized in this act with the name of confederacies to stir up sedition and insurrection; the very pretence that had been made use of by the Romans against the primitive Christians, and which had been adopted by the Romish Church ever since to suppress all opposition or inquiry into its errors.’—We see who were the *Conservatives*, and who the *Destructives*, of those days. Our *Conservatives* are a little milder in their ways. Why? Because they are less able. Make them once more as powerful as they were in those days, and we shall soon see they have found the short and easy way with the *Destructives*. ‘The wisdom of ancestors’ would be produced, as the encouragement, and justification of the energetic methods.—There is nothing, for making people good and merciful, like taking away from them the power of being mischievous and cruel.

[\*] ‘Et tamen, mi Attice, auguria quoque me incitant, quadam spe non dubia, non hæc collegii nostri ab Appio, sed illa Platonis de tyrannis, . . . . . si ii provincias, si rempublicam regent, quorum nemo duas menses potuit patrimonium suum gubernare.’—*Cic. ad Att.*, lib. x. ep. 8.—The high classes in Rome were better educated, and better employed, than the high classes in England.

[\*] It will be perceived that this conversation took place shortly after the appearance, in the *Edinburgh Review* for January, 1833, of an article (ascribed to a distinguished member of the Whig party) containing a systematic attack upon the ballot; and was noted down by the schoolmaster at the time.

[\*] See Watson’s *Memoirs*, p. 256.

[\*] There may be chicaning on this subject; but no candid man, who really understands the human mind, will hesitate in assenting to the fact which is here affirmed, that a man is not conscious of that state of mind, called belief, with respect to every thing contained in the several creeds in the Prayer Book—perhaps in any one of them, every time he is called upon to pronounce them: above all, when he is first called upon to do so. A verbal assent is not belief. Belief implies ideas, and the perception of their being joined together according to the principles of reason. ‘Strictly speaking,’ says Berkeley, ‘to believe that which has no meaning in it is impossible. . . . Men impose upon themselves, by imagining that they believe those propositions which they have often heard, though at bottom they have no meaning in them.’—*Principles of Human Knowledge*, § 54.

[\*] Church of Englandism Examined. By Jeremy Bentham, Esq.

[\*] Middleton's Works, 4to. ed., vol. ii. p. 117.

[†] Liberty of Prophesying. Epist. Ded.

[‡] Ib.

[§] Ib. Introd.

[||] Preface to an intended Answer to all Objections against the Free Inquiry. Works, 4to. ed., p. 374; where there is much more to the same purpose.

[\*] See 'A Reply to the Calumnies of the Edinburgh Review against Oxford,' p. 127.

[\*] De la Republique, c. x.

[\*] Boulainvillier's Hist. des Auc. Parl. de France.

[\*] The logical words of Aristotle deserve to be here cited:—Ουδεν γαρ ενδεχεται [Editor: illegible word];.—*Aristot. Polit.* l. iv. c. 4.

[†] *Optima est lex quæ minimum relinquit arbitrio judicis.*—Bacon. Exemplum Tractatus de fontibus juris; Titulus I., Aphorism 46.

[\*] Review of Bentham on Codification, by Sir Samuel Romilly. Edinburgh Review, No. 57. Nov. 1817.

[\*] '*Quod si leges alia super alias accumulatae in tam vasta exereverint volumina, aut tanta confusione laborarunt, ut eas de integro retractare, et in corpus sanum et habile redigere ex usu sit, il ante omnia cogito; atque opus ejusmodi opus heroicum esto: utque auctores talis operis inter legistatores, et instauratores, rite et merito numerantur.*'—Bacon, *ut supra*, Aphor. 59.

We have had a legislature, sitting during a space of two hundred years, from the time when Bacon announced the greatness and importance of the work of codification in those magnificent terms—a legislature sitting all this time, and calling itself by all sorts of pretty names—'the wonder of the world, and the envy of surrounding nations'—pretty-Poll-ing it in perfection; and all this time the work is undone. What good-will towards it has been shown, or what sense of its importance, history demonstrates. We shall surely have a good history some day!

The celebrated Montesquieu spoke instructively on such a chaos of laws:—'Cette abondance des loix est si grande, qu'elle accable

également la justice et les juges. Mais ces volumes des loix ne sont rien en comparaison de cette armée effroyable de glossateurs, de commentateurs, de compilateurs, gens aussi foibles par le peu de justesse de leur esprit qu'ils sont forts par leur nombre prodigieux. Ce n'est pas tout: ces loix ont introduit des formalités dont l'excès est la honte de la raison humaine.'—*Lett. Pers.*

[\*] Brougham's Speech on the State of the Law, p. 5—43.

[\*] Speech of Henry Brougham, Esq., *ut supra*.—p. 68-76.

[\*] Second Report by Commissioners, &c., p. 34. Printed by order of the House of Commons, 8th March, 1830.

[\*] Second Report, &c. p. 44-47.

[\*] See Report, *ut supra*, p. 50.

[\*] 'Will even Mr. Southey venture to compare, in point of Christian morality and piety, a Peter Bruys with his great opponent St. Bernard? a Tanchelin with St. Norbert? or a Wickliffe, with his enemy William of Wykeham? Will he compare Thomas Cranmer with Sir Thomas More? or Ann Boleyn with Catharine of Arragon? or Queen Elizabeth with the Queen of Scots? Conscious that no miracles have ever illustrated any other church than that to which its Divine Founder promised a continuation of them,\* the Poet on every occasion treats these supernatural events, however strongly attested, as refuted impostures. He is particularly indignant at the stigmata of the devout contemplative St. Francis, which, though witnessed by numerous persons of the highest credit, he, on his own personal credit, pronounces to be "atrocious effrontery and blasphemous impiety." Referring afterwards to a book called, *The Conformities of St. Francis with Christ*, which he knows was condemned by the Church, he also quotes, at considerable length, another absurd legend, *The Eternal Gospel*, in order to render the Church odious and ridiculous; at the same time that he himself acknowledges it to have been condemned by her.'—*Merlin's "Strictures,"* p. 23.

[\*] Mark xvi. 17. John xiv. 12.