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Another corollary not less inevitable from the principles which have been delivered, is that the operations of war should be limited as accurately as possible to the generating no farther evils than defence inevitably requires. Ferocity ought carefully to be banished from it. Calamity should as entirely as possible be prevented to every individual who is not actually in arms, and whose fate has no immediate reference to the event of the war. This principle condemns the levying military contributions, and the capture of mercantile vessels. Each of these atrocities would be in another way precluded by the doctrine of simple defence. We should scarcely think of levying such contributions, if we never attempted to pass the limits of our own territory; and every species of naval war would perhaps be proscribed.

Military contributions.

Capture of mercantile vessels.

Naval war.

Humanity. The utmost benevolence ought to be practised towards our enemies. We should refrain from the unnecessary destruction of a single life, and afford every humane accommodation to the unfortunate. The bulk of those against whom we have to contend are comparatively speaking innocent of the projected injustice. Those by whom it has been most assiduously fostered are entitled to our kindness as men, and to our compassion as mistaken. It has already appeared that all the ends of punishment are foreign to the business of war. It has appeared that the genuine melioration of war, in consequence of which it may be expected absolutely to cease, is by gradually disarming it of its ferocity. The horrors of war have sometimes been apologised by a supposition that

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that the more intolerable it was made, the more quickly would it cease to infect the world. But the direct contrary of this is the truth. Severities do but beget severities in return. It is a most mistaken way of teaching men to feel that they are brothers, by imbuing their minds with unrelenting hatred. The truly just man cannot feel animosity, and is therefore little likely to act as if he did.

Having examined the conduct of war as it respects our enemies, let us next consider it in relation to the various descriptions of persons by whom it is to be supported. We have seen how little a just and upright war stands in need of secrecy. The plans for conducting a campaign, instead of being, as artifice and ambition have hitherto made them, inextricably complicated, will probably be reduced to two or three variations, suited to the different circumstances that can possibly occur in a war of simple defence. The better these plans are known to the enemy, the more advantageous will it be to the resisting party. Hence it follows that the principles of implicit faith and military obedience will be no longer necessary. Soldiers will cease to be machines. The essential circumstance that constitutes men machines in this sense of the word, is not the uniformity of their motions, when they see the reasonableness of that uniformity. It is their performing any motion, or engaging in any action, the object and utility of which they do not clearly understand. It is true that in every state of human society there will be men of an intellectual

Military obedience.

tellectual capacity much superior to their neighbours. But defensive war, and probably every other species of operation in which it will be necessary that many individuals should act in concert, will perhaps be found so simple in their operations, as not to exceed the apprehension of the most common capacities. It is ardently to be desired that the time should arrive, when no man should lend his assistance to any operation, without at the same time exercising his judgment respecting the honesty and the expected event of that operation.

The principles here delivered on the conduct of war lead the mind to a very interesting subject, that of foreign and distant territories. Whatever may be the value of these principles considered in themselves, they become altogether nugatory the moment the idea of foreign dependencies is admitted. But in reality what argument possessing the smallest degree of plausibility can be alledged in favour of that idea? The mode in which dependencies are acquired, must be either conquest, cession or colonization. The first of these no true moralist or politician will attempt to defend. The second is to be considered as the same thing in substance as the first, but with less openness and ingenuity. Colonization, which is by much the most specious pretence, is however no more than a pretence. Are these provinces held in a state of dependence for our own sake or for theirs? If for our own, we must recollect this is still an usurpation, and that justice requires we should yield to others what we demand for

for ourselves, the privilege of being governed by the dictates of their own reason. If for theirs, they must be told, that it is the business of associations of men to defend themselves, or, if that be impracticable, to look for support to the confederation of their neighbours. They must be told, that defence against foreign enemies is a very inferior consideration, and that no people were ever either wise or happy who were not left to the fair development of their inherent powers. Can any thing be more absurd than for the West India islands for example to be defended by fleets and armies to be transported across the Atlantic? The support of a mother country extended to her colonies, is much oftener a means of involving them in danger, than of contributing to their security. The connexion is maintained by vanity on one side and prejudice on the other. If they must sink into a degrading state of dependence, how will they be the worse in belonging to one state rather than another? Perhaps the first step towards putting a stop to this fruitful source of war, would be to annihilate that monopoly of trade which all enlightened reasoners at present agree to condemn, and to throw open the ports of our colonies to all the world. The principle which will not fail to lead us right upon this subject of foreign dependencies, as well as upon a thousand others, is, that that attribute, however splendid, is not really beneficial to a nation, that is not beneficial to the great mass of individuals of which the nation consists.

C H A P. XIX.

OF MILITARY ESTABLISHMENTS AND TREATIES.

A COUNTRY MAY LOOK FOR ITS DEFENCE EITHER TO A STANDING ARMY OR AN UNIVERSAL MILITIA.—THE FORMER CONDEMNED.—THE LATTER OBJECTED TO AS OF IMMORAL TENDENCY—AS UNNECESSARY—EITHER IN RESPECT TO COURAGE—OR DISCIPLINE.—OF A COMMANDER.—OF TREATIES.

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THE last topic which it may be necessary to examine as to the subject of war, is the conduct it becomes us to observe respecting it in a time of peace. This article may be distributed into two heads, military establishments and treaties of alliance.

A country may look for its defence either to a standing army or an universal militia.

If military establishments in time of peace be judged proper, their purpose may be effected either by consigning the practice of military discipline to a certain part of the community, or by making every man whose age is suitable for that purpose a soldier.

The former condemned.

The preferableness of the latter of these methods to the former

is

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is obvious. The man that is merely a soldier, must always be uncommonly depraved. War in his case inevitably degenerates from the necessary precautions of a personal defence, into a trade by which a man sells his skill in murder and the safety of his existence for a pecuniary recompense. The man that is merely a soldier, ceases to be, in the same sense as his neighbours; a citizen. He is cut off from the rest of the community, and has sentiments and a rule of judgment peculiar to himself. He considers his countrymen as indebted to him for their security; and, by an unavoidable transition of reasoning, believes that in a double sense they are at his mercy. On the other hand that every citizen should exercise in his turn the functions of a soldier, seems peculiarly favourable to that confidence in himself and in the resources of his country, which it is so desirable he should entertain. It is congenial to that equality, which must subsist in an eminent degree before mankind in general can be either virtuous or wise. And it seems to multiply the powers of defence in a country, so as to render the idea of its falling under the yoke of an enemy in the utmost degree improbable.

There are reasons however that oblige us to doubt respecting the propriety of cultivating under any form the system of military discipline in time of peace. It is in this respect with nations as it is with individuals. The man that with a pistol bullet is sure of his mark, or that excels his contemporaries in the exercise of the sword, can hardly escape those obliquities of understanding

standing which these accomplishments are calculated to nourish. It is not to be expected that he should entertain all that confidence in reason and distaste of violence which severe truth prescribes. It is beyond all controversy that war, though the practice of it under the present state of the human species may in some instances be unavoidable, is an idea pregnant with calamity and vice. It cannot be a matter of indifference, for the human mind to be systematically familiarised to thoughts of murder and desolation. The disciple of mere reason would not fail at the sight of a musket or a sword to be impressed with sentiments of abhorrence. Why expel these sentiments? Why connect the discipline of death with ideas of festivity and splendour; which will inevitably happen, if the citizens, without oppression, are accustomed to be drawn out to encampments and reviews? Is it possible that he who has not learned to murder his neighbour with a grace, is imperfect in the trade of man?

If it be replied, "that the generating of error is not inseparable from military discipline, and that men may at some time be sufficiently guarded against the abuse, even while they are taught the use of arms;" it will be found upon reflection, that this argument is of little weight. Though error be not unalterably connected with the science of arms, it will for a long time remain so. When men are sufficiently improved to be able to handle familiarly and with application of mind the instruments of death without injury, they will also be sufficiently improved to be able

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to master any study with much greater facility than at present, and consequently the cultivation of the art military in time of peace will have still fewer inducements to recommend it to our choice.—To apply these considerations to the present situation of mankind.

We have already seen that the system of a standing army is altogether indefensible, and that an universal militia is a much more formidable defence, as well as infinitely more agreeable to the principles of justice and political happiness. It remains to be seen what would be the real situation of a nation surrounded by other nations in the midst of which standing armies were maintained, which should nevertheless upon principle wholly neglect the art military in seasons of peace. In such a nation it will probably be admitted, that, so far as relates to mere numbers, an army may be raised upon the spur of occasion, nearly as soon as in a nation the citizens of which had been taught to be soldiers. But this army, though numerous, would be in want of many of those principles of combination and activity which are of material importance in a day of battle. There is indeed included in the supposition, that the internal state of this people is more equal and free than that of the people by whom they are invaded. This will infallibly be the case in a comparison between a people with a standing army and a people without one; between a people who can be brought blindly and wickedly to the invasion of their peaceful neighbours, and a people who will not be induced to

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fight but in their own defence. The latter therefore will be obliged to compare the state of society and government in their own country and among their neighbours, and will not fail to be impressed with great ardour in defence of the inestimable advantages they possess. Ardour, even in the day of battle, might prove sufficient. A body of men, however undisciplined, whom nothing could induce to quit the field, would infallibly be victorious over their veteran adversaries, who, under the circumstances of the case, could not possibly have an accurate conception of the object for which they were fighting, and therefore could not entertain an invincible love for it. It is not certain that activity and discipline opposed to ardour, have even a tendency to turn the balance of slaughter against the party that wants them. Their great advantage consists in their power over the imagination to astonish, to terrify and confound. An intrepid courage in the party thus assailed would soon convert them from sources of despair into objects of contempt.

or discipline.

But it would be extremely unwise in us to have no other resource but in the chance of this intrepidity. A resource much surer and more agreeable to justice is in recollecting that the war of which we treat is a war of defence. Battle is not the object of such a war. An army, which, like that of Fabius, by keeping on the hills, or by whatever other means, rendered it impracticable for the enemy to force them to an engagement, might look with scorn upon his impotent efforts to enslave the country.

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country. One advantage included in such a system of war is, that, as its very essence is protraction, the defending army might in a short time be rendered as skilful as the assailants. Discipline, like every other art, has been represented by vain and interested men as surrounded with imaginary difficulties, but is in reality exceedingly simple; and would be learned much more effectually in the midst of real war than in the puppet show exhibitions of a period of peace.

It is desirable indeed that we should have a commander of considerable skill, or rather of considerable wisdom, to reduce this patient and indefatigable system into practice. This is of much more importance than the mere discipline of the ranks. But the nature of military wisdom has been greatly misrepresented. Experience in this, as well as in other arts, has been unreasonably magnified, and the general power of a cultivated mind been thrown into shade. It will probably be no long time before this quackery of professional men will be thoroughly exploded. How perpetually do we meet with those whom experience finds incorrigible; while it is recorded of one of the greatest generals of antiquity, that he set out for his appointment wholly unacquainted with his art, and was indebted for that skill, which broke out immediately upon his arrival, to the assiduousness of his enquiries, and a careful examination of those writers by whom the art had most successfully been illustrated*? At all events it will be ad-

Of a commander.

* *Cicero's Lucullus, see Academicorum Liber Secundus, init.*

mitted, that the maintenance of a standing army or the perpetual discipline of a nation is a very dear price to pay for the purchase of a general, as well as that the purchase would be extremely precarious, if we were even persuaded to consent to the condition. It may perhaps be true, though this is not altogether clear, that a nation by whom military discipline was wholly neglected would be exposed to some disadvantage. In that case it becomes us to weigh the neglect and cultivation together, and to cast the balance on that side to which upon mature examination it shall appear to belong.

OF treaties.

A second article which belongs to the military system in a season of peace is that of treaties of alliance. This subject may easily be dispatched. Treaties of alliance are in all cases wrong, in the first place, because all absolute promises are wrong, and neither individuals nor bodies of men ought to preclude themselves from the benefit of future improvement and deliberation. Secondly, they are wrong, because they are in all cases nugatory. Governments, and public men, will not, and ought not to hold themselves bound to the injury of the concerns they conduct, because a parchment, to which they or their predecessors were a party, requires it at their hands. If the concert demanded in time of need, approve itself to their judgment or correspond with their inclination, it will be yielded, though they were under no previous engagement for that purpose. Treaties of alliance serve to no other end, than to exhibit by their violation an appearance

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of profligacy and vice, which unfortunately becomes too often a powerful encouragement to the inconsistency of individuals. Add to this, that, if alliances were engines as powerful, as they are really impotent, they could seldom be of use to a nation uniformly adhering to the principles of justice. They would be useless, because they are in reality ill calculated for any other purposes than those of ambition. They might be pernicious, because it would be beneficial for nations as for individuals to look for resources at home, instead of depending upon the precarious compassion of their neighbours.

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OF DEMOCRACY AS CONNECTED WITH THE
TRANSACTIONS OF WAR.

EXTERNAL AFFAIRS ARE OF SUBORDINATE CONSIDERATION.—APPLICATION.—FARTHER OBJECTIONS TO DEMOCRACY—1. IT IS INCOMPATIBLE WITH SECRECY—THIS PROVED TO BE AN EXCELLENCE—2. ITS MOVEMENTS ARE TOO SLOW—3. TOO PRECIPITATE.—EVILS OF ANARCHY CONSIDERED.

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External affairs are of subordinate consideration.

HAVING thus endeavoured to reduce the subject of war to its true principles, it is time that we should recur to the maxim delivered at our entrance upon this subject, that individuals are every thing, and society, abstracted from the individuals of which it is composed, nothing. An immediate consequence of this maxim is, that the internal affairs of the society are entitled to our principal attention, and the external are matters of inferior and subordinate consideration. The internal affairs are subjects of perpetual and hourly concern, the external are periodical and precarious only. That every man should be impressed with the consciousness of his independence, and rescued from the influence of extreme want and artificial

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desires, are purposes the most interesting that can suggest themselves to the human mind; but the life of man might pass, in a state uncorrupted by ideal passions, without its tranquillity being so much as once disturbed by foreign invasions. The influence that a certain number of millions, born under the same climate with ourselves, and known by the common appellation of English or French, shall possess over the administrative councils of their neighbour millions, is a circumstance of much too airy and distant consideration, to deserve to be made a principal object in the institutions of any people. The best influence we can exert is that of a sage and upright example.

If therefore it should appear that of these two articles, internal and external affairs, one must in some degree be sacrificed to the other, and that a democracy will in certain respects be less fitted for the affairs of war than some other species of government, good sense would not hesitate between these alternatives. We should have sufficient reason to be satisfied, if, together with the benefits of justice and virtue at home, we had no reason to despair of our safety from abroad. A confidence in this article will seldom deceive us, if our countrymen, however little trained to formal rules and the uniformity of mechanism, have studied the profession of man, understand his attributes and his nature, and have their necks unbroken to the yoke of blind credulity and abject submission. Such men, inured, as we are now supposing them, to a rational state of society, will be full of calm confidence.

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dence and penetrating activity, and these qualities will stand them in stead of a thousand lessons in the school of military mechanism. If democracy can be proved adequate to wars of defence, and other governments be better fitted for wars of a different sort, this would be an argument, not of its imperfection, but its merit.

Farther objections to democracy:
1. it is incompatible with secrecy:

It has been one of the objections to the ability of a democracy in war, "that it cannot keep secrets. The legislative assembly, whether it possess the initiative, or a power of control only, in executive affairs, will be perpetually calling for papers, plans and information, cross examining ministers, and sifting the policy and the justice of public undertakings. How shall we be able to cope with an enemy, if he know precisely the points we mean to attack, the state of our fortifications, and the strength and weakness of our armies? How shall we manage our treaties with skill and address, if he be informed precisely of the sentiments of our mind and have access to the instructions of our ambassadors?"

this proved to be an excellence:

It happens in this instance, that that which the objection attacks as the vice of democracy, is one of its most essential excellencies. The trick of a mysterious carriage is the prolific parent of every vice; and it is an eminent advantage incident to democracy, that, though the proclivity of mind has hitherto reconciled this species of administration in some degree to the keeping of secrets, yet

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its inherent tendency is to annihilate them. Why should diffidence and concealment be more virtuous or more beneficial in nations than in individuals? Why should that, which every man of an elevated mind would disdain in his personal character, be entitled to more lenity and toleration, if undertaken by him as a minister of state? Who is there that sees not, that this inextricable labyrinth was artfully invented, lest the people should understand their own affairs, and, understanding, become inclined to conduct them? With respect to treaties, it is to be suspected that they are in all instances superfluous. But, if public engagements ought to be entered into, what essential difference is there between the governments of two countries endeavouring to overreach each other, and the buyer and seller in any private transaction adopting a similar proceeding?

This whole system proceeds upon the idea of national grandeur and glory, as if in reality these words had any specific meaning. These contemptible objects, these airy names, have from the earliest page of history been made the ostensible colour for the most pernicious undertakings. Let us take a specimen of their value from the most innocent and laudable pursuits. If I aspire to be a great poet, a great historian, so far as I am influenced by the dictates of reason, it is that I may be useful to mankind, and not that I may do honour to my country. Is Newton the better because he was an Englishman, or Galileo the worse because he was an Italian? Who can endure to put this high

founding nonsense in the balance against the best interests of mankind, which will always suffer a mortal wound, when dexterity, artifice and concealment are made topics of admiration and applause? The understanding and the virtues of mankind will always keep pace with the manly simplicity of their designs and the undisguised integrity of their hearts.

2. its movements are too slow:

It has farther been objected to a democratical state in its transactions with foreign powers, "that it is incapable of those rapid and decisive proceedings, which in some situations have so eminent a tendency to ensure success." If by this objection it be understood that a democratical state is ill fitted for dexterity and surprize, the rapidity of an assassin, it has already received a sufficient answer. If it be meant that the regularity of its proceedings may ill accord with the impatience of a neighbouring despot, and, like the Jews of old, we desire a king "that we may be like the other nations," this is a very unreasonable requisition. A just and impartial reasoner will be little desirous to see his country figure high in the diplomatical roll, deeply involved in the intrigues of nations, and assiduously courted by foreign princes as the instrument of their purposes. A more groundless and absurd passion cannot seize upon any people than that of glory, the preferring their influence in the affairs of Europe to their internal happiness and virtue, for these objects will perpetually counteract and clash with each other.

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But democracy is by no means necessarily of a phlegmatic character, or obliged to take every proposition that is made to it, *ad referendum*, for the consideration of certain primary assemblies, like the states of Holland. The first principle in the institution of government itself, is the necessity, under the present imperfections of mankind, of having some man or body of men to act on the part of the whole. Wherever government subsists, the authority of the individual must be in some degree superseded. It does not therefore seem unreasonable for a representative national assembly to exercise in certain cases a discretionary power. Those privileges, which are vested in individuals selected out of the mass by the voice of their fellows, and who will speedily return to a private station, are by no means liable to the same objections, as the exclusive and unaccommodating privileges of an aristocracy. Representation, together with many disadvantages, has this benefit, that it is able impartially and with discernment to call upon the most enlightened part of the nation to deliberate for the whole, and may thus generate a degree of wisdom, a refined penetration of sentiment, which it would have been unreasonable to expect as the result of primary assemblies.

A third objection more frequently offered against democratical government is, "that it is incapable of that mature and deliberate proceeding which is alone suitable to the decision of such important concerns. Multitudes of men have appeared subject

3. too precipitate.

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to fits of occasional insanity: they act from the influence of rage, suspicion and despair: they are liable to be hurried into the most unjustifiable extremes by the artful practices of an impostor." One of the most obvious answers to this objection is, that we must not judge of a sovereign people by the example of the rude multitude in despotic states. We must not judge of men born to the exercise of rational functions, by the example of men rendered mad with oppression, and drunk with the acquisition of new born power. Another answer is, that for all men to share the privileges of all is the law of our nature and the dictate of justice. The case in this instance is parallel to that of an individual in his private concerns. It is true that, while each man is master of his own affairs, he is liable to all the starts of passion. He is attacked by the allurements of temptation and the tempest of rage, and may be guilty of the most fatal errors, before reflection and judgment come forward to his aid. But this is no sufficient reason for depriving men of the direction of their own concerns. We should endeavour to make them wise, and not to make them slaves. The depriving men of their self-government is in the first place unjust, while in the second this self-government, imperfect as it is, will be found more salutary than any thing that can be substituted in its place.

E evils of anarchy considered.

The nature of anarchy has never been sufficiently understood. It is undoubtedly a horrible calamity, but it is less horrible than despotism. Where anarchy has slain its hundreds, despotism has sacrificed

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sacrificed millions upon millions, with this only effect, to perpetuate the ignorance, the vices and the misery of mankind. Anarchy is a short lived mischief, while despotism is all but immortal. It is unquestionably a dreadful remedy, for the people to yield to all their furious passions, till the spectacle of their effects gives strength to recovering reason: but, though it be a dreadful remedy, it is a sure one. No idea can be supposed, more pregnant with absurdity, than that of a whole people taking arms against each other till they are all exterminated. It is to despotism that anarchy is indebted for its sting. If despotism were not ever watchful for its prey, and mercilessly prepared to take advantage of the errors of mankind, this ferment, like so many others, being left to itself, would subside into an even, clear and delightful calm. Reason is at all times progressive. Nothing can give permanence to error, that does not convert it into an establishment, and arm it with powers to resist an invasion.

C H A P. XXI.

OF THE COMPOSITION OF GOVERNMENT.

HOUSES OF ASSEMBLY.—THIS INSTITUTION UNJUST.—DELIBERATE PROCEEDING THE PROPER ANTIDOTE.—SEPARATION OF LEGISLATIVE AND EXECUTIVE POWER CONSIDERED.—SUPERIOR IMPORTANCE OF THE LATTER.—FUNCTIONS OF MINISTERS.

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Houses of
assembly.

ONE of the articles which has been most eagerly insisted on by the advocates of complexity in political institutions, is that of "checks, by which a rash proceeding may be prevented, and the provisions under which mankind have hitherto lived with tranquillity, may not be reversed without mature deliberation." We will suppose that the evils of monarchy and aristocracy are by this time too notorious to incline the speculative enquirer to seek for a remedy in either of these. "Yet it is possible, without the institution of privileged orders, to find means that may answer a similar purpose in this respect. The representatives of the people may be distributed for example into two assemblies; they may be chosen with this particular view to constitute an upper and a lower house, and may be distinguished from each other, either by various qualifications of age or fortune, or by
being

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being chosen by a greater or smaller number of electors, or for a shorter or longer term."

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To every inconvenience that experience can produce or imagination suggest there is probably an appropriate remedy. This remedy may either be sought in the dictates of reason or in artificial combinations encroaching upon those dictates. Which are we to prefer? There is no doubt that the institution of two houses of assembly is contrary to the primary dictates of reason and justice. How shall a nation be governed? Agreeably to the opinions of its inhabitants, or in opposition to them? Agreeably to them undoubtedly. Not, as we cannot too often repeat, because their opinion is a standard of truth, but because, however erroneous that opinion may be, we can do no better. There is no effectual way of improving the institutions of any people, but by enlightening their understandings. He that endeavours to maintain the authority of any sentiment, not by argument, but by force, may intend a benefit, but really inflicts an extreme injury. To suppose that truth can be instilled through any medium but that of its intrinsic evidence, is the most flagrant of all errors. He that believes the most fundamental proposition through the influence of authority, does not believe a truth, but a falsehood. The proposition itself he does not understand; for thoroughly to understand it, is to perceive the degree of evidence with which it is accompanied; thoroughly to understand; it is to know the full meaning of its terms, and, by necessary consequence, to perceive

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ceive in what respects they agree or disagree with each other. All that he believes is, that it is very proper he should submit to usurpation and injustice.

It was imputed to the late government of France, that, when they called an assembly of notables in 1787, they contrived, by dividing the assembly into seven distinct corps, and not allowing them to vote otherwise than in these corps, that the vote of fifty persons should be capable of operating as if they were a majority in an assembly of one hundred and forty-four. It would have been still worse, if it had been ordained that no measure should be considered as the measure of the assembly, unless it were adopted by the unanimous voice of all the corps: eleven persons might then, in voting a negative, have operated as a majority of one hundred and forty-four. This may serve as a specimen of the effects of distributing a representative national assembly into two or more houses. Nor should we suffer ourselves to be deceived under the pretence of the innocence of a negative in comparison with an affirmative. In a country in which universal truth was already established, there would be little need of a representative assembly. In a country into whose institutions error has insinuated itself, a negative upon the repeal of those errors is the real affirmative.

The institution of two houses of assembly is the direct method to divide a nation against itself. One of these houses will in a greater

greater or less degree be the asylum of usurpation, monopoly and privilege. Parties would expire as soon as they were born, in a country where opposition of sentiments and a struggle of interests were not allowed to assume the formalities of distinct institution.

Meanwhile a species of check perfectly simple, and which appears sufficiently adequate to the purpose, suggests itself in the idea of a slow and deliberate proceeding which the representative assembly should prescribe to itself. Perhaps no proceeding of this assembly should have the force of a general regulation till it had undergone five or six successive discussions in the assembly, or till the expiration of one month from the period of its being proposed. Something like this is the order of the English house of commons, nor does it appear to be by any means among the worst features of our constitution. A system like this would be sufficiently analogous to the proceedings of a wise individual, who certainly would not wish to determine upon the most important concerns of his life without a severe examination, and still less would omit this examination, if his decision were destined to be a rule for the conduct and a criterion to determine upon the rectitude of other men.

Perhaps, as we have said, this slow and gradual proceeding ought in no instance to be dispensed with by the national representative assembly. This seems to be the true line between the

functions of the assembly and its ministers. It would give a character of gravity and good sense to this central authority, that would tend eminently to fix the confidence of the citizens in its wisdom and justice. The mere votes of the assembly, as distinguished from its acts and decrees, might serve as an encouragement to the public functionaries, and as affording a certain degree of hope respecting the speedy cure of those evils of which the public might complain; but they should never be allowed to be pleaded as the legal justification of any action. A precaution like this would not only tend to prevent the fatal consequences of any precipitate judgment of the assembly within itself, but of tumult and disorder from without. An artful demagogue would find it much more easy to work up the people into a fit of momentary insanity, than to retain them in it for a month in opposition to the efforts of their real friends to undeceive them. Meanwhile the consent of the assembly to take their demand into consideration might reasonably be expected to moderate their violence.

Separation of
legislative and
executive
power con-
sidered.

Scarcely any plausible argument can be adduced in favour of what has been denominated by political writers a division of powers. Nothing can seem less reasonable, than to prescribe any positive limits to the topics of deliberation in an assembly adequately representing the people; or peremptorily to forbid them the exercise of functions, the depositaries of which are placed under their inspection and censure. Perhaps upon any emer-

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gence, totally unforeseen at the time of their election, and uncommonly important, they would prove their wisdom by calling upon the people to elect a new assembly with a direct view to that emergence. But the emergence, as we shall have occasion more fully to observe in the sequel, cannot with any propriety be prejudged, and a rule laid down for their conduct by a body prior to or distinct from themselves. The distinction of legislative and executive powers, however intelligible in theory, will by no means authorize their separation in practice.

Legislation, that is, the authoritative enunciation of abstract or general propositions, is a function of equivocal nature, and will never be exercised in a pure state of society, or a state approaching to purity, but with great caution and unwillingness. It is the most absolute of the functions of government, and government itself is a remedy that inevitably brings its own evils along with it. Administration on the other hand is a principle of perpetual application. So long as men shall see reason to act in a corporate capacity, they will always have occasions of temporary emergency for which to provide. In proportion as they advance in social improvement, executive power will, comparatively speaking, become every thing, and legislative nothing. Even at present, can there be any articles of greater importance than those of peace and war, taxation, and the selection of proper periods for the meeting of deliberative assemblies, which, as was observed in the commencement of the present book, are articles of tempo-

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rary regulation *? Is it decent, can it be just, that these prerogatives should be exercised by any power less than the supreme, or be decided by any authority but that which most adequately represents the voice of the nation? This principle ought beyond question to be extended universally. There can be no just reason for excluding the national representative from the exercise of any function, the exercise of which on the part of the society is at all necessary.

Functions of
ministers.

The functions therefore of ministers and magistrates commonly so called, do not relate to any particular topic, respecting which they have a right exclusive of the representative assembly. They do not relate to any supposed necessity for secrecy; for secrets are always pernicious, and, most of all, secrets relating to the interests of any society, which are to be concealed from the members of that society. It is the duty of the assembly to desire information without reserve for themselves and the public upon every subject of general importance, and it is the duty of ministers and others to communicate such information, though it should not be expressly desired. The utility therefore of ministerial functions being less than nothing in these respects, there are only two classes of utility that remain to them; particular functions, such as those of financial detail or minute superintendence, which cannot be exercised unless by one or at most by a small number of persons†;

* Chap. I. p. 381.

† Ibid.

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and measures, proportioned to the demand of those necessities which will not admit of delay, and subject to the revision and censure of the deliberative assembly. The latter of these classes will perpetually diminish as men advance in improvement; nor can any thing be of greater importance than the reduction of that discretionary power in an individual, which may greatly affect the interests or fetter the deliberations of the many.

C H A P. XXII.

OF THE FUTURE HISTORY OF POLITICAL SOCIETIES.

QUANTITY OF ADMINISTRATION NECESSARY TO BE MAINTAINED.—OBJECTS OF ADMINISTRATION: NATIONAL GLORY—RIVALSHIP OF NATIONS.—INFERENCES: 1. COMPLICATION OF GOVERNMENT UNNECESSARY — 2. EXTENSIVE TERRITORY SUPERFLUOUS—3. CONSTRAINT, ITS LIMITATIONS.—PROJECT OF GOVERNMENT: POLICE —DEFENCE.

BOOK V. CHAP. XXII. Quantity of administration necessary to be maintained.

WE have now endeavoured to deduce certain general principles upon most of the subjects of legislative and executive power. But there is one very important topic which remains to be discussed. How much of either of these powers does the benefit of society require us to maintain?

Objects of administration: national glory:

We have already seen that the only legitimate object of political institution is the advantage of individuals. All that cannot be brought home to them, national wealth, prosperity and glory, can be advantageous only to those self interested impostors, who, from the earliest accounts of time, have confounded the understandings

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standings of mankind the more securely to sink them in debasement and misery.

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The desire to gain a more extensive territory, to conquer or to hold in awe our neighbouring states, to surpass them in arts or arms, is a desire founded in prejudice and error. Power is not happiness. Security and peace are more to be desired than a name at which nations tremble. Mankind are brethren. We associate in a particular district or under a particular climate, because association is necessary to our internal tranquillity, or to defend us against the wanton attacks of a common enemy. But the rivalship of nations is a creature of the imagination. If riches be our object, riches can only be created by commerce; and the greater is our neighbour's capacity to buy, the greater will be our opportunity to sell. The prosperity of all is the interest of all.

The more accurately we understand our own advantage, the less shall we be disposed to disturb the peace of our neighbour. The same principle is applicable to him in return. It becomes us therefore to desire that he may be wise. But wisdom is the growth of equality and independence, not of injury and oppression. If oppression had been the school of wisdom, the improvement of mankind would have been inestimable, for they have been in that school for many thousand years. We ought therefore to desire that our neighbour should be independent. We ought

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ought to desire that he should be free; for wars do not originate in the unbiassed propensities of nations, but in the cabals of government and the propensities that governments inspire into the people at large. If our neighbour invade our territory, all we should desire is to repel him from it; and for that purpose it is not necessary we should surpass him in prowess, since upon our own ground his match is unequal. Not to say that to conceive a nation attacked by another, so long as its own conduct is sober, equitable and moderate, is an exceedingly improbable supposition.

Where nations are not brought into avowed hostility, all jealousy between them is an unintelligible chimera. I reside upon a certain spot, because that residence is most conducive to my happiness or usefulness. I am interested in the political justice and virtue of my species, because they are men, that is, creatures eminently capable of justice and virtue; and I have perhaps additional reason to interest myself for those who live under the same government as myself, because I am better qualified to understand their claims, and more capable of exerting myself in their behalf. But I can certainly have no interest in the infliction of pain upon others, unless so far as they are expressly engaged in acts of injustice. The object of sound policy and morality is to draw men nearer to each other, not to separate them; to unite their interests, not to oppose them.

Individuals

Individuals cannot have too frequent or unlimited intercourse with each other; but societies of men have no interests to explain and adjust, except so far as error and violence may render explanation necessary. This consideration annihilates at once the principal objects of that mysterious and crooked policy which has hitherto occupied the attention of governments. Before this principle officers of the army and the navy, ambassadors and negotiators, and all the train of artifices that has been invented to hold other nations at bay, to penetrate their secrets, to traverse their machinations, to form alliances and counter alliances, sink into nothing. The expence of government is annihilated, and together with its expence the means of subduing and undermining the determination of its subjects.

Another of the great opprobriums of political science is at the same time completely removed, that extent of territory subject to one head, respecting which philosophers and moralists have alternately disputed whether it be most unfit for a monarchy or for a democratical government. The appearance which mankind in a future state of improvement may be expected to assume, is a policy that in different countries will wear a similar form, because we have all the same faculties and the same wants; but a policy the independent branches of which will extend their authority over a small territory, because neighbours are best informed of each other's concerns, and are perfectly equal to their adjustment. No recommendation can be

4 C

imagined

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Inferences:
1. complication of government unnecessary:

2. extensive territory superfluous.

imagined of an extensive rather than a limited territory, except that of external security.

Whatever evils are included in the abstract idea of government, are all of them extremely aggravated by the extensiveness of its jurisdiction, and softened under circumstances of an opposite species. Ambition, which may be no less formidable than a pestilence in the former, has no room to unfold itself in the latter. Popular commotion is like the waves of the sea, capable where the surface is large of producing the most tragical effects, but mild and innocuous when confined within the circuit of an humble lake. Sobriety and equity are the obvious characteristics of a limited circle.

It may indeed be objected, "that great talents are the offspring of great passions, and that in the quiet mediocrity of a petty republic the powers of intellect may be expected to subside into inactivity." This objection, if true, would be entitled to the most serious consideration. But it is to be considered that, upon the hypothesis here advanced, the whole human species would constitute in one sense one great republic, and the prospects of him who desired to act beneficially upon a great surface of mind, would become more animating than ever. During the period in which this state was growing but not yet complete, the comparison of the blessings we enjoyed with the iniquities practising among

among our neighbours would afford an additional stimulus to exertion*.

Ambition and tumult are evils that arise out of government in an indirect manner, in consequence of the habits which government introduces of material action extending itself over multitudes of men. There are other evils inseparable from its existence. The objects of government are the suppression of violence, either external or internal, which might otherwise destroy or bring into jeopardy the well being of the community or its members; and the means it employs is violence of a more regulated kind. For this purpose the concentration of individual forces becomes necessary, and the method in which this concentration is usually obtained, is also constraint. The evils of constraint have been considered on a former occasion †. Constraint employed against delinquents or persons to whom delinquency is imputed, is by no means without its mischiefs. Constraint employed by the majority of a society against the minority who may differ from them upon some question of public good, is calculated at first sight at least to excite a still greater disapprobation.

Both of these exertions may indeed appear to rest upon the same principle. Vice is unquestionably no more than error of

* This objection will be copiously discussed in the eighth book of the present work.

† Book II, Chap. VI.

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judgment, and nothing can justify an attempt to correct it by force but the extreme necessity of the case*. The minority, if erroneous, fall under precisely the same general description, though their error may not be of equal magnitude. But the necessity of the case can seldom be equally impressive. If the idea of secession for example were somewhat more familiarised to the conceptions of mankind, it could seldom happen that the secession of the minority could in any degree compare in mischievous tendency with the hostility of a criminal offending against the most obvious principles of social justice. The cases are parallel to those of offensive and defensive war. In putting constraint upon a minority, we yield to a suspicious temper that tells us the opposing party may hereafter in some way injure us, and we will anticipate his injury. In putting constraint upon a criminal, we seem to repel an enemy who has entered our territory and refuses to quit it.

Project of government:
police:

Government can have no more than two legitimate purposes, the suppression of injustice against individuals within the community, and the common defence against external invasion. The first of these purposes, which alone can have an uninterrupted claim upon us, is sufficiently answered by an association of such an extent as to afford room for the institution of a jury, to decide upon the offences of individuals within the community, and upon the questions and controversies respecting property which may

* Book II, Chap. VI. Book IV, Chap. VII.

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CHAP. XXII.

chance to arise. It might be easy indeed for an offender to escape from the limits of so petty a jurisdiction; and it might seem necessary at first that the neighbouring parishes or jurisdictions should be governed in a similar manner, or at least should be willing, whatever was their form of government, to co-operate with us in the removal or reformation of an offender, whose present habits were alike injurious to us and to them. But there will be no need of any express compact, and still less of any common centre of authority, for this purpose. General justice and mutual interest are found more capable of binding men than signatures and seals. In the mean time all necessity for causing the punishment of the crime to pursue the criminal, would soon at least cease, if it ever existed. The motives to offence would become rare: its aggravations few: and rigour superfluous. The principal object of punishment is restraint upon a dangerous member of the community; and the end of this restraint would be answered, by the general inspection that is exercised by the members of a limited circle over the conduct of each other, and by the gravity and good sense that would characterise the censures of men, from whom all mystery and empiricism were banished. No individual would be hardy enough in the cause of vice, to defy the general consent of sober judgment that would surround him. It would carry despair to his mind, or, which is better, it would carry conviction. He would be obliged, by a force not less irresistible than whips and chains, to reform his conduct.

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defence.

In this sketch is contained the rude outline of political government. Controversies between parish and parish would be in an eminent degree unreasonable, since, if any question arose, about limits for example, justice would presently teach us that the individual who cultivates any portion of land, is the properest person to decide to which district he would belong. No association of men, so long as they adhered to the principles of reason, could possibly have any interest in extending their territory. If we would produce attachment in our associates, we can adopt no surer method than that of practising the dictates of equity and moderation; and, if this failed in any instance, it could only fail with him who, to whatever society he belonged, would prove an unworthy member. The duty of any society to punish offenders is not dependent upon the hypothetical consent of the offender to be punished, but upon the duty of necessary defence.

But however irrational might be the controversy of parish with parish in such a state of society, it would not be the less possible. For such extraordinary emergencies therefore provision ought to be made. These emergencies are similar in their nature to those of foreign invasion. They can only be provided against by the concert of several districts, declaring and, if needful, enforcing the dictates of justice.

One of the most obvious remarks that suggests itself upon these

these two cases, of hostility between district and district, and of foreign invasion which the interest of all calls upon them jointly to repel, is, that it is their nature to be only of occasional recurrence, and that therefore the provisions to be made respecting them need not be in the strictest sense of perpetual operation. In other words, the permanence of a national assembly, as it has hitherto been practised in France, cannot be necessary in a period of tranquillity, and may perhaps be pernicious. That we may form a more accurate judgment of this, let us recollect some of the principal features that enter into the constitution of a national assembly.

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C H A P. XXIII.

OF NATIONAL ASSEMBLIES.

THEY PRODUCE A FICTITIOUS UNANIMITY—AN UNNATURAL UNIFORMITY OF OPINION.—CAUSES OF THIS UNIFORMITY.—CONSEQUENCES OF THE MODE OF DECISION BY VOTE—1. PERVERSION OF REASON—2. CONTENTIOUS DISPUTES—3. THE TRIUMPH OF IGNORANCE AND VICE.—SOCIETY INCAPABLE OF ACTING FROM ITSELF—OF BEING WELL CONDUCTED BY OTHERS.—CONCLUSION, —MODIFICATION OF DEMOCRACY THAT RESULTS FROM THESE CONSIDERATIONS.

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They produce a fictitious unanimity:

IN the first place the existence of a national assembly introduces the evils of a fictitious unanimity. The public, guided by such an assembly, acts with concert, or else the assembly is a nugatory excrescence. But it is impossible that this unanimity can really exist. The individuals who constitute a nation, cannot take into consideration a variety of important questions, without forming different sentiments respecting them. In reality all matters that are brought before such an assembly are decided by a majority of votes, and the minority, after having exposed with all the power of eloquence and force of reasoning of which they are capable

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capable the injustice and folly of the measures adopted, are obliged in a certain sense to assist in carrying them into execution. Nothing can more directly contribute to the depravation of the human understanding and character. It inevitably renders mankind timid, dissembling and corrupt. He that is not accustomed exclusively to act upon the dictates of his own understanding, must fall infinitely short of that energy and simplicity of which our nature is capable. He that contributes his personal exertions or his property to the support of a cause which he believes to be unjust, will quickly lose that accurate discrimination and nice sensibility of moral rectitude which are the principal ornaments of reason.

Secondly, the existence of national councils produces a certain species of real unanimity, unnatural in its character, and pernicious in its effects. The genuine and wholesome state of mind is, to be unloosed from shackles, and to expand every fibre of its frame according to the independent and individual impressions of truth upon that mind. How great would be the progress of intellectual improvement, if men were unfettered by the prejudices of education, unseduced by the influence of a corrupt state of society, and accustomed to yield without fear to the guidance of truth, however unexplored might be the regions and unexpected the conclusions to which she conducted us? We cannot advance in the voyage of happiness, unless we be wholly at large upon the stream that would carry us thither: the anchor, that we at first looked upon as the instrument of our safety, will

an unnatural
uniformity of
opinions.

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CHAP. XXIII.

at last appear to be the means of detaining our progress. Unanimity of a certain species will be the result of perfect freedom of enquiry, and this unanimity would, in a state of perfect freedom, become hourly more conspicuous. But the unanimity, that results from men's having a visible standard by which to adjust their sentiments, is deceitful and pernicious.

Causes of this
uniformity.

In numerous assemblies a thousand motives influence our judgments, independently of reason and evidence. Every man looks forward to the effects which the opinions he avows will produce on his success. Every man connects himself with some sect or party. The activity of his thought is shackled at every turn by the fear that his associates may disclaim him. This effect is strikingly visible in the present state of the British parliament, where men, whose faculties are comprehensive almost beyond all former example, are induced by these motives sincerely to espouse the most contemptible and clearly exploded errors.

Consequences
of the mode
of decision by
vote:
1. perversion
of reason:

Thirdly, the debates of a national assembly are distorted from their reasonable tenour by the necessity of their being uniformly terminated by a vote. Debate and discussion are in their own nature highly conducive to intellectual improvement; but they lose this salutary character the moment they are subjected to this unfortunate condition. What can be more unreasonable, than to demand, that argument, the usual quality of which is gradually and imperceptibly to enlighten the mind, should declare its

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CHAP. XXIII.

effect in the close of a single conversation? No sooner does this circumstance occur than the whole scene changes its character. The orator no longer enquires after permanent conviction, but transitory effect. He seeks rather to take advantage of our prejudices than to enlighten our judgment. That which might otherwise have been a scene of philosophic and moral enquiry, is changed into wrangling, tumult and precipitation.

Another circumstance that arises out of the decision by vote, is the necessity of constructing a form of words that shall best meet the sentiments and be adapted to the preconceived ideas of a multitude of men. What can be conceived of at once more ludicrous and disgraceful, than the spectacle of a set of rational beings employed for hours together in weighing particles and adjusting commas? Such is the scene that is perpetually witnessed in clubs and private societies. In parliaments this sort of business is usually adjusted before the measure becomes a subject of public inspection. But it does not the less exist; and sometimes it occurs in the other mode, so that, when numerous amendments have been made to suit the corrupt interest of imperious pretenders, the Herculean task remains at last to reduce the chaos into a grammatical and intelligible form.

2. contenti-
ous disputes

The whole is then wound up with that intolerable insult upon all reason and justice, the deciding upon truth by the casting up of numbers. Thus every thing that we have been accustomed

3. the tri-
umph of ig-
norance and
vice.

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CHAP. XXIII.

to esteem most sacred, is determined, at best by the weakest heads in the assembly, but, as it not less frequently happens, by the most corrupt and dishonourable intentions.

Society incapable of acting from itself.

In the last place, national assemblies will by no means be thought to deserve our direct approbation, if we recollect for a moment the absurdity of that fiction by which society is considered, as it has been termed, as a moral individual. It is in vain that we endeavour to counteract the immutable laws of necessity. A multitude of men after all our ingenuity will still remain no more than a multitude of men. Nothing can intellectually unite them short of equal capacity and identical perception. So long as the varieties of mind shall remain, the force of society can no otherwise be concentrated, than by one man for a shorter or a longer term taking the lead of the rest, and employing their force, whether material or dependent on the weight of their character, in a mechanical manner, just as he would employ the force of a tool or a machine. All government corresponds in a certain degree to what the Greeks denominated a tyranny. The difference is, that in despotic countries mind is depressed by an uniform usurpation; while in republics it preserves a greater portion of its activity, and the usurpation more easily conforms itself to the fluctuations of opinion.

of being well conducted by others.

The pretence of collective wisdom is the most palpable of all impostures. The acts of the society can never rise above the suggestions.

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suggestions of this or that individual who is a member of it. Let us enquire whether society, considered as an agent, can really become the equal of certain individuals of whom it is composed. And here, without staying to examine what ground we have to expect that the wisest member of the society will actually take the lead in it, we find two obvious reasons to persuade us that, whatever be the degree of wisdom inherent in him that really superintends, the acts which he performs in the name of the society will be both less virtuous and less able, than under other circumstances they might be expected to be. In the first place, there are few men who, with the consciousness of being able to cover their responsibility under the name of a society, will not venture upon measures, less direct in their motives, or less justifiable in the experiment, than they would have chosen to adopt in their own persons. Secondly, men who act under the name of a society, are deprived of that activity and energy which may belong to them in their individual character. They have a multitude of followers to draw after them, whose humours they must consult, and to whose slowness of apprehension they must accommodate themselves. It is for this reason that we frequently see men of the most elevated genius dwindle into vulgar leaders, when they become involved in the busy scenes of public life.

From these reasonings we are sufficiently authorized to conclude, that national assemblies, or in other words assemblies instituted for the joint purpose of adjusting the differences between

between district and district, and of consulting respecting the best mode of repelling foreign invasion, however necessary to be had recourse to upon certain occasions, ought to be employed as sparingly as the nature of the case will admit. They should either never be elected but upon extraordinary emergencies, like the dictator of the ancient Romans, or else sit periodically, one day for example in a year, with a power of continuing their sessions within a certain limit; to hear the complaints and representations of their constituents. The former of these modes is greatly to be preferred. Several of the reasons already adduced are calculated to show, that election itself is of a nature not to be employed but when the occasion demands it. There would be no difficulty in suggesting expedients relative to the regular originating of national assemblies. It would be most suitable to past habits and experience, that a general election should take place whenever a certain number of districts demanded it. It would be most agreeable to rigid simplicity and equity that an assembly of two or two hundred districts should take place, in exact proportion to the number of districts by whom that measure was desired.

Modification
of democracy
that results
from these
considera-
tions.

It cannot reasonably be denied that all the objections which have been most loudly reiterated against democracy, become null in an application to the form of government which has now been delineated. Here is no opening for tumult, for the tyranny of a multitude drunk with unlimited power, for political ambition

on

on the part of the few, or restless jealousy and precaution on the part of the many. Here no demagogue would find a suitable occasion for rendering the multitude the blind instrument of his purposes. Men in such a state of society would understand their happiness and cherish it. The true reason why the mass of mankind has so often been made the dupe of knaves, has been the mysterious and complicated nature of the social system. Once annihilate the quackery of government, and the most homebred understanding will be prepared to scorn the shallow artifices of the state juggler that would mislead him.

C H A P.

C H A P. XXIV.

OF THE DISSOLUTION OF GOVERNMENT.

POLITICAL AUTHORITY OF A NATIONAL ASSEMBLY—OF JURIES.—CONSEQUENCE FROM THE WHOLE.

BOOK V.
CHAP. XXIV.
Political au-
thority of a
national as-
sembly.

IT remains for us to consider what is the degree of authority necessary to be vested in such a modified species of national assembly as we have admitted into our system. Are they to issue their commands to the different members of the confederacy? Or is it sufficient that they should invite them to co-operate for the common advantage, and by arguments and addresses convince them of the reasonableness of the measures they propose? The former of these would at first be necessary. The latter would afterwards become sufficient. The Amphictyonic council of Greece possessed no authority but that which derived from its personal character. In proportion as the spirit of party was extirpated, as the restlessness of public commotion subsided, and as the political machine became simple, the voice of reason would be secure to be heard. An appeal by the assembly to the several districts would not fail to obtain the approbation of all reasonable men, unless it contained in it something so evidently questionable,

OF THE DISSOLUTION OF GOVERNMENT.

questionable, as to make it perhaps desirable that it should prove abortive.

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This remark leads us one step farther. Why should not the same distinction between commands and invitations, which we have just made in the case of national assemblies, be applied to the particular assemblies or juries of the several districts? At first, we will suppose, that some degree of authority and violence would be necessary. But this necessity does not arise out of the nature of man, but out of the institutions by which he has already been corrupted. Man is not originally vicious. He would not refuse to listen, or to be convinced by the expostulations that are addressed to him, had he not been accustomed to regard them as hypocritical, and to conceive that, while his neighbour, his parent and his political governor pretended to be actuated by a pure regard to his interest, they were in reality, at the expence of his, promoting their own. Such are the fatal effects of mystery and complexity. Simplify the social system in the manner which every motive but those of usurpation and ambition powerfully recommends; render the plain dictates of justice level to every capacity; remove the necessity of implicit faith; and the whole species will become reasonable and virtuous. It will then be sufficient for juries to recommend a certain mode of adjusting controversies, without assuming the prerogative of dictating that adjustment. It will then be sufficient for them to in-

vite offenders to forfake their errors. If their expostulations proved in a few instances ineffectual, the evils arising out of this circumstance would be of less importance, than those which proceed from the perpetual violation of the exercise of private judgment. But in reality no evils would arise, for, where the empire of reason was so universally acknowledged, the offender would either readily yield to the expostulations of authority; or, if he resisted, though suffering no personal molestation, he would feel so uneasy under the unequivocal disapprobation and observant eye of public judgment, as willingly to remove to a society more congenial to his errors.

Consequence
from the
whole.

The reader has probably anticipated me in the ultimate conclusion, from these remarks. If juries might at length cease to decide and be contented to invite, if force might gradually be withdrawn and reason trusted alone, shall we not one day find that juries themselves and every other species of public institution, may be laid aside as unnecessary? Will not the reasonings of one wise man be as effectual as those of twelve? Will not the competence of one individual to instruct his neighbours be a matter of sufficient notoriety, without the formality of an election? Will there be many vices to correct and much obstinacy to conquer? This is one of the most memorable stages of human improvement. With what delight must every well informed friend of mankind look forward to the auspicious period, the dissolution

of political government, of that brute engine, which has been the only perennial cause of the vices of mankind, and which, as has abundantly appeared in the progress of the present work, has mischiefs of various sorts incorporated with its substance, and no otherwise to be removed than by its utter annihilation!

AN
ENQUIRY

CONCERNING

POLITICAL JUSTICE.

BOOK VI.

*OF OPINION CONSIDERED AS A SUBJECT OF
POLITICAL INSTITUTION.*

CHAP. I.

GENERAL EFFECTS OF THE POLITICAL
SUPERINTENDENCE OF OPINION.

ARGUMENTS IN FAVOUR OF THIS SUPERINTENDENCE.—
ANSWER.—THE EXERTIONS OF SOCIETY IN ITS CORPO-
RATE CAPACITY ARE, 1. UNWISE—2. INCAPABLE OF
PROPER EFFECT.—OF SUMPTUARY LAWS, AGRARIAN
LAWS AND REWARDS.—POLITICAL DEGENERACY NOT
INCURABLE.—3. SUPERFLUOUS—IN COMMERCE—IN SPE-
CULATIVE ENQUIRY—IN MORALITY.—4. PERNICIOUS—
AS UNDERMINING INTELLECTUAL CAPACITY—AS SUS-
PENDING INTELLECTUAL IMPROVEMENT—CONTRARY

TO

TO THE NATURE OF MORALITY—TO THE NATURE OF
MIND.—CONCLUSION.

BOOK VI.
CHAP. I.
Arguments
in favour of
this superin-
tendence.

A PRINCIPLE, which has entered deeply into the systems of the writers on political law, is that of the duty of governments to watch over the manners of the people. "Government," say they, "plays the part of an unnatural step-mother, not of an affectionate parent, when she is contented by rigorous punishments to avenge the commission of a crime, while she is wholly inattentive beforehand to imbue the mind with those virtuous principles, which might have rendered punishment unnecessary. It is the business of a sage and patriotic magistracy to have its attention ever alive to the sentiments of the people, to encourage such as are favourable to virtue, and to check in the bud such as may lead to disorder and corruption. How long shall government be employed to display its terrors, without ever having recourse to the gentleness of invitation? How long shall she deal in retrospect and censure to the utter neglect of prevention and remedy?" These reasonings have in some respects gained additional strength by means of the latest improvements and clearest views upon the subject of political truth. It has been rendered more evident than in any former period, that government, instead of being an object of secondary consideration, has been the principal vehicle of extensive and permanent evil to mankind. It was natural therefore to say, "since government can produce so much positive mischief, surely it can do some positive good."

But

But these views, however specious and agreeable they may in the first instance appear, are liable to very serious question. If we would not be seduced by visionary good, we ought here more than ever, to recollect the principles that have repeatedly been insisted upon and illustrated in this work, "that government is in all cases an evil," and "that it ought to be introduced as sparingly as possible." Nothing can be more unquestionable than that the manners and opinions of mankind are of the utmost consequence to the general welfare. But it does not follow that government is the instrument by which they are to be fashioned.

One of the reasons that may lead us to doubt of its fitness for this purpose, is to be drawn from the view we have already taken of society considered as an agent*. A multitude of men may be feigned to be an individual, but they cannot become a real individual. The acts which go under the name of the society, are really the acts now of one single person and now of another. The men who by turns usurp the name of the whole, perpetually act under the pressure of incumbrances that deprive them of their true energy. They are fettered by the prejudices, the humours, the weakness and the vice of those with whom they act; and, after a thousand sacrifices to these contemptible interests, their project comes out at last distorted in every joint, abortive and monstrous. Society therefore in its corporate capacity can by no

BOOK VI.
CHAP. I.
Answer.

The exertions
of society in
its corporate
capacity are,
1. unwise:

* Book V, Chap. XXIII, p. 572.

means

means be busy and intrusive with impunity, since its acts must be expected to be deficient in wisdom.

2. incapable
of proper
effect.

Secondly, they will not be less deficient in efficacy than they are in wisdom. The object at which we are supposing them to aim, is to improve the opinions, and through them the manners of mankind; for manners are nothing else but opinions carried out into action: such as is the fountain, such will be the streams that are supplied from it. But what is it upon which opinion must be founded? Surely upon evidence, upon the perceptions of the understanding. Has society then any particular advantage in its corporate capacity for illuminating the understanding? Can it convey into its addresses and expostulations a compound or sublimate of the wisdom of all its members, superior in quality to the individual wisdom of any? If so, why have not societies of men written treatises of morality, of the philosophy of nature, or the philosophy of mind? Why have all the great steps of human improvement been the work of individuals?

If then society considered as an agent have no particular advantage for enlightening the understanding, the real difference between the *dicta* of society and the *dicta* of individuals must be looked for in the article of authority. But is authority a proper instrument for influencing the opinions and manners of men? If laws were a sufficient means for the reformation of error and vice, it is not to be believed but that the world long ere this

would have become the seat of every virtue. Nothing can be more easy than to command men to be just and good, to love their neighbours, to practise universal sincerity, to be content with a little, and to resist the enticements of avarice and ambition. But, when you have done, will the characters of men be altered by your precepts? These commands have been issued for thousands of years; and, if it had been decreed that every man should be hanged that violated them, it is vehemently to be suspected that this would not have secured their influence.

But it will be answered, "that laws need not deal thus in generals, but may descend to particular provisions calculated to secure their success. We may institute sumptuary laws, limiting the expence of our citizens in dress and food. We may institute agrarian laws, forbidding any man to possess more than a certain annual revenue. We may proclaim prizes as the reward of acts of justice, benevolence and public virtue." And, when we have done this, how far are we really advanced in our career? If the people be previously inclined to moderation in expence, the laws are a superfluous parade. If they are not inclined, who shall execute them, or prevent their evasion? It is the misfortune in these cases, that regulations cannot be executed but by individuals of that very people they are meant to restrain. If the nation at large be infested with vice, who shall secure us a succession of magistrates that are free from the contagion? Even if we could surmount this difficulty, still it would be vain. Vice is ever more

Of sumptuary
laws, agrarian
laws and re-
wards.

ingenuous in evasion, than authority in detection. It is absurd to imagine that any law can be executed, that directly contradicts the propensities and spirit of the nation. If vigilance were able fully to countermine the subtrefuges of art, the magistrates, who thus pertinaciously adhered to the practice of their duty, would not fail to be torn in pieces.

What can be more contrary to the most rational principles of human intercourse than the inquisitorial spirit which such regulations imply? Who shall enter into my house, scrutinise my expenditure and count the dishes upon my table? Who shall detect the stratagems I employ to cover my real possession of an enormous income, while I seem to receive but a small one? Not that there is really any thing unjust and unbecoming, as has been too often supposed, in my neighbour's animadverting with the utmost freedom upon my personal conduct. But that such regulations include a system of petty watchfulness and inspection; not contenting themselves with animadversion whenever the occasion is presented, but making it the business of one man constantly to pry into the proceedings of another, the whole depending upon the uniformity with which this is done; creating a perpetual struggle between the restless curiosity of the first, and the artful concealment of the second. By what motives will you make a man an informer? If by public spirit and philanthropy inciting him to brave obloquy and resentment for the sake of duty, will sumptuary laws be very necessary among a people thus advanced

vanced in virtue? If by sinister and indirect considerations, will not the vices you propagate be more dangerous than the vices you suppress?

Such must be the case in extensive governments: in governments of smaller dimensions opinion would be all sufficient; the inspection of every man over the conduct of his neighbours, when unstained with caprice, would constitute a censorship of the more irresistible nature. But the force of this censorship would depend upon its freedom, not following the positive dictates of law, but the spontaneous decisions of the understanding.

Again, in the distribution of rewards who shall secure us against error, partiality and intrigue, converting that which was meant for the support of virtue into a new engine for her ruin? Not to add, that prizes are a very feeble instrument for the generation of excellence, always inadequate to its reward where it really exists, always in danger of being bestowed on its semblance, continually misleading the understanding by foreign and degenerate motives of avarice and vanity.

In truth, the whole system of such regulations is a perpetual struggle against the laws of nature and necessity. Mind will in all instances be swayed by its own views and propensities. No project can be more absurd, than that of reversing these propen-

fities by the interposition of authority. He that should command a conflagration to cease or a tempest to be still, would not display more ignorance of the system of the universe, than he, who, with a code of regulations, whether general or minute, that he has framed in his closet, expects to restore a corrupt and luxurious people to temperance and virtue.

Political degeneracy not incurable.

The force of this argument respecting the inefficacy of regulations has often been felt, and the conclusions that are deduced from it have been in a high degree discouraging. "The character of nations," it has been said, "is unalterable, or at least, when once debauched, can never be recovered to purity. Laws are an empty name, when the manners of the people are become corrupt. In vain shall the wisest legislator attempt the reformation of his country, when the torrent of profligacy and vice has once broken down the bounds of moderation. There is no longer any instrument left for the restoration of simplicity and frugality. It is useless to declaim against the evils that arise from inequality of riches and rank, where this inequality has already gained an establishment. A generous spirit will admire the exertions of a Cato and a Brutus; but a calculating spirit will condemn them, as inflicting useless torture upon a patient whose disease is irremediable. It was from a view of this truth that the poets derived their fictions respecting the early history of mankind; well aware that, when luxury was introduced and the springs of mind unbent, it would be a vain expectation that should hope to recal

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men from passion to reason, and from effeminacy to energy*." But this conclusion from the inefficacy of regulations is so far from being valid, that in reality,

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A third objection to the positive interference of society in its corporate capacity for the propagation of truth and virtue is, that such interference is altogether unnecessary. Truth and virtue are competent to fight their own battles. They do not need to be nursed and patronised by the hand of power.

3. superfluous:

The mistake which has been made in this case, is similar to the mistake which is now universally exploded upon the subject of commerce. It was long supposed that, if any nation desired to extend its trade, the thing most immediately necessary was for government to interfere, and institute protecting duties, bounties and monopolies. It is now well known that commerce never flourishes so much, as when it is delivered from the guardianship of legislators and ministers, and is built upon the principle, not of forcing other people to buy our commodities dear when they might purchase them elsewhere cheaper and better, but of ourselves feeling the necessity of recommending them by their intrinsic advantages. Nothing can be at once so unreasonable and hopeless, as to attempt by positive regulations to disarm the unalterable laws of the universe.

in commerce:

* Book I, Chap. VIII.

The

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in speculative
enquiry:

The same truth which has been felt under the article of commerce, has also made a considerable progress as to the subjects of speculative enquiry. Formerly it was thought that the true religion was to be defended by acts of uniformity, and that one of the principal duties of the magistrate was to watch the progress of heresy. It was truly judged that the connexion between error and vice is of the most intimate nature, and it was concluded that no means could be more effectual to prevent men from deviating into error, than to check their wanderings by the scourge of authority. Thus writers, whose political views in other respects have been uncommonly enlarged, have told us "that men ought indeed to be permitted to think as they please, but not to propagate their pernicious opinions; as they may be permitted to keep poisons in their closet, but not to offer them to sale under the denomination of cordials*." Or, if humanity have forbidden them to recommend the extirpation of a sect which has already got footing in a country, they have however earnestly advised the magistrate to give no quarter to any new extravagance that might be attempted to be introduced †.—The reign of these two errors respecting commerce and theoretical speculation is nearly at an end, and it is reasonable to believe that the idea of teaching virtue through the instrumentality of government will not long survive them.

* Gulliver's Travels, Part II, Chap. VI.

† Mably, de la Législation, Liv. IV, Chap. III: des Etats Unis d'Amérique, Lettre III.

All

All that is to be asked on the part of government in behalf of morality and virtue is a clear stage upon which for them to exert their own energies, and perhaps some restraint for the present upon the violent disturbers of the peace of society, that the efforts of these principles may be allowed to go on uninterrupted to their natural conclusion. Who ever saw an instance in which error unaided by power was victorious over truth? Who is there so absurd as to believe, that with equal arms truth can be ultimately defeated? Hitherto every instrument of menace or influence has been employed to counteract her. Has she made no progress?—Has the mind of man the capacity to chuse falsehood and reject truth, when her evidence is fairly presented? When it has been once thus presented and has gained a few converts, does she ever fail to go on perpetually increasing the number of her votaries? Exclusively of the fatal interference of government, and the violent irruptions of barbarism threatening to sweep her from the face of the earth, has not this been in all instances the history of science?

Nor are these observations less true in their application to the manners and morals of mankind. Do not men always act in the manner which they esteem best upon the whole or most conducive to their interest? Is it possible then that evidence of what is best or what is most beneficial can be thrown away upon them? The real history of the changes of character they experience in this respect is this. Truth for a long time spreads itself unobserved.

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in morality:

unobserved. Those who are the first to embrace it are little aware of the extraordinary effects with which it is pregnant. But it goes on to be studied and illustrated. It perpetually increases in clearness and amplitude of evidence. The number of those by whom it is embraced is gradually enlarged. If it have relation to their practical interests, if it show them that they may be a thousand times more happy and free than at present, it is impossible that in its perpetual increase of evidence and energy, it should not at last break the bounds of speculation, and become an animating principle of action. What can be more absurd than the opinion, which has so long prevailed, "that justice and an equal distribution of the means of happiness may appear ever so clearly to be the only reasonable foundation of political society, without ever having any chance of being reduced into practice? that oppression and misery are draughts of so intoxicating a nature, that, when once tasted, we can never afterwards refuse to partake of them? that vice has so many advantages over virtue, that the reasonableness and wisdom of the latter, however powerfully exhibited, can never obtain a hold upon our affections?"

While therefore we decry the efficacy of unassisted laws, we are far from throwing any discouragement by that means upon the prospect of social improvement. The true tendency of this view of the subject is to suggest indeed a different, but a more consistent and promising method by which this improvement is

to be produced. The legitimate instrument of effecting political reformation is truth. Let truth be incessantly studied, illustrated and propagated, and the effect is inevitable. Let us not vainly endeavour by laws and regulations to anticipate the future dictates of the general mind, but calmly wait till the harvest of opinion is ripe. Let no new practice in politics be introduced, and no old one anxiously superseded, till called for by the public voice. The task, which for the present should wholly occupy the friend of man, is enquiry, instruction, discussion. The time may come when his task shall be of another sort. Error, being completely detected, may indeed sink into unnoticed oblivion, without one partisan to interrupt her fall. This would inevitably be the event, were it not for the restlessness and inconsiderate impetuosity of mankind. But the event may be otherwise. Political change, by advancing too rapidly to its crisis, may become attended with commotion and hazard; and it will then be incumbent on him actively to assist in unfolding the catastrophe. The evils of anarchy have been shown to be much less than they are ordinarily supposed*; but, whatever be their amount, the friend of man will not, when they arise, timidly shrink from the post of danger. He will on the contrary by social emanations of wisdom endeavour to guide the understandings of the people at large to the perception of felicity.

* Book V, Chap. XX, p. 548.

In the fourth place the interference of an organized society for the purpose of influencing opinions and manners, is not only useless, but pernicious. We have already found that such interference is in one view of the subject ineffectual. But here a distinction is to be made. Considered with a view to the introduction of any favourable changes in the state of society, it is altogether impotent. But, though it be inadequate to change, it is powerful to prolong. This property in political regulation is so far from being doubtful, that to it alone we are to ascribe all the calamities that government has inflicted on mankind. When regulation coincides with the habits and propensities of mankind at the time it is introduced, it will be found sufficiently capable of maintaining those habits and propensities in the greater part unaltered for centuries. In this view it is doubly pernicious.

as under-
mining intel-
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city:

To understand this more accurately, let us apply it to the case of rewards, which has always been a favourite topic with the advocates of an improved legislation. How often have we been told, "that talents and virtues would spring up spontaneously in a country, one of the objects of whose constitution should be to secure to them an adequate reward?" Now to judge of the propriety of this aphorism we should begin with recollecting that the discerning of merit is an individual, and not a social capacity. What can be more reasonable than that each man for himself should estimate the merits of his neighbour?

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To endeavour to institute a general judgment in the name of the whole, and to melt down the different opinions of mankind into one common opinion, appears at first sight so monstrous an attempt, that it is impossible to augur well of its consequences. Will this judgment be wise, reasonable or just? Wherever each man is accustomed to decide for himself, and the appeal of merit is immediately to the opinion of its contemporaries, there, were it not for the false bias of some positive institution, we might expect a genuine ardour in him who aspired to excellence, creating and receiving impressions in the judgment of an impartial audience. We might expect the judgment of the auditors to ripen by perpetual exercise, and mind, ever curious and awake, continually to approach nearer to the standard of truth. What do we gain in compensation for this, by setting up authority as the general oracle, from which the active mind is to inform itself what sort of excellence it should seek to acquire, and the public at large what judgment they should pronounce upon the efforts of their contemporaries? What should we think of an act of parliament appointing some particular individual president of the court of criticism, and judge in the last resort of the literary merit of dramatic compositions? Is there any solid reason why we should expect better things, from authority usurping the examination of moral or political excellence?

Nothing can be more unreasonable than the attempt to retain men in one common opinion by the dictate of authority. The

opinion thus obtruded upon the minds of the public is not their real opinion; it is only a project by which they are rendered incapable of forming an opinion. Whenever government assumes to deliver us from the trouble of thinking for ourselves, the only consequences it produces are those of torpor and imbecility. Wherever truth stands in the mind unaccompanied by the evidence upon which it depends, it cannot properly be said to be apprehended at all. Mind is in this case robbed of its essential character and genuine employment, and along with them must be expected to lose all that which is capable of rendering its operations salutary and admirable. Either mankind will resist the assumptions of authority undertaking to superintend their opinions, and then these assumptions will produce no more than an ineffectual struggle; or they will submit, and then the effects will be injurious. He that in any degree consigns to another the task of dictating his opinions and his conduct, will cease to enquire for himself, or his enquiries will be languid and inanimate.

Regulations will originally be instituted in favour either of falshood or truth. In the first case no rational enquirer will pretend to alledge any thing in their defence; but, even should truth be their object, yet such is their nature, that they infallibly defeat the very purpose they were intended to serve. Truth, when originally presented to the mind, is powerful and invigorating; but, when attempted to be perpetuated by political institution, becomes flaccid and lifeless. Truth in its unpatronised state strengthens and improves

improves the understanding; because in that state it is embraced only so far as it is perceived to be truth. But truth, when recommended by authority, is weakly and irresolutely embraced. The opinions I entertain are no longer properly my own; I repeat them as a lesson appropriated by rote, but I do not strictly speaking understand them, and I am not able to assign the evidence upon which they rest. My mind is weakened, while it is pretended to be improved. Instead of the firmness of independence, I am taught to bow to authority I know not why. Persons thus trammelled, are not strictly speaking capable of a single virtue. The first duty of man is to take none of the principles of conduct upon trust, to do nothing without a clear and individual conviction that it is right to be done. He that resigns his understanding upon one particular topic, will not exercise it vigorously upon others. If he be right in any instance, it will be inadvertently and by chance. A consciousness of the degradation to which he is subjected will perpetually haunt him; or at least he will want the consciousness that accrues from independent consideration, and will therefore equally want that intrepid perseverance, that calm self approbation that grows out of independence. Such beings are the mere dwarfs and mockery of men, their efforts comparatively pusillanimous, and the vigour with which they should execute their purposes, superficial and hollow.

Strangers to conviction, they will never be able to distinguish between prejudice and reason. Nor is this the worst. Even when

as suspending
intellectual
improvement:

when the glimpses of enquiry suggest themselves, they will not dare to yield to the temptation. To what purpose enquire, when the law has told me what to believe and what must be the termination of my enquiries? Even when opinion properly so called suggests itself, I am compelled, if it differ in any degree from the established system, to shut my eyes, and loudly profess my adherence where I doubt the most. This compulsion may exist in many different degrees. But, supposing it to amount to no more than a very slight temptation to be insincere, what judgment must we form of such a regulation either in a moral or intellectual view? of a regulation, inviting men to the profession of certain opinions by the proffer of a reward, and deterring them from a severe examination of their justice by penalties and disabilities? A system like this does not content itself with habitually unnerving the mind of the great mass of mankind through all its ranks, but provides for its own continuance by debauching or terrifying the few individuals, who, in the midst of the general emasculation, might retain their curiosity and love of enterprise. We may judge how pernicious it is in its operation in this respect by the long reign of papal usurpation in the dark ages, and the many attacks upon it that were suppressed, previously to the successful one of Luther. Even yet, how few are there that venture to examine into the foundation of Mahometanism and Christianity, or the effects of monarchy and aristocratical institution, in countries where those systems are established by law? Supposing men were free from persecution for their

hostilities

hostilities in this respect, yet the investigation could never be impartial, while so many allurements are held out, inviting men to a decision in one particular way.

To these considerations it should be added, that what is right under certain circumstances to-day, may by an alteration in those circumstances become wrong to-morrow. Right and wrong are the result of certain relations, and those relations are founded in the respective qualities of the beings to whom they belong. Change those qualities, and the relations become altogether different. The treatment that I am bound to bestow upon any one depends upon my capacity and his circumstances. Increase the first, or vary the second, and I am bound to a different treatment. I am bound at present to subject an individual to forcible restraint, because I am not wise enough by reason alone to change his vicious propensities. The moment I can render myself wise enough, I ought to confine myself to the latter mode. It is perhaps right to suffer the negroes in the West Indies to continue in slavery, till they can be gradually prepared for a state of liberty. Universally it is a fundamental principle in sound political science, that a nation is best fitted for the amendment of its civil government by being made to understand and desire the advantage of that amendment, and the moment it is so understood and desired it ought to be introduced. But, if there be any truth in these views, nothing can be more adverse to reason or inconsistent

sistent with the nature of man, than positive regulations tending to continue a certain mode of proceeding when its utility is gone.

to the nature
of mind.

If we would be still more completely aware of the pernicious tendency of positive institutions, we ought in the last place explicitly to contrast the nature of mind and the nature of government. It is one of the most unquestionable properties of mind to be susceptible of perpetual improvement. It is the inalienable tendency of positive institution, to retain that with which it is conversant for ever in the same state. Is then the perfectibility of understanding an attribute of trivial importance? Can we recollect with coldness and indifference the advantages with which this quality is pregnant to the latest posterity? And how are these advantages to be secured? By incessant industry, by a curiosity never to be disheartened or fatigued, by a spirit of enquiry to which a sublime and philanthropic mind will allow no pause. The circumstance of all others most necessary, is that we should never stand still, that every thing most interesting to the general welfare, wholly delivered from restraint, should be in a state of change, moderate and as it were imperceptible, but continual. Is there any thing that can look with a more malignant aspect upon the general welfare, than an institution tending to give permanence to certain systems and opinions? Such institutions are two ways pernicious; first, which is most material, because they render all

all the future advances of mind infinitely tedious and operose; secondly, because, by violently confining the stream of reflexion, and holding it for a time in an unnatural state, they compel it at last to rush forward with impetuosity, and thus occasion calamities, which, were it free from restraint, would be found extremely foreign to its nature. Is it to be believed that, if the interference of positive institution were out of the question, the progress of mind in past ages would have been so slow, as to have struck the majority of ingenuous observers with despair? The science of Greece and Rome upon the subjects of political justice was in many respects extremely imperfect: yet could we have been so long in appropriating their discoveries, had not the allurements of reward and the menace of persecution united to induce us, not to trust to the first and fair verdict of our own understandings?

The just conclusion from the above reasonings is nothing more than a confirmation, with some difference in the mode of application, of the fundamental principle, that government is little capable of affording benefit of the first importance to mankind. It is calculated to induce us to lament, not the apathy and indifference, but the inauspicious activity of government. It incites us to look for the moral improvement of the species, not in the multiplying of regulations, but in their repeal. It teaches us that truth and virtue, like commerce, will then flourish most, when least subjected to the mistaken guardianship of authority and laws. This maxim will rise upon us in its importance, in

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proportion as we connect it with the numerous departments of political justice to which it will be found to have relation. As fast as it shall be adopted into the practical system of mankind, it will go on to deliver us from a weight intolerable to mind, and in the highest degree inimical to the progress of truth.

C H A P.

C H A P. II.

OF RELIGIOUS ESTABLISHMENTS.

THEIR GENERAL TENDENCY.—EFFECTS ON THE CLERGY:

THEY INTRODUCE, 1. IMPLICIT FAITH — 2. HYPOCRISY:
TOPICS BY WHICH AN ADHERENCE TO THEM IS VINDI-
CATED.—EFFECTS ON THE LAITY.—APPLICATION.

ONE of the most striking instances of the injurious effects of the political patronage of opinion, as it at present exists in the world, is to be found in the system of religious conformity. Let us take our example from the church of England, by the constitution of which subscription is required from its clergy to thirty-nine articles of precise and dogmatical assertion upon almost every subject of moral and metaphysical enquiry. Here then we have to consider the whole honours and revenues of the church, from the archbishop who takes precedence next after the princes of the blood-royal to the meanest curate in the nation, as employed in support of a system of blind submission and abject hypocrisy. Is there one man through this numerous hierarchy that is at liberty to think for himself? Is there one man among them that can lay his hand upon his heart, and declare, upon his honour and conscience, that his emoluments have no effect in influencing his judgment?

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Their general
tendency.

judgment? The declaration is literally impossible. The most that an honest man under such circumstances can say is, "I hope not; I endeavour to be impartial."

Effects on the
clergy:
they intro-
duce,
1. implicit
faith:

First, the system of religious conformity is a system of blind submission. In every country possessing a religious establishment, the state, from a benevolent care it may be for the manners and opinions of its subjects, publicly encourages a numerous class of men to the study of morality and virtue. What institution, we might naturally be led to enquire, can be more favourable to public happiness? Morality and virtue are the most interesting topics of human speculation; and the best effects might be expected to result from the circumstance of many persons, perpetually receiving the most liberal education, and setting themselves apart, for the express cultivation of these topics. But unfortunately these very men are fettered in the outset by having a code of propositions put into their hands, in a conformity to which all their enquiries must terminate. The natural tendency of science is to increase from age to age, and proceed from the humblest beginnings to the most admirable conclusions. But care is taken in the present case to anticipate these conclusions, and to bind men by promises and penalties not to improve upon the wisdom of their ancestors. The plan is to guard against degeneracy and decline, but never to advance. It is founded in the most sovereign ignorance of the nature of mind, which never fails to do either the one or the other.

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Secondly,

2. hypocrisy:
topics by
which an ad-
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them is vin-
dicated.

Secondly, the tendency of a code of religious conformity is to make men hypocrites. To understand this it may be useful to recollect the various subterfuges that have been invented by ingenious men to apologise for the subscription of the English clergy. It is observable by the way that the articles of the church are founded upon the creed of the Calvinists, though for one hundred and fifty years past it has been accounted disreputable among the clergy to be of any other than the opposite, or Arminian tenets. Volumes have been written to prove that, while these articles express predestinarian sentiments, they are capable of a different construction, and that the subscriber has a right to take advantage of that construction. Divines of another class have rested their arguments upon the known good character and benevolent intentions of the first reformers, and have concluded that they could never intend to tyrannise over the consciences of men, or preclude the result of farther information. Lastly, there are many who have treated the articles as articles of peace, and inferred that, though you did not believe, you might allow yourself in the dissimulation of subscribing them, provided you added to it the farther guilt of constantly refraining to oppose what you considered as an adulteration of divine truth.

It would perhaps be regarded as incredible, if it rested upon the evidence of history alone, that a whole body of men, set apart as the instructors of mankind, weaned as they are expected to be from temporal ambition, and maintained from the suppo-
sition

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fiction that the existence of human virtue and divine truth depends on their exertions, should with one consent employ themselves in a casuistry, the object of which is to prove the propriety of a man's declaring his assent to what he does not believe. These men either credit their own subterfuges, or they do not. If they do not, what can be expected from men so unprincipled and profligate? With what front can they exhort other men to virtue, with the brand of vice upon their own foreheads? If they do, what must be their portion of moral sensibility and discernment? Can we believe that men shall enter upon their profession with so notorious a perversion of reason and truth, and that no consequences will flow from it to infect their general character? Rather, can we fail to compare their unnatural and unfortunate state, with the profound wisdom and determined virtue which their industry and exertions would unquestionably have produced, if they had been left to their genuine operation? They are like the victims of Circe, to whom human understanding was preserved entire, that they might more exquisitely feel their degraded condition. They are incited to study and to a thirst after knowledge, at the same time that the fruits of knowledge are constantly withheld from their unsuccessful attempts. They are held up to their contemporaries as the professors of truth, and political institution tyrannically commands them, in all the varieties of understanding and succession of ages, to model themselves to one common standard.

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Effects on the
laity.

Such are the effects that a code of religious conformity produces upon the clergy themselves; let us consider the effects that are produced upon their countrymen. They are bid to look for instruction and morality to a denomination of men, formal, embarrassed and hypocritical, in whom the main spring of intellect is unbent and incapable of action. If the people be not blinded with religious zeal, they will discover and despise the imperfections of their spiritual guides. If they be so blinded, they will not the less transplant into their own characters the imbecil and unworthy spirit they are not able to detect. Is virtue so deficient in attractions as to be incapable of gaining adherents to her standard? Far otherwise. Nothing can bring the wisdom of a just and pure conduct into question, but the circumstance of its being recommended to us from an equivocal quarter. The most malicious enemy of mankind could not have invented a scheme more destructive of their true happiness, than that of hiring at the expence of the state a body of men, whose business it should seem to be to dupe their contemporaries into the practice of virtue.

One of the lessons that powerful facts are perpetually reading to the inhabitants of such countries, is that of duplicity and prevarication in an order of men, which, if it exist at all, ought to exist only for reverence. Do you think that this prevarication is not a subject of general notoriety? Do you think that the first idea that rises to the understanding of the multitude at sight of a clergy-

a clergyman, is not that of a man who inculcates certain propositions, not so properly because he thinks them true or thinks them interesting, as because he is hired to the employment? Whatever instruction a code of religious uniformity may fail to convey, there is one that it always communicates, the wisdom of estimating an unreserved and disinterested sincerity at a very cheap rate. Such are the effects that are produced by political institution, at a time when it most zealously intends with parental care to guard its subjects from seduction and depravity.

Application. These arguments do not apply to any particular articles and creeds, but to the very notion of ecclesiastical establishments in general. Wherever the state sets apart a certain revenue for the support of religion, it will infallibly be given to the adherents of some particular opinions, and will operate in the manner of prizes to induce men at all events to embrace and profess those opinions. Undoubtedly, if I think it right to have a spiritual instructor to guide me in my researches and at stated intervals to remind me of my duty, I ought to be at liberty to take the proper steps to supply myself in this respect. A priest, who thus derives his mission from the unbiassed judgment of his parishioners, will stand a chance to possess beforehand and independently of corrupt influence the requisites they demand. But why should I be compelled to contribute to the support of an institution, whether I approve of it or no? If public worship be conformable to reason, reason without doubt will prove adequate

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to its vindication and support. If it be from God, it is profanation to imagine that it stands in need of the alliance of the state. It must be in an eminent degree artificial and exotic, if it be incapable of preserving itself in existence, otherwise than by the inauspicious interference of political institution.

C H A P. III.

OF THE SUPPRESSION OF ERRONEOUS OPINION
IN RELIGION AND GOVERNMENT.

OF HERESY.—ARGUMENTS BY WHICH THE SUPPRESSION
OF HERESY IS RECOMMENDED.—ANSWER.—IGNORANCE
NOT NECESSARY TO MAKE MEN VIRTUOUS.—DIFFERENCE
OF OPINION NOT SUBVERSIVE OF PUBLIC SECURITY.—
REASON, AND NOT FORCE, THE PROPER CORRECTIVE OF
SOPHISTRY.—ABSURDITY OF THE ATTEMPT TO RE-
STRAIN THOUGHT—TO RESTRAIN THE FREEDOM OF
SPEECH.—CONSEQUENCES THAT WOULD RESULT.—FAL-
LIBILITY OF THE MEN BY WHOM AUTHORITY IS EXER-
CISED.—OF ERRONEOUS OPINIONS IN GOVERNMENT.—
INIQUITY OF THE ATTEMPT TO RESTRAIN THEM.—
TENDENCY OF UNLIMITED POLITICAL DISCUSSION.

BOOK VI.
CHAP. III.
Of heresy.

THE same views which have prevailed for the introduction
of religious establishments, have inevitably led to the idea
of provisions against the rise and progress of heresy. No arguments
can be adduced in favour of the political patronage of truth,
that will not be equally cogent in behalf of the political discour-
agement of error. Nay, they will, of the two, be most cogent
in the latter case; for error and misrepresentation are the irre-
concilable

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concilable enemies of virtue, and if authority were the true means
to disarm them, there would then at least be no need of positive
provisions to assist the triumph of truth. It has however happened
that this argument, though more tenable, has had fewer adherents.
Men are more easily reconciled to abuse in the distribution of
rewards, than in the infliction of penalties. It will not therefore be
requisite laboriously to insist upon the refutation of this principle;
its discussion is principally necessary for the sake of method.

Various arguments have been alledged in defence of this
restraint. "The importance of opinion as a general proposition
is notorious and unquestionable. Ought not political institu-
tion to take under its inspection that root from which all our
actions are ultimately derived? The opinions of men must be
expected to be as various as their education and their temper:
ought not government to exert its foresight to prevent this dis-
cord from breaking out into anarchy and violence? There is no
proposition so absurd or so hostile to morality and public good,
as not to have found its votaries: will there be no danger in
suffering these eccentricities to proceed unmolested, and every
perverter of truth and justice to make as many converts as he is
able? It has been found indeed a hopeless task to endeavour to
extirpate by violence errors already established; but is it not the
duty of government to prevent their ascendancy, to check the
growth of their adherents and the introduction of heresies
hitherto unknown? Can those persons, to whom the care of the

Arguments
by which the
suppression
of heresy has
been recom-
mended.

general welfare is confided, or who are fitted by their situation or their talents to suggest proper regulations to the adoption of the community, be justified in conniving at the spread of such extravagant and pernicious opinions as strike at the root of order and morality? Simplicity of mind and an understanding undebauched with sophistry have ever been the characteristics of a people among whom virtue has flourished: ought not government to exert itself to exclude the inroad of qualities opposite to these? It is thus that the friends of moral justice have ever contemplated with horror the progress of infidelity and latitudinarian principles. It was thus that the elder Cato viewed with grief the importation into his own country of that plausible and loquacious philosophy by which Greece had already been corrupted*.”

Answer.

Ignorance
not necessary
to make men
virtuous.

There are several trains of reflexion which these reasonings suggest. None of them can be more important than that which may assist us in detecting the error of the elder Cato, and of other persons who have been the zealous but mistaken advocates of virtue. Ignorance is not necessary to render men virtuous. If it were, we might reasonably conclude that virtue was an imposture, and that it was our duty to free ourselves from its

* The reader will consider this as the language of the objectors. The most eminent of the Greek philosophers were in reality distinguished from all other teachers, by the fortitude with which they conformed to the precepts they taught.

shackles.

shackles. The cultivation of the understanding has no tendency to corrupt the heart. A man who should possess all the science of Newton and all the genius of Shakespeare, would not on that account be a bad man. Want of great and comprehensive views had as considerable a share as benevolence in the grief of Cato. It is like the taking to pieces an imperfect machine in order by reconstructing it to enhance its value. An uninformed and timid spectator would be frightened at the temerity of the artist, at the confused heap of pins and wheels that were laid aside at random, and would take it for granted that nothing but destruction would be the consequence. But he would be disappointed. It is thus that the extravagant sallies of mind are the prelude of the highest wisdom, and that the dreams of Ptolemy were destined to precede the discoveries of Newton.

The event cannot be other than favourable. Mind would else cease to be mind. It would be more plausible to say that the perpetual cultivation of the understanding will terminate in madness, than that it will terminate in vice. As long as enquiry is suffered to proceed, and science to improve, our knowledge is perpetually increased. Shall we know every thing else, and nothing of ourselves? Shall we become clear sighted and penetrating in all other subjects, without increasing our penetration upon the subject of man? Is vice most truly allied to wisdom or to folly? Can mankind perpetually increase in wisdom, without increasing in the knowledge of what it is wise for them to do? Can a man
I have

have a clear discernment, unclouded with any remains of former mistake, that this is the action he ought to perform, most conducive to his own interest and to the general good, most delightful at the instant and satisfactory in the review, most agreeable to reason, justice and the nature of things, and refrain from performing it? Every system which has been constructed relative to the nature of superior beings and Gods, amidst all its other errors has reasoned truly upon these topics, and taught that the increase of wisdom and knowledge led, not to malignity and tyranny, but to benevolence and justice.

Difference of
opinion not
subversive of
public secu-
rity.

Secondly, it is a mistake to suppose that speculative differences of opinion threaten materially to disturb the peace of society. It is only when they are enabled to arm themselves with the authority of government, to form parties in the state, and to struggle for that political ascendancy which is too frequently exerted in support of or in opposition to some particular creed, that they become dangerous. Wherever government is wise enough to maintain an inflexible neutrality, these jarring sects are always found to live together with sufficient harmony. The very means that have been employed for the preservation of order, have been the only means that have led to its disturbance. The moment government resolves to admit of no regulations oppressive to either party, controversy finds its level, and appeals to argument and reason, instead of appealing to the sword or the stake. The moment government descends to wear the badge of a sect, reli-

gious war is commenced, the world is disgraced with inexpiable broils and deluged with blood.

Thirdly, the injustice of punishing men for their opinions and arguments will be still more visible, if we reflect a little on the nature of punishment. Punishment is one of those classes of coercion, the multiplication of which is so much to be deprecated, and which nothing but the most urgent necessity can in any case justify. That necessity is commonly admitted to exist, where a man has proved by his unjust actions the injuriousness of his character, and where the injury, the repetition of which is to be apprehended, is of such a nature as to be committed before we can have sufficient notice to guard ourselves against it. But no such necessity can possibly exist in the case of false opinions and perverse arguments. Does any man assert falsehood? Nothing farther can be desired than that it should be confronted with truth. Does he bewilder us with sophistry? Introduce the light of reason, and his deceptions will vanish. There is in this case a clear line of distinction. In the only admissible province of punishment force it is true is introduced, but it is only in return for force previously exerted. Where argument therefore, erroneous statements and misrepresentation alone are employed, it is by argument only that they must be encountered. We should not be creatures of a rational and intellectual nature, if the victory of truth over error were not ultimately certain.

To

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CHAP. III.Aburdity of
the attempt
to refrain
thought:

To enable us to conceive properly of the value of laws for the punishment of heresy, let us suppose a country to be sufficiently provided with such laws, and observe the result. The object is to prevent men from entertaining certain opinions, or in other words from thinking in a certain way. What can be more absurd than to undertake to put fetters upon the subtlety of thought? How frequently does the individual who desires to restrain it in himself, fail in the attempt? Add to this, that prohibition and menace in this respect do but give new restlessness to the curiosity of the mind. I must not think of the possibility, that there is no God; that the stupendous miracles of Moses and Christ were never really performed; that the dogmas of the Athanasian creed are erroneous. I must shut my eyes, and run blindly into all the opinions, religious and political, that my ancestors regarded as sacred. Will this in all instances be possible?

There is another consideration, trite indeed, but the triteness of which is an additional argument of its truth. Swift says "Men ought to be permitted to think as they please, but not to propagate their pernicious opinions*." The obvious answer to this is, "We are much obliged to him: how would he be able to punish our heresy, even if he desired it, so long as it was concealed?" The attempt to punish opinion is absurd: we may be

* See above, Chap. I, p. 590.

silent

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silent respecting our conclusions, if we please; the train of thinking by which those conclusions are generated cannot fail to be silent.

"But, if men be not punished for their thoughts, they may be punished for uttering those thoughts." No. This is not less impossible than the other. By what arguments will you persuade every man in the nation to exercise the trade of an informer? By what arguments will you persuade my bosom friend, with whom I repose all the thoughts of my heart, to repair immediately from my company to a magistrate, in order to procure my commitment for so doing to the prisons of the inquisition? In countries where this is attempted, there will be a perpetual struggle, the government endeavouring to pry into our most secret transactions, and the people busy to countermine, to outwit and to detest their superintendents.

to refrain the
freedom of
speech.

But the most valuable consideration which this part of the subject suggests, is, supposing all this were done, what judgment must we form of the people among whom it is done? Though all this cannot, yet much may be performed; though the embryo cannot be annihilated, it may be prevented from ever expanding itself into the dimensions of a man. The arguments by which we were supposing a system for the restraint of opinion to be recommended, were arguments derived from a benevolent anxiety for the virtue of mankind, and to prevent their degeneracy.

Consequences
that would
result.

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racy. Will this end be accomplished? Let us contrast a nation of men, daring to think, to speak and to act what they believe to be right, and fettered with no spurious motives to dissuade them from right, with a nation that fears to speak, and fears to think upon the most interesting subjects of human enquiry. Can any spectacle be more degrading than this timidity? Can men in whom mind is thus annihilated be capable of any good or valuable purpose? Can this most abject of all slaveries be the genuine state, the true perfection of the human species?

Fallibility of
the men by
whom autho-
rity is exer-
cised.

Another argument, though it has often been stated to the world, deserves to be mentioned in this place. Governments, no more than individual men, are infallible. The cabinets of princes and the parliaments of kingdoms, if there be any truth in considerations already stated*, are often less likely to be right in their conclusions than the theorist in his closet. But, dismissing the estimate of greater and less, it was to be presumed from the principles of human nature, and is found true in fact, that cabinets and parliaments are liable to vary from each other in opinion. What system of religion or government has not in its turn been patronised by national authority? The consequence therefore of admitting this authority is, not merely attributing to government a right to impose some, but any or all opinions upon the community. Are Paganism and Christianity, the religions of

* Book V, Chap. XXIII, p. 572.

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Mahomet, Zoroaster and Confucius, are monarchy and aristocracy in all their forms equally worthy to be perpetuated among mankind? Is it quite certain that the greatest of all human calamities is change? Must we never hope for any advance, any improvement? Have no revolution in government, and no reformation in religion been productive of more benefit than disadvantage? There is no species of reasoning in defence of the suppression of heresy which may not be brought back to this monstrous principle, that the knowledge of truth and the introduction of right principles of policy, are circumstances altogether indifferent to the welfare of mankind.

The same reasonings that are here employed against the forcible suppression of religious heresy, will be found equally valid with respect to political. The first circumstance that will not fail to suggest itself to every reflecting mind, is, What sort of constitution must that be which must never be examined? whose excellencies must be the constant topic of eulogium, but respecting which we must never permit ourselves to enquire in what they consist? Can it be the interest of society to proscribe all investigation respecting the wisdom of its regulations? Or must our debates be occupied with provisions of temporary convenience; and are we forbid to ask, whether there may not be something fundamentally wrong in the design of the structure? Reason and good sense will not fail to augur ill of that system of things

Of erroneous
opinions in
government.Iniquity of
the attempt to
restrain them.

which is too sacred to be looked into; and to suspect that there must be something essentially weak that thus shrinks from the eye of curiosity. Add to which, that, however we may doubt of the importance of religious disputes, nothing can less reasonably be exposed to question than that the happiness of mankind is essentially connected with the improvement of political science.

Tendency of
unlimited po-
litical discus-
sion.

“But will not demagogues and declaimers lead to the subversion of all order, and introduce the most dreadful calamities?” What is the state they will introduce? Monarchy and aristocracy are some of the most extensive and lasting mischiefs that have yet afflicted mankind. Will these demagogues persuade their hearers to institute a new dynasty of hereditary despots to oppress them? Will they persuade them to create out of their own body a set of feudal chiefs to hold their brethren in the most barbarous slavery? They would probably find the most copious eloquence inadequate to these purposes. The arguments of declaimers will not produce an extensive and striking alteration in political opinions, except so far as they are built upon a basis of irresistible truth. Even if the people were in some degree intemperate in carrying the conclusions of these reasoners into practice, the mischiefs they would inflict would be inexpressibly trivial; compared with those which are hourly perpetrated by the most cold blooded despotism. But in reality the duty of government

vernment in these cases is to be mild and equitable. Arguments alone will not have the power, unassisted by the sense or the recollection of oppression or treachery, to hurry the people into excesses. Excesses are never the offspring of reason, are never the offspring of misrepresentation only, but of power endeavouring to stifle reason and traverse the common sense of mankind.

CHAP. IV.

O F T E S T S .

THEIR SUPPOSED ADVANTAGES ARE ATTENDED WITH INJUSTICE — ARE NUGATORY. — ILLUSTRATION. — THEIR DISADVANTAGES — THEY ENSNARE. — EXAMPLE. — SECOND EXAMPLE. — THEY ARE AN USURPATION. — INFLUENCE OF TESTS ON THE LATITUDINARIAN — ON THE PURIST. — CONCLUSION.

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CHAP. IV.

THE majority of the arguments above employed on the subject of penal laws in matters of opinion are equally applicable to tests, religious and political. The distinction between prizes and penalties, between greater and less, is little worthy of our attention, if any discouragement extended to the curiosity of intellect, and any authoritative countenance afforded to one set of opinions in preference to another, be in its own nature unjust, and evidently hostile to the general good.

Leaving out of the consideration religious tests, as being already sufficiently elucidated in the preceding discussion*, let us attend for a moment to an article which has had its advocates

* Chap. II.

among

O F T E S T S .

among men of considerable liberality; the supposed propriety of political tests. "What, shall we have no federal oaths, no oaths of fidelity to the nation, the law and the republic? How in that case shall we ever distinguish between the enemies and the friends of freedom?"

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Certainly there cannot be a method devised at once more ineffectual and iniquitous than a federal oath. What is the language that in strictness of interpretation belongs to the act of the legislature imposing this oath? To one party it says, "We know very well that you are our friends; the oath as it relates to you we acknowledge to be altogether superfluous; nevertheless you must take it, as a cover to our indirect purposes in imposing it upon persons whose views are less unequivocal than yours." To the other party it says, "It is vehemently suspected that you are inimical to the cause in which we are engaged: this suspicion is either true or false; if false, we ought not to suspect you, and much less ought we to put you to this invidious and nugatory purgation; if true, you will either candidly confess your difference, or dishonestly prevaricate: be candid, and we will indignantly banish you; be dishonest, and we will receive you as bosom friends."

Their supposed advantages are attended with injustice.

Those who say this however promise too much. Duty and common sense oblige us to watch the man we suspect, even though he should swear he is innocent. Would not the same precautions

are nugatory.

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precautions which we are still obliged to employ to secure us against his duplicity, have sufficiently answered our purpose without putting him to his purgation? Are there no methods by which we can find out whether a man be the proper subject in whom to repose an important trust without putting the question to himself? Will not he, who is so dangerous an enemy that we cannot suffer him at large, discover his enmity by his conduct, without reducing us to the painful necessity of tempting him to an act of prevarication? If he be so subtle a hypocrite that all our vigilance cannot detect him, will he scruple to add to his other crimes the crime of perjury?

Whether the test we impose be merely intended to operate as an exclusion from office, or to any more considerable disadvantage, the disability it introduces is still in the nature of a punishment. It treats the individual in question as an unsound member of society, as distinguished in an unfavourable sense from the multitude of his countrymen, and possessing certain attributes detrimental to the general good. In the eye of reason human nature is capable of no other guilt than this*. Society is authorized to animadvert upon a certain individual, in the case of murder for example, not because he has done an action that he might have avoided, not because he was sufficiently informed of the better and obstinately chose the worse; for this is impossi-

* Book IV, Chap. VI.

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CHAP. IV.

ble, every man necessarily does that which he at the time apprehends to be best: but because his habits and character render him dangerous to society, in the same sense as a wolf or a blight would be dangerous*. It must no doubt be an emergency of no common magnitude, that can justify a people in putting a mark of displeasure upon a man for the opinions he entertains, be they what they may. But, taking for granted for the present the reasonableness of this proceeding, it would certainly be just as equitable for the government to administer to the man accused for murder an oath of purgation, as to the man accused of disaffection to the established order of society. There cannot be a principle of justice clearer than this, that no man can be called on in order to punishment to accuse himself.

These reasonings being particularly applicable to a people in a state of revolution like the French, it may perhaps be allowable to take from their revolution an example of the injurious and ensnaring effects with which tests and oaths of fidelity are usually attended. It was required of all men to swear "that they would be faithful to the nation, the law and the king." In what sense can they be said to have adhered to their oath, who, twelve months after their constitution had been established on its new basis, have taken a second oath, declaratory of their everlasting abjuration of monarchy? What sort of effect, favourable or un-

* Book IV, Chap. VI.

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favourable? must this precarious mutability in their solemn appeals to heaven have upon the minds of those by whom they are made?

Their disadvantages:

And this leads us from the consideration of the supposed advantages of tests religious and political, to their real disadvantages.

they ensnare:

The first of these disadvantages consists in the impossibility of constructing a test in such a manner, as to suit the various opinions of those upon whom it is imposed, and not to be liable to reasonable objection.

example:

When the law was repealed imposing upon the dissenting clergy of England a subscription with certain reservations to the articles of the established church; an attempt was made to invent an unexceptionable test that might be substituted in its room. This test simply affirmed, "that the books of the Old and New Testament in the opinion of the person who took it contained a revelation from God;" and it was supposed that no Christian could scruple such a declaration. But is it impossible that I should be a Christian, and yet doubt of the canonical authority of the amatory eclogues of Solomon, or of certain other books contained in a selection that was originally made in a very arbitrary manner? "Still however I may take the test, with a persuasion that the books of the Old and New Testament contain a revelation from God, and something more." In the same sense I might take it, even if the Alcoran, the Talmud and the sacred books of the Hindoos were added to the list. What sort of influence will be produced upon the

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mind that is accustomed to this looseness of construction in its most solemn engagements?

second example:

Let us examine with the same view the federal oath of the French, proclaiming the determination of the swearer "to be faithful to the nation, the law and the king." Fidelity to three several interests which may in various cases be placed in opposition to each other will appear at first sight to be no very reasonable engagement. The propriety of vowing fidelity to the king has already been brought to the trial and received its condemnation*. Fidelity to the law is an engagement of so complicated a nature, as to strike terror into every mind of serious reflection. It is impossible that a system of law the composition of men should ever be presented to such a mind, that shall appear altogether faultless. But, with respect to laws that appear to me to be unjust, I am bound to every sort of hostility short of open violence, I am bound to exert myself incessantly in proportion to the magnitude of the injustice for their abolition. Fidelity to the nation is an engagement scarcely less equivocal. I have a paramount engagement to the cause of justice and the benefit of the human race. If the nation undertake what is unjust, fidelity in that undertaking is a crime. If it undertake what is just, it is my duty to promote its success, not because I am one of its citizens, but because such is the command of justice.

* Book V, Chap. II.—VIII.

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CHAP. IV.they are an
usurpation.

Add to this what has been already said upon the subject of obedience *, and it will be sufficiently evident that all tests are the offspring of usurpation. Government has in no case a right to issue its commands, and therefore cannot command me to take a certain oath. Its only legal functions are, to impose upon me a certain degree of restraint whenever I manifest by my actions a temper detrimental to the community, and to invite me to a certain contribution for purposes conducive to the general interest.

Influence of
tests on the
latitudina-
rian :

It may be alledged with respect to the French federal oath, as well as with respect to the religious test before cited, that it may be taken with a certain laxity of interpretation. When I swear fidelity to the law, I may mean only that there are certain parts of it that I approve. When I swear fidelity to the nation, the law and the king, I may mean so far only as these three authorities shall agree with each other, and all of them agree with the general welfare of mankind. In a word the final result of this laxity of interpretation explains the oath to mean, "I swear that I believe it is my duty to do every thing that appears to me to be just." Who can look without indignation and regret at this prostitution of language? Who can think without horror of the consequences of the public and perpetual lesson of duplicity which is thus read to mankind?

on the purist.

But, supposing there should be certain members of the com-

* Book III, Chap. VI.

munity

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munity simple and uninstructed enough to conceive that an oath contained some real obligation, and did not leave the duty of the person to whom it was administered precisely where it found it, what is the lesson that would be read to such members? They would listen with horror to the man who endeavoured to persuade them that they owed no fidelity to the nation, the law and the king, as to one who was instigating them to sacrilege. They would tell him that it was too late, and that they must not allow themselves to hear his arguments. They would perhaps have heard enough before their alarm commenced, to make them look with envy on the happy state of this man, who was free to listen to the communications of others without terror, who could give a loose to his thoughts, and intrepidly follow the course of his enquiries wherever they led him. For themselves they had promised to think no more for the rest of their lives. Compliance indeed in this case is impossible; but will a vow of inviolable adherence to a certain constitution have no effect in checking the vigour of their contemplations and the elasticity of their minds?

We put a miserable deception upon ourselves, when we promise ourselves the most favourable effects from the abolition of monarchy and aristocracy, and retain this wretched system of tests, overturning in the apprehensions of mankind at large the fundamental distinctions of justice and injustice. Sincerity is not less essential than equality to the well being of mankind.

Conclusion.

S.

A govern-

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A government, that is perpetually furnishing motives to jesuitism and hypocrisy, is not less abhorrent to right reason, than a government of orders and hereditary distinction. It is not easy to imagine how soon men would become frank, explicit in their declarations, and unreserved in their manners, were there no positive institutions inculcating upon them the necessity of falsehood and disguise. Nor is it possible for any language to describe the inexhaustible benefits that would arise from the universal practice of sincerity.

C H A P.

C H A P. V.

O F O A T H S.

OATHS OF OFFICE AND DUTY — THEIR ABSURDITY — THEIR IMMORAL CONSEQUENCES.—OATHS OF EVIDENCE LESS ATROCIOUS.—OPINION OF THE LIBERAL AND RESOLVED RESPECTING THEM.—THEIR ESSENTIAL FEATURES: CONTEMPT OF VERACITY — FALSE MORALITY.—THEIR PARTICULAR STRUCTURE—ABSTRACT PRINCIPLES ASSUMED BY THEM TO BE TRUE—THEIR INCONSISTENCY WITH THESE PRINCIPLES.

THE same arguments that prove the injustice of tests, may be applied universally to all oaths of duty and office. If I entered upon the office without an oath, what would be my duty? Can the oath that is imposed upon me make any alteration in my duty? If not, does not the very act of imposing it, by implication assert a falsehood? Will this falsehood, the assertion that a direct engagement has a tendency to create a duty, have no injurious effect upon a majority of the persons concerned? What is the true criterion that I shall faithfully discharge the office that is conferred upon me? Surely my past life, and not any protestations I may be compelled to make. If my life have been.

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Oaths of
office and
duty:
their absur-
dity:

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been unimpeachable, this compulsion is an unmerited insult; if it have been otherwise, it is something worse.

their immoral
consequences.

It is with no common disapprobation that we recollect the prostitution of oaths which marks the history of modern European countries, and particularly of our own. This is one of the means that government employs to discharge itself of its proper functions, by making each man security for himself. It is one of the means that legislators have provided to cover the inefficiency and absurdity of their regulations, by making individuals promise the execution of that which the police is not able to execute. It holds out in one hand the temptation to do wrong, and in the other the obligation imposed not to be influenced by that temptation. It compels a man to engage not only for his own conduct, but for that of all his dependents. It obliges certain officers (church-wardens in particular) to promise an inspection beyond the limits of human faculties, and to engage for a proceeding on the part of those under their jurisdiction, which they neither intend nor are expected to enforce. Will it be believed in after ages that every considerable trader in excisable articles in this country is induced by the constitution of its government to reconcile his mind to the guilt of perjury, as to the condition upon which he is accustomed to exercise his profession?

Oaths of evi-
dence:
less atrocious.

There remains only one species of oaths to be considered, which have found their advocates among persons sufficiently enlightened

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lightened to reject every other species of oath, I mean, oaths administered to a witness in a court of justice. These are certainly free from many of the objections that apply to oaths of fidelity, duty or office. They do not call upon a man to declare his assent to a certain proposition which the legislator has prepared for his acceptance; they only require him solemnly to pledge himself to the truth of assertions, dictated by his own apprehension of things, and expressed in his own words. They do not require him to engage for something future, and of consequence to shut up his mind against farther information as to what his conduct in that future ought to be; but merely to pledge his veracity to the apprehended order of things past.

These considerations palliate the evil, but do not convert it into good. Wherever men of uncommon energy and dignity of mind have existed, they have felt the degradation of binding their assertions with an oath. The English constitution recognises in a partial and imperfect manner the force of this principle, and therefore provides that, while the common herd of mankind shall be obliged to swear to the truth, nothing more shall be required from the order of nobles than a declaration upon honour. Will reason justify this distinction?

Opinion of
the liberal
and resolute
respecting
them.

Can there be a practice more pregnant with false morality than that of administering oaths in a court of justice? The language it expressly holds is, "You are not to be believed upon your mere
4 M word;"

Their essen-
tial features:
contempt of
veracity:

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word;" and there are few men firm enough resolutely to preserve themselves from contamination, when they are accustomed upon the most solemn occasions to be treated with contempt. To the unthinking it comes like a plenary indulgence to the occasional tampering with veracity in affairs of daily occurrence, that they are not upon their oath; and we may affirm without risk of error, that there is no cause of insincerity, prevarication and falshood more powerful, than the practice of administering oaths in a court of justice. It treats veracity in the affairs of common life as a thing unworthy to be regarded. It takes for granted that no man, at least no man of plebeian rank, is to be credited upon his bare affirmation; and what it takes for granted it has an irresistible tendency to produce.

falle morality. Add to this a feature that runs through all the abuses of political institution, it inverts the eternal principles of morality. Why is it that I am bound to be more especially careful of what I affirm in a court of justice? Because the subsistence, the honest reputation or the life of a fellow man may be materially affected by it. All these genuine motives are by the contrivance of human institution thrown into shade, and we are expected to speak the truth, only because government demands it of us upon oath, and at the times in which government has thought proper or recollected to administer this oath. All attempts to strengthen the obligations of morality by fictitious and spurious motives, will in the sequel be found to have no tendency but to relax them.

Men

4

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Men will never act with that liberal justice and conscious integrity which is their highest ornament, till they come to understand what men are. He that contaminates his lips with an oath, must have been thoroughly fortified with previous moral instruction; if he be able afterwards to understand the beauty of an easy and simple integrity. If our political institutors had been but half so judicious in perceiving the manner, in which excellence and worth were to be generated, as they have been ingenious and indefatigable in the means of depraving mankind, the world, instead of a slaughter house, would have been a paradise.

Let us leave for a moment the general consideration of the principle of oaths, to reflect upon their particular structure and the precise meaning of the term. They take for granted in the first place the existence of an invisible governor of the world, and the propriety of our addressing petitions to him, both which a man may deny, and yet continue a good member of society. What is the situation in which the institution of which we treat places this man? But we must not suffer ourselves to be stopped by trivial considerations.—Oaths are also so constructed as to take for granted the religious system of the country whatever it may happen to be.

Now what are the words with which we are taught in this instance to address the creator of the universe? "So help me God, and the contents of his holy word." It is the language of imprecation.

Their particular structure: abstract principles assumed by them to be true:

their inconsistency with these principles.

T A H O

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precation.

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precation. I pray him to pour down his everlasting wrath and curse upon me, if I utter a lie.—It were to be wished that the name of that man were recorded, who first invented this mode of binding men to veracity. He had surely himself but very light and contemptuous notions of the Supreme Being, who could thus tempt men to insult him, by braving his justice. If it be our duty to invoke his blessing, yet there must surely be something insupportably profane in wantonly and unnecessarily putting all that he is able to inflict upon us upon conditions.

C H A P.

C H A P. VI.

O F L I B E L S.

PUBLIC LIBELS.—INJUSTICE OF AN ATTEMPT TO PRESCRIBE THE METHOD IN WHICH PUBLIC QUESTIONS SHALL BE DISCUSSED—ITS PUSILLANIMITY.—INVITATIONS TO TUMULT.—PRIVATE LIBELS.—REASONS IN FAVOUR OF THEIR BEING SUBJECTED TO RESTRAINT.—ANSWER.—1. IT IS NECESSARY THE TRUTH SHOULD BE TOLD.—SALUTARY EFFECTS OF THE UNRESTRAINED INVESTIGATION OF CHARACTER.—OBJECTION: FREEDOM OF SPEECH WOULD BE PRODUCTIVE OF CALUMNY, NOT OF JUSTICE.—ANSWER.—FUTURE HISTORY OF LIBEL.—2. IT IS NECESSARY MEN SHOULD BE TAUGHT TO BE SINCERE.—EXTENT OF THE EVIL WHICH ARISES FROM A COMMAND TO BE INSINCERE.—THE MIND SPONTANEOUSLY SHRINKS FROM THE PROSECUTION OF A LIBEL.—CONCLUSION.

I N the examination already bestowed upon the article of heresy political and religious*, we have anticipated one of the two heads of the law of libel; and, if the arguments there adduced be admitted for valid, it will follow that no punishment can justly

* Chap. III.

be

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Public libels.

BOOK VI. CHAP. VI. be awarded against any writing or words derogatory to religion or political government.

Injustice of an attempt to prescribe the method in which public questions shall be discussed :

It is impossible to establish any solid ground of distinction upon this subject, or to lay down rules in conformity to which the argument must be treated. It is impossible to tell me, when I am penetrated with the magnitude of the subject, that I must be logical and not eloquent ; or when I feel the absurdity of the theory I am combating, that I must not express it in terms that may produce feelings of ridicule in my readers. It were better to forbid me the discussion of the subject altogether, than forbid me to describe it in the manner I conceive to be most suitable to its merits. It would be a most tyrannical species of candour to tell me, " You may write against the system we patronise, provided you will write in an imbecil and ineffectual manner ; you may enquire and investigate as much as you please, provided, when you undertake to communicate the result, you carefully check your ardour, and be upon your guard that you do not convey any of your own feelings to your readers." Add to this, that rules of distinction, as they are absurd in relation to the dissidents, will prove a continual instrument of usurpation and injustice to the ruling party. No reasonings will appear fair to them, but such as are futile. If I speak with energy, they will deem me inflammatory ; and if I describe censurable proceedings in plain and homely, but pointed language, they will cry out upon me as a buffoon.

It

It must be truly a lamentable case, if truth, favoured by the many and patronised by the great, should prove too weak to enter the lists with falsehood. It is self evident, that that which will stand the test of examination, cannot need the support of penal statutes. After our adversaries have exhausted their eloquence and exerted themselves to mislead us, truth has a clear, nervous and simple story to tell, which, if force be excluded on all sides, will not fail to put down their arts. Misrepresentation will speedily vanish, if the friends of truth be but half as alert as the advocates of falsehood. Surely then it is a most ungracious plea to offer, " We are too idle to reason with you, we are therefore determined to silence you by force." So long as the adversaries of justice confine themselves to expostulation, there can be no ground for serious alarm. As soon as they begin to act with violence and riot, it will then be time enough to encounter them with force.

There is however one particular class of libel that seems to demand a separate consideration. A libel may either not confine itself to any species of illustration of religion or government, or it may leave illustration entirely out of its view. Its object may be to invite a multitude of persons to assemble, as the first step towards acts of violence. A public libel is any species of writing in which the wisdom of some established system is controverted ; and it cannot be denied that a dispassionate and severe demonstration of its injustice tends, not less than the most alarming tumult,

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its pusillanimity.

Invitations to tumult.

to

to the destruction of such institutions. But writing and speech are the proper and becoming methods of operating changes in human society, and tumult is an improper and equivocal method. In the case then of the specific preparations of riot, it should seem that the regular force of the society may lawfully interfere. But this interference may be of two kinds. It may consist of precautions to counteract all tumultuous concourse, or it may arraign the individual for the offence he has committed against the peace of the community. The first of these seems sufficiently commendable and wise, and would, if vigilantly exerted, be in almost all cases adequate to the purpose. The second is attended with some difficulty. A libel the avowed intention of which is to lead to immediate violence, is altogether different from a publication in which the general merits of any institution are treated with the utmost freedom, and may well be supposed to fall under different rules. The difficulty here arises only from the consideration of the general nature of punishment, which is abhorrent to the true principles of mind, and ought to be restrained within as narrow limits as possible, if not instantly abolished*. A distinction to which observation and experience in cases of judicial proceeding have uniformly led, is that between crimes that exist only in intention, and overt acts. So far as prevention only is concerned, the former would seem in many cases not less entitled to the animadversion of society than the latter; but the evidence of intention usually rests upon circumstances equivocal and mi-

* See the following Book.

nute, and the friend of justice will tremble to erect any grave proceeding upon so uncertain a basis.—It might be added, that he who says that every honest citizen of London ought to repair to St. George's Fields to-morrow in arms, only says what he thinks is best to be done, and what the laws of sincerity oblige him to utter. But this argument is of a general nature, and applies to every thing that is denominated crime, not to the supposed crime of inflammatory invitations in particular. He that performs any action, does that which he thinks is best to be done; and, if the peace of society make it necessary that he should be restrained from this by threats of violence, the necessity is of a very painful nature.—It should be remembered that the whole of these reasonings suppose that the tumult is an evil, and will produce more disadvantage than benefit, which is no doubt frequently, but may not be always, the case. It cannot be too often recollected, that there is in no case a right of doing wrong, a right to punish for a meritorious action. Every government, as well as every individual, must follow their own apprehensions of justice, at the peril of being mistaken, unjust and consequently vicious*.—These reasonings on exhortations to tumult, will also be found applicable with slight variation to incendiary letters addressed to private persons.

But the law of libel, as we have already said, distributes itself Private libels. into two heads, libels against public establishments and measures, and libels against private character. Those who have been willing

* Book II, Chap. III.

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to admit that the first ought to pass unpunished, have generally asserted the propriety of counteracting the latter by censures and penalties. It shall be the business of the remainder of this chapter to show that they were erroneous in their decision.

Reasons in
favour of their
being sub-
jected to re-
straint.

The arguments upon which their decision is built must be allowed to be both popular and impressive. "There is no external possession more solid or more valuable than an honest fame. My property, in goods or estate, is appropriated only by convention. Its value is for the most part the creature of a debauched imagination; and, if I were sufficiently wise and philosophical, he that deprived me of it would do me very little injury. He that inflicts a stab upon my character is a much more formidable enemy. It is a very serious inconvenience that my countrymen should regard me as destitute of principle and honesty. If the mischief were entirely to myself, it is not possible to be regarded with levity. I must be void of all sense of justice, if I were callous to the contempt and detestation of the world. I must cease to be a man, if I were unaffected by the calumny that deprived me of the friend I loved, and left me perhaps without one bosom in which to repose my sympathies. But this is not all. The same stroke that annihilates my character, extremely abridges, if it do not annihilate, my usefulness. It is in vain that I would exert my good intentions and my talents for the assistance of others, if my motives be perpetually misinterpreted. Men will not listen to the arguments of him they despise; he will be

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spurned during life, and execrated as long as his memory endures. What then are we to conclude but that to an injury, greater than robbery, greater perhaps than murder, we ought to award an exemplary punishment?"

The answer to this statement may be given in the form of an illustration of two propositions: first, that it is necessary the truth should be told; secondly, that it is necessary men should be taught to be sincere. Answer.

First, it is necessary the truth should be told. How can this ever be done, if I be forbidden to speak upon more than one side of the question? The case is here exactly similar to the case of religion and political establishment. If we must always hear the praise of things as they are, and allow no man to urge an objection, we may be lulled into torpid tranquillity, but we can never be wise.

1. It is ne-
cessary the
truth should
be told.

If a veil of partial favour is to be drawn over the errors of mankind, it is easy to perceive whether virtue or vice will be the gainer. There is no terror that comes home to the heart of vice, like the terror of being exhibited to the public eye. On the contrary there is no reward worthy to be bestowed upon eminent virtue but this one, the plain, unvarnished proclamation of its excellence in the face of the world.

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Salutary effects of the unrestrained investigation of character.

If the unrestrained discussion of abstract enquiry be of the highest importance to mankind, the unrestrained investigation of character is scarcely less to be cultivated. If truth were universally told of men's dispositions and actions, gibbets and wheels might be dismissed from the face of the earth. The knave unmasked would be obliged to turn honest in his own defence. Nay, no man would have time to grow a knave. Truth would follow him in his first irresolute essays, and public disapprobation arrest him in the commencement of his career.

There are many men at present who pass for virtuous, that tremble at the boldness of a project like this. They would be detected in their effeminacy and imbecility. Their imbecility is the growth of that inauspicious secrecy, which national manners and political institutions at present draw over the actions of individuals. If truth were spoken without reserve, there would be no such men in existence. Men would act with clearness and decision, if they had no hopes in concealment, if they saw at every turn that the eye of the world was upon them. How great would be the magnanimity of the man who was always sure to be observed, sure to be judged with discernment, and to be treated with justice? Feebleness of character would hourly lose its influence in the breast of those over whom it now domineers. They would feel themselves perpetually urged with an auspicious violence to assume manners more worthy of the form they bore.

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To these reasonings it may perhaps be rejoined, "This indeed is an interesting picture. If truth could be universally told, the effects would no doubt be of the most excellent nature; but the expectation is to be regarded as visionary."

Not so: the discovery of individual and personal truth is to be effected in the same manner as the discovery of general truth, by discussion. From the collision of disagreeing accounts justice and reason will be produced. Mankind seldom think much of any particular subject, without coming to think right at last.

"What, and is it to be supposed, that mankind will have the discernment and the justice of their own accord to reject the libel?" Yes; libels do not at present deceive mankind, from their intrinsic power, but from the restraint under which they labour. The man who from his dungeon is brought to the light of day, cannot accurately distinguish colours; but he that has suffered no confinement, feels no difficulty in the operation. Such is the state of mankind at present: they are not exercised to employ their judgment, and therefore they are deficient in judgment. The most improbable tale now makes a deep impression; but then men would be accustomed to speculate upon the possibilities of human action.

At first it may be, if all restraint upon the freedom of writing and speech were removed, and men were encouraged to declare

what

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Objection: freedom of speech would be productive of calumny, not of justice.

Answer.

Future history of libel:

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what they thought as publicly as possible, every press would be burdened with an inundation of scandal. But the stories by their very multiplicity would defeat themselves. No one man, if the lie were successful, would become the object of universal persecution. In a short time the reader, accustomed to the dissection of character, would acquire discrimination. He would either detect the imposition by its internal absurdity, or at least would attribute to the story no farther weight, than that to which its evidence entitled it.

Libel, like every other human concern, would soon find its level, if it were delivered from the injurious interference of political institution. The libeller, that is, he who utters an unfounded calumny, either invents the story he tells, or delivers it with a degree of assurance to which the evidence that has offered itself to him is by no means entitled. In each case he would meet with his proper punishment in the judgment of the world. The consequences of his error would fall back upon himself. He would either pass for a malignant accuser, or for a rash and headlong censurer. Anonymous scandal would be almost impossible in a state where nothing was concealed. But, if it were attempted, it would be wholly pointless, since, where there could be no honest and rational excuse for concealment, the desire to be concealed would prove the baseness of the motive.

Secondly,

Secondly, force ought not to intervene for the suppression of private libels, because men ought to learn to be sincere. There is no branch of virtue more essential than that which consists in giving language to our thoughts. He that is accustomed to utter what he knows to be false or to suppress what he knows to be true, is in a perpetual state of degradation. If I have had particular opportunity to observe any man's vices, justice will not fail to suggest to me that I ought to admonish him of his errors, and to warn those whom his errors might injure. There may be very sufficient ground for my representing him as a vicious man, though I may be totally unable to establish his vices so as to make him a proper subject of judicial punishment. Nay, it cannot be otherwise; for I ought to describe his character exactly such as it appears to be, whether it be virtuous, or vicious, or of an ambiguous nature. Ambiguity would presently cease, if every man avowed his sentiments. It is here as in the intercourses of friendship: a timely explanation seldom fails to heal a broil; misunderstandings would not grow considerable, were we not in the habit of brooding over imaginary wrongs.

Laws for the suppression of private libels are properly speaking laws to restrain men from the practice of sincerity. They create a warfare between the genuine dictates of unbiassed private judgment and the apparent sense of the community, throwing obscurity upon the principles of virtue, and inspiring an indifference to the practice. This is one of those consequences of political

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2. It is necessary men should be taught to be sincere.

Extent of the evil which arises from a command to be sincere.

political institution that presents itself at every moment: morality is rendered the victim of uncertainty and doubt. Contradictory systems of conduct contend with each other for the preference, and I become indifferent to them all. How is it possible that I should imbibe the divine enthusiasm of benevolence and justice, when I am prevented from discerning what it is in which they consist? Other laws assume for the topic of their animadversion actions of unfrequent occurrence. But the law of libels usurps the office of directing me in my daily duties, and, by perpetually menacing me with the scourge of punishment, undertakes to render me habitually a coward, continually governed by the basest and most unprincipled motives.

Courage consists more in this circumstance than in any other, the daring to speak every thing, the uttering of which may conduce to good. Actions, the performance of which requires an inflexible resolution, call upon us but seldom; but the virtuous economy of speech is our perpetual affair. Every moralist can tell us that morality eminently consists in "the government of the tongue." But this branch of morality has long been inverted. Instead of studying what we shall tell, we are taught to consider what we shall conceal. Instead of an active virtue, "going about doing good," we are instructed to believe that the chief end of man is to do no mischief. Instead of fortitude, we are carefully imbued with maxims of artifice and cunning, misnamed prudence.

Let

Let us contrast the character of those men with whom we are accustomed to converse, with the character of men such as they ought to be, and will be. On the one side we perceive a perpetual caution, that shrinks from the observing eye, that conceals with a thousand folds the genuine emotions of the heart, and that renders us unwilling to approach the men that we suppose accustomed to read it, and to tell what they read. Such characters as ours are the mere shadows of men, with a specious outside perhaps, but destitute of substance and soul. Oh, when shall we arrive at the land of realities, when men shall be known for what they are, by energy of thought and intrepidity of action! It is fortitude, that must render a man superior alike to caresses and threats, enable him to derive his happiness from within, and accustom him to be upon all occasions prompt to assist and to inform. Every thing therefore favourable to fortitude must be of inestimable value; every thing that inculcates dissimulation worthy of our perpetual abhorrence.

There is one thing more that is of importance to be observed upon this subject of libel, which is, the good effects that would spring from every man's being accustomed to encounter falsehood with its only proper antidote, truth. After all the arguments that have been industriously accumulated to justify prosecution for libel, every man that will retire into himself, will feel himself convinced of their insufficiency. The modes in which an innocent and a guilty man would repel an accusation against

The mind spontaneously shrinks from the prosecution of a libel.

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them

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them might be expected to be opposite; but the law of libel confounds them. He that was conscious of his rectitude, and undebauched by ill systems of government, would say to his adversary, "Publish what you please against me, I have truth on my side, and will confound your misrepresentations." His sense of fitness and justice would not permit him to say, "I will have recourse to the only means that are congenial to guilt, I will compel you to be silent." A man, urged by indignation and impatience, may commence a prosecution against his accuser; but he may be assured, the world, that is a disinterested spectator, feels no cordiality for his proceedings. The language of their sentiments upon such occasions is, "What! he dares not even let us hear what can be said against him."

Conclusion.

The arguments in favour of justice, however different may be the views under which it is considered, perpetually run parallel to each other. The recommendations under this head are precisely the same as those under the preceding, the generation of activity and fortitude. The tendency of all false systems of political institution is to render the mind lethargic and torpid. Were we accustomed not to recur either to public or individual force but upon occasions that unequivocally justified their employment, we should then come to have some respect for reason, for we should know its power. How great must be the difference between him who answers me with a writ of summons or a challenge, and him who employs the sword and the shield

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of truth alone? He knows that force only is to be encountered with force, and allegation with allegation; and he scoras to change places with the offender by being the first to break the peace. He does that which, were it not for the degenerate habits of society, would scarcely deserve the name of courage, dares to meet upon equal ground, with the sacred armour of truth, an adversary who possesses only the perishable weapons of falsehood. He calls up his understanding; and does not despair of baffling the shallow pretences of calumny. He calls up his firmness; and knows that a plain story, every word of which is marked with the emphasis of sincerity, will carry conviction to every hearer. It were absurd to expect that truth should be cultivated, so long as we are accustomed to believe that it is an impotent incumbrance. It would be impossible to neglect it, if we knew that it was as impenetrable as adamant, and as lasting as the world.

CHAP. VII.

OF CONSTITUTIONS.

DISTINCTION OF REGULATIONS CONSTITUENT AND LEGISLATIVE. — SUPPOSED CHARACTER OF PERMANENCE THAT OUGHT TO BE GIVEN TO THE FORMER—INCONSISTENT WITH THE NATURE OF MAN.—SOURCE OF THE ERROR.—REMARK.—ABSURDITY OF THE SYSTEM OF PERMANENCE.—ITS FUTILITY.—MODE TO BE PURSUED IN FRAMING A CONSTITUTION.—CONSTITUENT LAWS NOT MORE IMPORTANT THAN OTHERS. — IN WHAT MANNER THE CONSENT OF THE DISTRICTS IS TO BE DECLARED. — TENDENCY OF THE PRINCIPLE WHICH REQUIRES THIS CONSENT.—IT WOULD REDUCE THE NUMBER OF CONSTITUTIONAL ARTICLES—PARCEL OUT THE LEGISLATIVE POWER—AND PRODUCE THE GRADUAL EXTINCTION OF LAW.—OBJECTION.—ANSWER.

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Distinction of regulations constituent and legislative.

AN article intimately connected with the political consideration of opinion is suggested to us by a doctrine which has lately been taught relatively to constitutions. It has been said that the laws of every regular state naturally distribute themselves under two heads, fundamental and adscititious; laws, the object

OF CONSTITUTIONS.

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object of which is the distribution of political power and directing the permanent forms according to which public business is to be conducted; and laws, the result of the deliberations of powers already constituted. This distinction being established in the first instance, it has been inferred, that these laws are of very unequal importance, and that of consequence those of the first class ought to be originated with much greater solemnity, and to be declared much less susceptible of variation than those of the second. The French national assembly of 1789 pushed this principle to the greatest extremity, and seemed desirous of providing every imaginable security for rendering the work they had formed immortal. It could not be touched upon any account under the term of ten years; every alteration it was to receive must be recognised as necessary by two successive national assemblies of the ordinary kind; after these formalities an assembly of revision was to be elected, and they to be forbidden to touch the constitution in any other points than those which had been previously marked out for their consideration.

Supposed character of permanence that ought to be given to the former.

It is easy to perceive that these precautions are in direct hostility with the principles established in this work. "Man and forever!" was the motto of the labours of this assembly. Just broken loose from the thick darkness of an absolute monarchy, they assumed to prescribe lessons of wisdom to all future ages. They seem not so much as to have dreamed of that purification of intellect, that climax of improvement, which may very probably

inconsistent with the nature of man.

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ably be the destiny of posterity. The true state of man, as has been already demonstrated, is, not to have his opinions bound down in the fetters of an eternal quietism, but flexible and unrestrained to yield with facility to the impressions of increasing truth. That form of society will appear most perfect to an enlightened mind, which is least founded in a principle of permanence. But, if this view of the subject be just, the idea of giving permanence to what is called the constitution of any government, and rendering one class of laws, under the appellation of fundamental, less susceptible of change than another, must be founded in misapprehension and error.

Source of the
error.

The error probably originally sprung out of the forms of political monopoly which we see established over the whole civilized world. Government could not justly derive in the first instance but from the choice of the people; or, to speak more accurately (for the former principle, however popular and specious, is in reality false), government ought to be adjusted in its provisions to the prevailing apprehensions of justice and truth. But we see government at present administered either in whole or in part by a king and a body of noblesse; and we reasonably say that the laws made by these authorities are one thing, and the laws from which they derived their existence another. But we do not consider that these authorities, however originated, are in their own nature unjust. If we had never seen arbitrary and capricious forms of government, we should probably never have

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have thought of cutting off certain laws from the code under the name of constitutional. When we behold certain individuals or bodies of men exercising an exclusive superintendence over the affairs of a nation, we inevitably ask how they came by their authority, and the answer is, By the constitution. But, if we saw no power existing in the state but that of the people, having a body of representatives, and a certain number of official secretaries and clerks acting in their behalf, subject to their revival, and renewable at their pleasure, the question, how the people came by this authority, would never have suggested itself.

A celebrated objection that has been urged against the governments of modern Europe is that they have no constitutions*. Remark. If by this objection it be understood, that they have no written code bearing this appellation, and that their constitutions have been less an instantaneous than a gradual production, the criticism seems to be rather verbal, than of essential moment. In any other sense it is to be suspected that the remark would amount to an eulogium, but an eulogium to which they are certainly by no means entitled.

But to return to the question of permanence. Whether we Aburdity of the system of permanence. admit or reject the distinction between constitutional and ordinary legislation, it is not less true that the power of a people

* Rights of Man.

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CHAP. VII.

to change their constitution morally considered, must be strictly and universally coeval with the existence of a constitution. The language of permanence in this case is the greatest of all absurdities. It is to say to a nation, "Are you convinced that something is right, perhaps immediately necessary, to be done? It shall be done ten years hence."

The folly of this system may be farther elucidated, if farther elucidation be necessary, from the following dilemma. Either a people must be governed according to their own apprehensions of justice and truth, or they must not. The last of these assertions cannot be avowed, but upon the unequivocal principles of tyranny. But, if the first be true, then it is just as absurd to say to a nation, "This government, which you chose nine years ago, is the legitimate government, and the government which your present sentiments approve the illegitimate; as to insist upon their being governed by the *dicta* of their remotest ancestors, or even of the most insolent usurper.

Its facility.

It is extremely probable that a national assembly chosen in the ordinary forms, is just as much empowered to change the fundamental laws, as to change any of the least important branches of legislation. This function would never perhaps be dangerous but in a country that still preserved a portion of monarchy or aristocracy, and in such a country a principle of permanence would be found a very feeble antidote against the danger. The

true

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CHAP. VII.

true principle upon the subject is, that no assembly, though chosen with the most unexampled solemnity, has a power to impose any regulations contrary to the public apprehension of right; and a very ordinary authority, fairly originated, will be sufficient to facilitate the harmonious adoption of a change that is dictated by national opinion. The distinction of constitutional and ordinary topics will always appear in practice unintelligible and vexatious. The assemblies of more frequent recurrence will find themselves arrested in the intention of conferring any eminent benefit on their country, by the apprehension that they shall invade the constitution. In a country where the people are habituated to sentiments of equality and where no political monopoly is tolerated, there is little danger that any national assembly should be disposed to enforce a pernicious change, and there is still less that the people should submit to the injury, or not possess the means easily and with small interruption of public tranquillity to avert it. The language of reason on this subject is, "Give us equality and justice, but no constitution. Suffer us to follow without restraint the dictates of our own judgment, and to change our forms of social order as fast as we improve in understanding and knowledge."

The opinion upon this head most popular in France at the time that the national convention entered upon its functions, was that the business of the convention extended only to the presenting a draught of a constitution, to be submitted in the

Mode to be
pursued in
framing a
constitution.

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sequel

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CHAP. VII.

sequel to the approbation of the districts, and then only to be considered as law. This opinion is well deserving of a serious examination.

Constituent
laws not more
important
than others.

The first idea that suggests itself respecting it is, that, if constitutional laws ought to be subjected to the revision of the districts, then all laws ought to undergo the same process, understanding by laws all declarations of a general principle to be applied to particular cases as they may happen to occur, and even including all provisions for individual emergencies that will admit of the delay incident to the revision in question. It is an egregious mistake to imagine that the importance of these articles is in a descending ratio from fundamental to ordinary, and from ordinary to particular. It is possible for the most odious injustice to be perpetrated by the best constituted assembly. A law rendering it capital to oppose the doctrine of transubstantiation, would be more injurious to the public welfare, than a law changing the duration of the national representative, from two years, to one year or to three. Taxation has been shown to be an article rather of executive than legislative administration*, and yet a very oppressive and unequal tax would be scarcely less ruinous than any single measure that could possibly be devised,

In what man-
ner the con-
sent of the
districts is to
be declared.

It may farther be remarked that an approbation demanded from the districts to certain constitutional articles, whether more

* Book V, Chap. I.

or

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CHAP. VII.

or less numerous, will be either real or delusive according to the mode adopted for that purpose. If the districts be required to decide upon these articles by a simple affirmative or negative, it will then be delusive. It is impossible for any man or body of men, in the due exercise of their understanding, to decide upon any complicated system in that manner. It can scarcely happen but that there will be some things that they will approve and some that they will disapprove. On the other hand, if the articles be unlimitedly proposed for discussion in the districts, a transaction will be begun to which it is not easy to foresee a termination. Some districts will object to certain articles; and, if these articles be modelled to obtain their approbation, it is possible that the very alteration introduced to please one part of the community, may render the code less acceptable to another. How are we to be assured that the dissidents will not set up a separate government for themselves? The reasons that might be offered to persuade a minority of districts to yield to the sense of a majority, are by no means so perspicuous and forcible, as those which sometimes persuade the minority of members in a given assembly to that species of concession.

It is desirable in all cases of the practical adoption of any given principle, that we should fully understand the meaning of the principle, and perceive the conclusions to which it inevitably leads. This principle of a consent of districts has an immediate tendency, by a salutary gradation perhaps, to lead to the dis-

Tendency of
the principle,
which re-
quires this
consent.

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lution.

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CHAP. VII.

lution of all government. What then can be more absurd; than to see it embraced by those very men, who are at the same time advocates for the complete legislative unity of a great empire? It is founded upon the same basis as the principle of private judgment, which it is to be hoped will speedily supersede the possibility of the action of society in a collective capacity. It is desirable that the most important acts of the national representatives should be subject to the approbation or rejection of the districts whose representatives they are, for exactly the same reason as it is desirable, that the acts of the districts themselves should, as speedily as practicability will admit, be in force only so far as relates to the individuals by whom those acts are approved.

It would reduce the number of constitutional articles:

The first consequence that would result, not from the delusive, but the real establishment of this principle, would be the reduction of the constitution to a very small number of articles. The impracticability of obtaining the deliberate approbation of a great number of districts to a very complicated code, would speedily manifest itself. In reality the constitution of a state governed either in whole or in part by a political monopoly, must necessarily be complicated. But what need of complexity in a country where the people are destined to govern themselves? The whole constitution of such a country ought scarcely to exceed two articles; first, a scheme for the division of the whole into parts equal in their population, and, secondly, the fixing of stated periods for the election of a national assembly: not to say

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say that the latter of these articles may very probably be dispensed with.

A second consequence that results from the principle of which we are treating is as follows. It has already appeared, that the reason is no less cogent for submitting important legislative articles to the revival of the districts, than for submitting the constitutional articles themselves. But after a few experiments of this sort, it cannot fail to suggest itself, that the mode of sending laws to the districts for their revision, unless in cases essential to the general safety, is a proceeding unnecessarily circuitous, and that it would be better, in as many instances as possible, to suffer the districts to make laws for themselves without the intervention of the national assembly. The justness of this consequence is implicitly assumed in the preceding paragraph, while we stated the very narrow bounds within which the constitution of an empire, such as that of France for example, might be circumscribed. In reality, provided the country were divided into convenient districts with a power of sending representatives to the general assembly, it does not appear that any ill consequences would ensue to the common cause from these districts being permitted to regulate their internal affairs, in conformity to their own apprehensions of justice. Thus, that which was at first a great empire with legislative unity, would speedily be transformed into a confederacy of lesser republics, with a general congress or Amphictyonic council, answering the purpose of a point of cooperation upon

BOOK VI.
CHAP. VII. upon extraordinary occasions. The ideas of a great empire and legislative unity are plainly the barbarous remains of the days of military heroism. In proportion as political power is brought home to the citizens, and simplified into something of the nature of parish regulation, the danger of misunderstanding and rivalry will be nearly annihilated. In proportion as the science of government is divested of its present mysterious appearances, social truth will become obvious, and the districts pliant and flexible to the dictates of reason.

and produce
the gradual
extinction of
law.

A third consequence sufficiently memorable from the same principle is the gradual extinction of law. A great assembly, collected from the different provinces of an extensive territory, and constituted the sole legislator of those by whom the territory is inhabited, immediately conjures up to itself an idea of the vast multitude of laws that are necessary for regulating the concerns of those whom it represents. A large city, impelled by the principles of commercial jealousy, is not slow to digest the volume of its by-laws and exclusive privileges. But the inhabitants of a small parish, living with some degree of that simplicity which best corresponds with the real nature and wants of a human being, would soon be led to suspect that general laws were unnecessary, and would adjudge the causes that came before them, not according to certain axioms previously written, but according to the circumstances and demand of each particular cause.—It was proper that this consequence should be mentioned

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in

in this place. The benefits that will arise from the abolition of law will come to be considered in detail in the following book.

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CHAP. VII.

The principal objection that is usually made to the idea of confederacy considered as the substitute of legislative unity, is the possibility that arises of the members of the confederacy detaching themselves from the support of the public cause. To give this objection every advantage, let us suppose that the seat of the confederacy, like France, is placed in the midst of surrounding nations, and that the governments of these nations are anxious by every means of artifice and violence to suppress the insolent spirit of liberty that has started up among this neighbour people. It is to be believed that even under these circumstances the danger is more imaginary than real. The national assembly, being precluded by the supposition from the use of force against the malcontent districts, is obliged to confine itself to expostulation; and it is sufficiently observable that our powers of expostulation are tenfold increased the moment our hopes are confined to expostulation alone. They have to describe with the utmost perspicuity and simplicity the benefits of independence; to convince the public at large, that all they intend is to enable every district, and as far as possible every individual, to pursue unmolested their own ideas of propriety; and that under their auspices there shall be no tyranny, no arbitrary punishments, such as proceed from the jealousy of councils and courts, no exactions, almost no taxation. Some ideas respecting this last subject will speedily occur.

Objection.

Answer.

It

BOOK VI.
CHAP. VII. It is not possible but that, in a country rescued from the inveterate evils of despotism, the love of liberty should be considerably diffused. The adherents therefore of the public cause will be many: the malcontents few. If a small number of districts were so far blinded as to be willing to surrender themselves to oppression and slavery, it is probable they would soon repent. Their desertion would inspire the more enlightened and courageous with additional energy. It would be a glorious spectacle to see the champions of the cause of truth declaring that they desired none but willing supporters. It is not possible that so magnanimous a principle should not contribute more to the advantage than the injury of their cause.

C H A P.

OF NATIONAL EDUCATION.

ARGUMENTS IN ITS FAVOUR.—ANSWER.—1. IT PRODUCES PERMANENCE OF OPINION.—NATURE OF PREJUDICE AND JUDGMENT DESCRIBED.—2. IT REQUIRES UNIFORMITY OF OPERATION.—3. IT IS THE MIRROR AND TOOL OF NATIONAL GOVERNMENT.—THE RIGHT OF PUNISHING NOT FOUNDED IN THE PREVIOUS FUNCTION OF INSTRUCTING.

A MODE in which government has been accustomed to interfere for the purpose of influencing opinion, is by the superintendence it has in a greater or less degree exerted in the article of education. It is worthy of observation that the idea of this superintendence has obtained the countenance of several of the most zealous advocates of political reform. The question relative to its propriety or impropriety is entitled on that account to the more deliberate examination.

The arguments in its favour have been already anticipated. "Can it be justifiable in those persons, who are appointed to the functions of magistracy, and whose duty it is to consult for

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the

BOOK VI.
CHAP. VIII.Arguments
in its favour.

BOOK VI.
CHAP. VIII. the public welfare, to neglect the cultivation of the infant mind, and to suffer its future excellence or depravity to be at the disposal of fortune? Is it possible for patriotism and the love of the public to be made the characteristic of a whole people in any other way so successfully, as by rendering the early communication of these virtues a national concern? If the education of our youth be entirely confided to the prudence of their parents or the accidental benevolence of private individuals, will it not be a necessary consequence, that some will be educated to virtue, others to vice, and others again entirely neglected?" To these considerations it has been added, "That the maxim which has prevailed in the majority of civilized countries, that ignorance of the law is no apology for the breach of it, is in the highest degree iniquitous; and that government cannot justly punish us for our crimes when committed, unless it have forewarned us against their commission, which cannot be adequately done without something of the nature of public education."

Answer.

The propriety or impropriety of any project for this purpose must be determined by the general consideration of its beneficial or injurious tendency. If the exertions of the magistrate in behalf of any system of instruction will stand the test as conducive to the public service, undoubtedly he cannot be justified in neglecting them. If on the contrary they conduce to injury, it is wrong and unjustifiable that they should be made.

The

The injuries that result from a system of national education are, in the first place, that all public establishments include in them the idea of permanence. They endeavour it may be to secure and to diffuse whatever of advantageous to society is already known, but they forget that more remains to be known. If they realized the most substantial benefits at the time of their introduction, they must inevitably become less and less useful as they increased in duration. But to describe them as useless is a very feeble expression of their demerits. They actively restrain the flights of mind, and fix it in the belief of exploded errors. It has commonly been observed of universities and extensive establishments for the purpose of education, that the knowledge taught there, is a century behind the knowledge which exists among the unhackled and unprejudiced members of the same political community. The moment any scheme of proceeding gains a permanent establishment, it becomes impressed as one of its characteristic features with an aversion to change. Some violent concussion may oblige its conductors to change an old system of philosophy for a system less obsolete; and they are then as pertinaciously attached to this second doctrine as they were to the first. Real intellectual improvement demands that mind should as speedily as possible be advanced to the height of knowledge already existing among the enlightened members of the community, and start from thence in the pursuit of farther acquisitions. But public education has always expended its energies in the support of prejudice; it teaches its pupils, not the

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CHAP. VIII.
1. It produces permanence of opinion.

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fortitude

BOOK VI.
CHAP. VIII.

fortitude that shall bring every proposition to the test of examination, but the art of vindicating such tenets as may chance to be previously established. We study Aristotle or Thomas Aquinas or Bellarmine or chief justice Coke, not that we may detect their errors, but that our minds may be fully impregnated with their absurdities. This feature runs through every species of public establishment; and even in the petty institution of Sunday schools, the chief lessons that are taught, are a superstitious veneration for the church of England, and to bow to every man in a handsome coat. All this is directly contrary to the true interest of mind. All this must be unlearned, before we can begin to be wise.

Nature of
prejudice and
judgment de-
scribed.

It is the characteristic of mind to be capable of improvement. An individual surrenders the best attribute of man, the moment he resolves to adhere to certain fixed principles, for reasons not now present to his mind; but which formerly were. The instant in which he shuts upon himself the career of enquiry, is the instant of his intellectual decease. He is no longer a man; he is the ghost of departed man. There can be no scheme more egregiously stamped with folly, than that of separating a tenet from the evidence upon which its validity depends. If I cease from the habit of being able to recal this evidence, my belief is no longer a perception, but a prejudice: it may influence me like a prejudice; but cannot animate me like a real apprehension of truth. The difference between the man thus guided, and the
man

BOOK VI.
CHAP. VIII.

man that keeps his mind perpetually alive, is the difference between cowardice and fortitude. The man who is in the best sense an intellectual being, delights to recollect the reasons that have convinced him, to repeat them to others, that they may produce conviction in them, and stand more distinct and explicit in his own mind; and he adds to this a willingness to examine objections, because he takes no pride in consistent error. The man who is not capable of this salutary exercise, to what valuable purpose can he be employed? Hence it appears that no vice can be more destructive than that which teaches us to regard any judgment as final, and not open to review. The same principle that applies to individuals applies to communities. There is no proposition, at present apprehended to be true, so valuable as to justify the introduction of an establishment for the purpose of inculcating it on mankind. Refer them to reading, to conversation, to meditation; but teach them neither creeds nor catechisms, neither moral nor political.

Secondly, the idea of national education is founded in an attention to the nature of mind. Whatever each man does for himself is done well; whatever his neighbours or his country undertake to do for him is done ill. It is our wisdom to incite men to act for themselves, not to retain them in a state of perpetual pupillage. He that learns because he desires to learn, will listen to the instructions he receives, and apprehend their meaning. He that teaches because he desires to teach, will discharge
his

2. It requires
uniformity of
operation.

BOOK VI. his occupation with enthusiasm and energy. But the moment
 CHAP. VIII. political institution undertakes to assign to every man his place, the functions of all will be discharged with supineness and indifference. Universities and expensive establishments have long been remarked for formal dulness. Civil policy has given me the power to appropriate my estate to certain theoretical purposes; but it is an idle presumption to think I can entail my views, as I can entail my fortune. Remove all those obstacles which prevent men from seeing and restrain them from pursuing their real advantage, but do not absurdly undertake to relieve them from the activity which this pursuit requires. What I earn, what I acquire only because I desire to acquire it, I estimate at its true value; but what is thrust upon me may make me indolent, but cannot make me respectable. It is extreme folly to endeavour to secure to others, independently of exertion on their part, the means of being happy.—This whole proposition of a national education, is founded upon a supposition which has been repeatedly refuted in this work, but which has recurred upon us in a thousand forms, that unpatronised truth is inadequate to the purpose of enlightening mankind.

3. It is the mirror and tool of national government.

Thirdly, the project of a national education ought uniformly to be discouraged on account of its obvious alliance with national government. This is an alliance of a more formidable nature, than the old and much contested alliance of church and state. Before we put so powerful a machine under the direction

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of

of so ambiguous an agent, it behoves us to consider well what it is that we do. Government will not fail to employ it to strengthen its hands, and perpetuate its institutions. If we could even suppose the agents of government not to propose to themselves an object, which will be apt to appear in their eyes, not merely innocent, but meritorious; the evil would not the less happen. Their views as institutors of a system of education, will not fail to be analogous to their views in their political capacity: the data upon which their conduct as statesmen is vindicated, will be the data upon which their instructions are founded. It is not true that our youth ought to be instructed to venerate the constitution, however excellent; they should be instructed to venerate truth; and the constitution only so far as it corresponded with their independent deductions of truth. Had the scheme of a national education been adopted when despotism was most triumphant, it is not to be believed that it could have for ever stifled the voice of truth. But it would have been the most formidable and profound contrivance for that purpose that imagination can suggest. Still, in the countries where liberty chiefly prevails, it is reasonably to be assumed that there are important errors, and a national education has the most direct tendency to perpetuate those errors, and to form all minds upon one model.

It is not easy to say whether the remark, "that government cannot justly punish offenders, unless it have previously informed them

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The right of punishing not founded in

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the previous
function of
instructing.

them what is virtue and what is offence," be entitled to a separate answer. It is to be hoped that mankind will never have to learn so important a lesson through so corrupt a channel. Government may reasonably and equitably presume that men who live in society know that enormous crimes are injurious to the public weal, without its being necessary to announce them as such, by laws to be proclaimed by heralds, or expounded by curates. It has been alledged that "mere reason may teach me not to strike my neighbour; but will never forbid my sending a sack of wool from England, or printing the French constitution in Spain." This objection leads to the true distinction upon the subject. All real crimes are capable of being discerned without the teaching of law. All supposed crimes, not capable of being so discerned, are truly and unalterably innocent. It is true that my own understanding would never have told me that the exportation of wool was a vice: neither do I believe it is a vice now that a law has been made affirming it. It is a feeble and contemptible remedy for iniquitous punishments, to signify to mankind beforehand that you intend to inflict them. Nay, the remedy is worse than the evil: destroy me if you please; but do not endeavour by a national education to destroy in my understanding the discernment of justice and injustice. The idea of such an education, or even perhaps of the necessity of a written law, would never have occurred, if government and jurisprudence had never attempted the arbitrary conversion of innocence into guilt.

C H A P.

C H A P. IX.

OF PENSIONS AND SALARIES.

REASONS BY WHICH THEY ARE VINDICATED.—LABOUR IN ITS USUAL ACCEPTATION AND LABOUR FOR THE PUBLIC COMPARED.—IMMORAL EFFECTS OF THE INSTITUTION OF SALARIES.—SOURCE FROM WHICH THEY ARE DERIVED—UNNECESSARY FOR THE SUBSISTENCE OF THE PUBLIC FUNCTIONARY—FOR DIGNITY.—SALARIES OF INFERIOR OFFICERS—MAY ALSO BE SUPERSEDED.—TAXATION.—QUALIFICATIONS.

AN article which deserves the maturest consideration, and by means of which political institution does not fail to produce the most important influence upon opinion, is that of the mode of rewarding public services. The mode which has obtained in all European countries is that of pecuniary reward. He who is employed to act in behalf of the public, is recompensed with a salary. He who retires from that employment, is recompensed with a pension. The arguments in support of this system are well known. It has been remarked, "that it may indeed be creditable to individuals to be willing to serve their country without a reward, but that it is a becoming pride on the

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Reasons on
which the in-
stitution of
salaries is
founded.

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CHAP. IX.

part of the public, to refuse to receive as an alms that for which they are well able to pay. If one man, animated by the most disinterested motives, be permitted to serve the public upon these terms, another will assume the exterior of disinterestedness, as a step towards the gratification of a sinister ambition. If men be not openly and directly paid for the services they perform, we may rest assured that they will pay themselves by ways ten thousand times more injurious. He who devotes himself to the public, ought to devote himself entire: he will therefore be injured in his personal fortune, and ought to be replaced. Add to this, that the servants of the public ought by their appearances and mode of living to command respect both from their own countrymen and from foreigners; and that this circumstance will require an expence for which it is the duty of their country to provide*.”

Labour in its usual acceptation and labour for the public compared.

Before this argument can be sufficiently estimated, it will be necessary for us to consider the analogy between labour in its most usual acceptation and labour for the public service, what are the points in which they resemble and in which they differ. If I cultivate a field the produce of which is necessary for my subsistence, this is an innocent and laudable action, the first object it proposes is my own emolument, and it cannot be unreasonable that that object should be much in my contemplation

* The substance of these arguments may be found in Mr. Burke's Speech on Oeconomical Reform.

while

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while the labour is performing. If I cultivate a field the produce of which is not necessary to my subsistence, but which I propose to give in barter for a garment, the case then becomes different. The action here does not properly speaking begin in myself. Its immediate object is to provide food for another; and it seems to be in some degree a perversion of intellect, that causes me to place in an inferior point of view the inherent quality of the action, and to do that which is in the first instance benevolent, from a partial retrospect to my own advantage. Still the perversion here, at least to our habits of reflecting and judging, does not appear violent. The action differs only in form from that which is direct. I employ that labour in cultivating a field, which must otherwise be employed in manufacturing a garment. The garment I propose to myself as the end of my labour. We are not apt to conceive of this species of barter and trade as greatly injurious to our moral discernment.

But then this is an action in the slightest degree indirect. It does not follow, because we are induced to do some actions immediately beneficial to others from a selfish motive, that we can admit of this in all instances with impunity. It does not follow, because we are sometimes inclined to be selfish, that we must never be generous. The love of our neighbour is the great ornament of a moral nature. The perception of truth is the most solid improvement of an intellectual nature. He that sees nothing in the universe deserving of regard but himself, is

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a consummate stranger to the dictates of immutable reason. He that is not influenced in his conduct by the real and inherent natures of things, is rational to no purpose. Admitting that it is venial to do some actions immediately beneficial to my neighbour from a partial retrospect to myself, surely there must be other actions in which I ought to forget, or endeavour to forget myself. This duty is most obligatory in actions most extensive in their consequences. If a thousand men be to be benefited, I ought to recollect that I am only an atom in the comparison, and to reason accordingly.

Immoral effects of the institution of salaries :

These considerations may qualify us to decide upon the article of pensions and salaries. Surely it ought not to be the end of a good political institution to increase our selfishness, instead of suffering it to dwindle and decay. If we pay an ample salary to him who is employed in the public service, how are we sure that he will not have more regard to the salary than to the public? If we pay a small salary, yet the very existence of such a payment will oblige men to compare the work performed and the reward bestowed; and all the consequence that will result will be to drive the best men from the service of their country, a service first degraded by being paid, and then paid with an ill-timed parsimony. Whether the salary be large or small, if a salary exist, many will desire the office for the sake of its appendage. Functions the most extensive in their consequences will be converted into a trade. How humiliating will it be to the
functionary.

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functionary himself, amidst the complication and subtlety of motives, to doubt whether the salary were not one of his inducements to the accepting the office? If he stand acquitted to himself, it is however still to be regretted, that grounds should be afforded to his countrymen, which tempt them to misinterpret his views.

Another consideration of great weight in this instance is that of the source from which salaries are derived: from the public revenue, from taxes imposed upon the community. But there is no practicable mode of collecting the superfluities of the community. Taxation, to be strictly equal, if it demand from the man of an hundred a year ten pounds, ought to demand from the man of a thousand a year nine hundred and ten. Taxation will always be unequal and oppressive, wresting the hard earned morsel from the gripe of the peasant, and sparing him most whose superfluities most defy the limits of justice. I will not say that the man of clear discernment and an independent mind would rather starve than be subsisted at the public cost: but I will say, that it is scarcely possible to devise any expedient for his subsistence that he would not rather accept.

Meanwhile the difficulty under this head is by no means insuperable. The majority of the persons chosen for public employment, under any situation of mankind approaching to the present, will possess a personal fortune adequate to their support.

unnecessary for the subsistence of the public functionary :

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Those selected from a different class, will probably be selected for extraordinary talents, which will naturally lead to extraordinary resources. It has been deemed dishonourable to subsist upon private liberality; but this dishonour is produced only by the difficulty of reconciling this mode of subsistence and intellectual independence. It is free from many of the objections that have been urged against a public stipend. I ought to receive your superfluity as my due, while I am employed in affairs more important than that of earning a subsistence; but at the same time to receive it with a total indifference to personal advantage, taking only precisely what is necessary for the supply of my wants. He that listens to the dictates of justice and turns a deaf ear to the dictates of pride, will wish that the constitution of his country should cast him for support on the virtue of individuals, rather than provide for his support at the public expence. That virtue will, in this as in all other instances, increase, the more it is called into action. "But what if he have a wife and children?" Let many aid him, if the aid of one be insufficient. Let him do in his lifetime what Eudamidas did at his decease, bequeath his daughter to be subsisted by one friend, and his mother by another. This is the only true taxation, which he that is able, and thinks himself able, assesses on himself, not which he endeavours to discharge upon the shoulders of the poor. It is a striking example of the power of venal governments in generating prejudice, that this scheme of serving the public functions without salaries, so common among the ancient republicans,

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licans, should by liberal minded men of the present day be deemed impracticable. It is not to be believed that those readers who already pant for the abolition of government and regulations in all their branches, should hesitate respecting so easy an advance towards this desirable object. Nor let us imagine that the safety of the community will depend upon the services of an individual. In the country in which individuals fit for the public service are rare, the post of honour will be his, not that fills an official situation, but that from his closet endeavours to waken the sleeping virtues of mankind. In the country where they are frequent, it will not be difficult by the short duration of the employment to compensate for the slenderness of the means of him that fills it. It is not easy to describe the advantages that must result from this proceeding. The public functionary would in every article of his charge recollect the motives of public spirit and benevolence. He would hourly improve in the energy and disinterestedness of his character. The habits created by a frugal fare and a cheerful poverty, not hid as now in obscure retreats, but held forth to public view, and honoured with public esteem, would speedily pervade the community, and auspiciously prepare them for still farther improvements.

The objection, "that it is necessary for him who acts on the part of the public to make a certain figure, and to live in a style calculated to excite respect," does not deserve a separate answer. The whole spirit of this treatise is in direct hostility to this objection.

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jection. If therefore it have not been answered already, it would be vain to attempt an answer in this place. It is recorded of the burghers of the Netherlands who conspired to throw off the Austrian yoke, that they came to the place of consultation each man with his knapsack of provisions: who is there that feels inclined to despise this simplicity and honourable poverty? The abolition of salaries would doubtless render necessary the simplification and abridgment of public business. This would be a benefit and not a disadvantage.

Salaries of
inferior offi-
cers:

It will farther be objected that there are certain functionaries in the lower departments of government, such as clerks and tax-gatherers, whose employment is perpetual, and whose subsistence ought for that reason to be made the result of their employment. If this objection were admitted, its consequences would be of subordinate importance. The office of a clerk or a tax-gatherer is considerably similar to those of mere barter and trade; and therefore to degrade it altogether to their level, would have little resemblance to the fixing such a degradation upon offices that demand the most elevated mind. The annexation of a stipend to such employments, if considered only as a matter of temporary accommodation, might perhaps be endured.

may also be
superfeded.

But the exception, if admitted, ought to be admitted with great caution. He that is employed in an affair of public necessity, ought to feel, while he discharges it, its true character.

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rafter. We should never allow ourselves to undertake an office of a public nature, without feeling ourselves animated with a public zeal. We shall otherwise discharge our trust with comparative coldness and neglect. Nor is this all. The abolition of salaries would lead to the abolition of those offices to which salaries are thought necessary. If we had neither foreign wars nor domestic stipends, taxation would be almost unknown; and, if we had no taxes to collect, we should want no clerks to keep an account of them. In the simple scheme of political institution which reason dictates, we could scarcely have any burdensome offices to discharge; and, if we had any that were so in their abstract nature, they might be rendered light by the perpetual rotation of their holders.

Taxation.

If we have no salaries, for a still stronger reason we ought to have no pecuniary qualifications, or in other words no regulation requiring the possession of a certain property, as a condition to the right of electing or the capacity of being elected. It is an uncommon strain of tyranny to call upon men to appoint for themselves a delegate, and at the same time forbid them to appoint exactly the man whom they may judge fittest for the office. Qualification in both kinds is the most flagrant injustice. It asserts the man to be of less value than his property. It furnishes to the candidate a new stimulus to the accumulation of wealth; and this passion, when once set in motion, is not easily allayed. It tells him, "Your intellectual and moral qualifica-

Qualifica-
tions.

BOOK VI.
CHAP. IX. tions may be of the highest order ; but you have not enough of the means of luxury and vice." To the non-electer it holds the most detestable language. It says, "You are poor; you are unfortunate; the institutions of society oblige you to be the perpetual witness of other men's superfluity: because you are sunk thus low, we will trample you yet lower; you shall not even be reckoned in the lists for a man, you shall be passed by as one of whom society makes no account, and whose welfare and moral existence she disdains to recollect."

C H A P.

C H A P. X.

OF THE MODES OF DECIDING A QUESTION ON THE PART OF THE COMMUNITY.

DECISION BY LOT, ITS ORIGIN—FOUNDED IN THE SYSTEM OF DISCRETIONARY RIGHTS—IMPLIES THE DESERTION OF DUTY.—DECISION BY BALLOT—INCULCATES TIMIDITY—AND HYPOCRISY.—DECISION BY VOTE, ITS RECOMMENDATIONS.

BOOK VI.
CHAP. X. **W**HAT has been here said upon the subject of qualifications, naturally leads to a few important observations upon the three principal modes of conducting election, by fortition, by ballot or by vote.

The idea of fortition was first introduced by the dictates of superstition. It was supposed that, when human reason piously acknowledged its insufficiency, the Gods, pleased with so unfeigned a homage, interfered to guide the decision. This imagination is now exploded. Every man who pretends to philosophy will confess that, wherever fortition is introduced, the decision is exclusively guided by the laws of impulse and gravitation.—Strictly speaking there is no such thing as contingency.

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But,

Decision by
lot, its origin:

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CHAP. X.

But, so far as relates to the exercise of apprehension and judgment on the particular question to be determined, all decision by lot is the decision of contingency. The operations of impulse and gravitation either proceed from a blind and unconscious principle; or, if they proceed from mind, it is mind executing general laws, and not temporising with every variation of human caprice.

founded in
the system of
discretionary
rights:

All reference of public questions and elections to lot includes in it two evils, moral misapprehension and cowardice. There is no situation in which we can be placed that has not its correspondent duties. There is no alternative that can be offered to our choice, that does not include in it a better and a worse. The idea of fortition derives from the same root as the idea of discretionary rights. Men, undebauched by the lessons of superstition, would never have recourse to the decision by lot, were they not impressed with the notion of indifference, that they had a right to do any one of two or more things offered to their choice; and that of consequence, in order to rid themselves of uncertainty and doubt, it was sufficiently allowable to refer the decision of certain matters to accident. It is of great importance that this idea should be extirpated. Mind will never arrive at the true tone of energy, till we feel that moral liberty and discretion are mere creatures of the imagination, that in all cases our duty is precise, and the path of justice single and direct.

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But,

But, supposing us convinced of this principle, if we afterwards desert it, this is the most contemptible cowardice. Our desertion either arises from our want of energy to enquire, to compare and to decide, or from our want of fortitude to despise the inconveniences that might attend upon our compliance with what our judgment dictates.

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implies the
desertion of
duty.

Ballot is a mode of decision still more censurable than fortition. It is scarcely possible to conceive of a political institution that includes a more direct and explicit patronage of vice. It has been said, "that ballot may in certain cases be necessary to enable a man of a feeble character to act with ease and independence, and to prevent bribery, corrupt influence and faction." Vice is an ill remedy to apply to the diminution of vice. A feeble and irresolute character might before be accidental; ballot is a contrivance to render it permanent, and to scatter its seeds over a wider surface. The true cure for a want of constancy and public spirit is to inspire firmness, not to inspire timidity. Truth, if communicated to the mind with perspicuity, is a sufficient basis for virtue. To tell men that it is necessary they should form their decision by ballot, is to tell them that it is necessary they should be vicious.

Decision by
ballot:inculcates
timidity:

If fortition taught us to desert our duty, ballot teaches us to draw a veil of concealment over our performance of it. It points out to us a method of acting unobserved. It incites us to make a mystery

and hypo-
crisy.

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a mystery of our sentiments. If it did this in the most trivial article, it would not be easy to bring the mischief it would produce within the limits of calculation. But it dictates this conduct in our most important concerns. It calls upon us to discharge our duty to the public with the most virtuous constancy; but at the same time directs us to hide our discharge of it. One of the most admirable principles in the structure of the material universe, is its tendency to prevent us from withdrawing ourselves from the consequences of our own actions. Political institution that should attempt to counteract this principle, would be the only true impiety. How can a man have the love of the public in his heart, without the dictates of that love flowing to his lips? When we direct men to act with secrecy, we direct them to act with frigidity. Virtue will always be an unusual spectacle among men, till they shall have learned to be at all times ready to avow their actions and assign the reasons upon which they are founded.

Decision by
vote, its re-
commendations.

If then fortition and ballot be institutions pregnant with vice, it follows, that all social decisions should be made by open vote; that, wherever we have a function to discharge, we should reflect on the mode in which it ought to be discharged; and that, whatever conduct we are persuaded to adopt, especially in affairs of general concern, should be adopted in the face of the world.

A N

A N
E N Q U I R Y

CONCERNING

P O L I T I C A L J U S T I C E .

B O O K V I I .

O F C R I M E S A N D P U N I S H M E N T S .

C H A P . I .

L I M I T A T I O N S O F T H E D O C T R I N E O F P U N I S H M E N T
W H I C H R E S U L T F R O M T H E P R I N C I P L E S
O F M O R A L I T Y .

D E F I N I T I O N O F P U N I S H M E N T . — N A T U R E O F C R I M E . — R E -
T R I B U T I V E J U S T I C E N O T I N D E P E N D E N T A N D A B S O L U T E
— N O T T O B E V I N D I C A T E D F R O M T H E S Y S T E M O F N A -
T U R E . — D E S E R T A C H I M E R I C A L P R O P E R T Y . — C O N C L U -
S I O N .

TH E subject of punishment is perhaps the most fundamen-
tal in the science of politics. Men associated for the sake
of mutual protection and benefit. It has already appeared, that
the

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the internal affairs of such associations are of infinitely greater importance than their external*. It has appeared that the action of society in conferring rewards and superintending opinion is of pernicious effect †. Hence it follows that government, or the action of the society in its corporate capacity, can scarcely be of any utility, except so far as it is requisite for the suppression of force by force; for the prevention of the hostile attack of one member of the society upon the person or property of another, which prevention is usually called by the name of criminal justice, or punishment.

Definition of
punishment.

Before we can properly judge of the necessity or urgency of this action of government, it will be of some importance to consider the precise import of the word punishment. I may employ force to counteract the hostility that is actually committing on me. I may employ force to compel any member of the society to occupy the post that I conceive most conducive to the general advantage, either in the mode of impressing soldiers and sailors, or by obliging a military officer or a minister of state to accept or retain his appointment. I may put an innocent man to death for the common good, either because he is infected with a pestilential disease, or because some oracle has declared it essential to the public safety. None of these, though they consist in the exertion of force for some moral purpose, comes within the import of the word punishment. Punishment is

* Book V, Chap. XX. † Book V, Chap. XII. Book VI, *passim*.

generally

generally used to signify the voluntary infliction of evil upon a vicious being, not merely because the public advantage demands it, but because there is apprehended to be a certain fitness and propriety in the nature of things, that render suffering, abstractedly from the benefit to result, the suitable concomitant of vice.

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The justice of punishment therefore, in the strict import of the word, can only be a deduction from the hypothesis of free-will, and must be false, if human actions be necessary. Mind, as was sufficiently apparent when we treated of that subject*, is an agent, in no other sense than matter is an agent. It operates and is operated upon, and the nature, the force and line of direction of the first, is exactly in proportion to the nature, force and line of direction of the second. Morality in a rational and designing mind is not essentially different from morality in an inanimate substance. A man of certain intellectual habits is fitted to be an assassin, a dagger of a certain form is fitted to be his instrument. The one or the other excites a greater degree of disapprobation, in proportion as its fitness for mischievous purposes appears to be more inherent and direct. I view a dagger on this account with more disapprobation than a knife, which is perhaps equally adapted for the purposes of the assassin; because the dagger has few or no beneficial uses to weigh against those that are hurtful, and because it has a tendency by means

Nature of
crime.

* Book IV, Chap. VI.

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of

of association to the exciting of evil thoughts. I view the assassin with more disapprobation than the dagger, because he is more to be feared, and it is more difficult to change his vicious structure or take from him his capacity to injure. The man is propelled to act by necessary causes and irresistible motives, which, having once occurred, are likely to occur again. The dagger has no quality adapted to the contraction of habits, and, though it have committed a thousand murders, is not at all more likely (unless so far as those murders, being known, may operate as a slight associated motive with the possessor) to commit murder again. Except in the articles here specified, the two cases are exactly parallel. The assassin cannot help the murder he commits any more than the dagger.

Retributive
justice not
independent
and absolute.

These arguments are merely calculated to set in a more conspicuous light a principle, which is admitted by many by whom the doctrine of necessity has never been examined; that the only measure of equity is utility, and whatever is not attended with any beneficial purpose, is not just. This is so evident a proposition that few reasonable and reflecting minds will be found inclined to reject it. Why do I inflict suffering on another? If neither for his own benefit nor the benefit of others, can that be right? Will resentment, the mere indignation and horror I have conceived against vice, justify me in putting a being to useless torture? "But suppose I only put an end to his existence." What, with no prospect of benefit either to
himself

himself or others? The reason the mind easily reconciles itself to this supposition is, that we conceive existence to be less a blessing than a curse to a being incorrigibly vicious. But in that case the supposition does not fall within the terms of the question: I am in reality conferring a benefit. It has been asked, "If we conceive to ourselves two beings, each of them solitary, but the first virtuous and the second vicious, the first inclined to the highest acts of benevolence, if his situation were changed for the social, the second to malignity, tyranny and injustice, do we not feel that the first is entitled to felicity in preference to the second?" If there be any difficulty in the question, it is wholly caused by the extravagance of the supposition. No being can be either virtuous or vicious who has no opportunity of influencing the happiness of others. He may indeed, though now solitary, recollect or imagine a social state; but this sentiment and the propensities it generates can scarcely be vigorous, unless he have hopes of being at some future time restored to that state. The true solitaire cannot be considered as a moral being, unless the morality we contemplate be that which has relation to his own permanent advantage. But, if that be our meaning, punishment, unless for reform, is peculiarly absurd. His conduct is vicious, because it has a tendency to render him miserable: shall we inflict calamity upon him, for this reason only because he has already inflicted calamity upon himself? It is difficult for us to imagine to ourselves a solitary intellectual being, whom no future accident shall ever
render

render social. It is difficult for us to separate even in idea virtue and vice from happiness and misery; and of consequence not to imagine that, when we bestow a benefit upon virtue, we bestow it where it will turn to account; and, when we bestow a benefit upon vice, we bestow it where it will be unproductive. For these reasons the question of a solitary being will always be extravagant and unintelligible, but will never convince.

not to be
vindicated
from the
system of
nature.

It has sometimes been alledged that the very course of nature has annexed suffering to vice, and has thus led us to the idea of punishment. Arguments of this sort must be listened to with great caution. It was by reasonings of a similar nature that our ancestors justified the practice of religious persecution: "Heretics and unbelievers are the objects of God's indignation; it must therefore be meritorious in us to mal-treat those whom God has cursed." We know too little of the system of the universe, are too liable to error respecting it, and see too small a portion of the whole, to entitle us to form our moral principles upon an imitation of what we conceive to be the course of nature.

It is an extreme error to suppose that the course of nature is something arbitrarily adjusted by a designing mind. Let us once conceive a system of percipient beings to exist, and all that we know of the history of man follows from that conception as so many inevitable consequences. Mind beginning to exist must have begun from ignorance, must have received idea after

idea, must have been liable to erroneous conclusions from imperfect conceptions. We say that the system of the universe has annexed happiness to virtue and pain to vice. We should speak more accurately if we said, that virtue would not be virtue nor vice be vice, if this connection could cease. The office of the principle, whether mind or whatever else, to which the universe owes its existence, is less that of fabricating than conducting; is not the creation of truth, and the connecting ideas and propositions which had no original relation to each other, but the rendering truth, the nature of which is unalterable, an active and vivifying principle. It cannot therefore be good reasoning to say, the system of nature annexes unhappiness to vice, or in other words vice brings its own punishment along with it, therefore it would be unjust in us not by a positive interference to render that punishment double.

Thus it appears, whether we enter philosophically into the principle of human actions, or merely analyse the ideas of rectitude and justice which have the universal consent of mankind, that, accurately speaking, there is no such thing as desert. It cannot be just that we should inflict suffering on any man, except so far as it tends to good. Hence it follows that the strict acceptance of the word punishment by no means accords with any sound principles of reasoning. It is right that I should inflict suffering, in every case where it can be clearly shown that

Desert a chi-
merical pro-
perty.

such

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such infliction will produce an overbalance of good. But this infliction bears no reference to the mere innocence or guilt of the person upon whom it is made. An innocent man is the proper subject of it, if it tend to good. A guilty man is the proper subject of it under no other point of view. To punish him upon any hypothesis for what is past and irrecoverable and for the consideration of that only, must be ranked among the wildest conceptions of untutored barbarism. Every man upon whom discipline is administered, is to be considered as to the rationale of this discipline as innocent. Xerxes was not more unreasonable when he lashed the waves of the sea, than that man would be who inflicted suffering on his fellow, from a view to the past, and not from a view to the future.

Conclusion.

It is of the utmost importance that we should bear these ideas constantly in mind during our whole examination of the theory of punishment. This theory would in the past transactions of mankind have been totally different, if they had divested themselves of all emotions of anger and resentment; if they had considered the man who torments another for what he has done, as upon par with the child who beats the table; if they had figured to their imagination, and then properly estimated, the man, who should shut up in prison some atrocious criminal, and afterwards torture him at stated periods, merely in consideration of the abstract congruity of crime and punishment, without any possible

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ble benefit to others or to himself; if they had regarded infliction as that which was to be regulated solely by a dispassionate calculation of the future, without suffering the past, in itself considered, for a moment to enter into the account.

C H A P.

C H A P. II.

GENERAL DISADVANTAGES OF COERCION.

CONSCIENCE IN MATTERS OF RELIGION CONSIDERED—IN THE CONDUCT OF LIFE.—BEST PRACTICABLE CRITERION OF DUTY—NOT THE DECISION OF OTHER MEN—BUT OF OUR OWN UNDERSTANDING.—TENDENCY OF COERCION.—ITS VARIOUS CLASSES CONSIDERED.

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HAVING thus precluded all ideas of punishment or retribution strictly so called, it belongs to us in the farther discussion of this interesting subject, to think merely of that coercion, which has usually been employed against persons convicted of past injurious action, for the purpose of preventing future mischief. And here we will first consider what is the quantity of evil which accrues from all such coercion, and secondly examine the cogency of the various reasons by which this coercion is recommended. It will not be possible wholly to avoid the repetition of some of the reasons which occurred in the preliminary discussion of the exercise of private judgment*. But those reasonings will now be extended, and derive additional advantage from a fuller arrangement.

* Book II, Chap. VI.

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GENERAL DISADVANTAGES OF COERCION.

It is commonly said that no man ought to be compelled in matters of religion to act contrary to the dictates of his conscience. Religion is a principle which the practice of all ages has deeply impressed upon the mind. He that discharges what his own apprehensions prescribe to him on the subject, stands approved to the tribunal of his own mind, and, conscious of rectitude in his intercourse with the author of nature, cannot fail to obtain the greatest of those advantages, whatever may be their amount, which religion has to bestow. It is in vain that Endeavour by persecuting statutes to compel him to resign a false religion for a true. Arguments may convince, but persecution cannot. The new religion, which I oblige him to profess contrary to his conviction, however pure and holy it may be in its own nature, has no benefits in store for him. The sublimest worship becomes transformed into a source of corruption, when it is not consecrated by the testimony of a pure conscience. Truth is the second object in this respect, integrity of heart is the first: or rather a proposition, that in its abstract nature is truth itself, converts into rank falsehood and mortal poison, if it be professed with the lips only, and abjured by the understanding. It is then the foul garb of hypocrisy. Instead of elevating the mind above sordid temptations, it perpetually reminds the worshipper of the abject pusillanimity to which he has yielded. Instead of filling him with sacred confidence, it overwhelms with confusion and remorse.

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Conscience in
matters of
religion con-
sidered :

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in the con-
duct of life.

The inference that has been made from these reasonings is, that criminal law is eminently misapplied in affairs of religion, and that its true province is civil misdemeanours. But this inference is false. It is only by an unaccountable perversion of reason, that men have been induced to affirm that religion is the sacred province of conscience, and that moral duty may be left undefined to the decision of the magistrate. What, is it of no consequence whether I be the benefactor of my species, or their bitterest enemy? whether I be an informer, or a robber, or a murderer? whether I be employed as a soldier to extirpate my fellow beings, or be called upon as a citizen to contribute my property to their extirpation? whether I tell the truth with that firmness and unreserve which ardent philanthropy will not fail to inspire, or suppress science lest I be convicted of blasphemy, and fact lest I be convicted of a libel? whether I contribute my efforts for the furtherance of political justice, or quietly submit to the exile of a family of whose claims I am an advocate, or to the subversion of liberty for which every man should be ready to die? Nothing can be more clear, than that the value of religion, or of any other species of abstract opinion, lies in its moral tendency. If I should be ready to set at nought the civil power for the sake of that which is the means, how much more when it rises in contradiction to the end?

Best practi-
cable cri-
terion of
duty:

Of all human concerns morality is the most interesting. It is the perpetual associate of our transactions: there is no situation

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in

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in which we can be placed, no alternative that can be presented to our choice, respecting which duty is silent. "What is the standard of morality and duty?" Justice. Not the arbitrary decrees that are in force in a particular climate; but those laws of eternal reason that are equally obligatory wherever man is to be found. "But the rules of justice often appear to us obscure, doubtful and contradictory; what criterion shall be applied to deliver us from uncertainty?" There are but two criterions possible, the decisions of other men's wisdom, and the decisions of our own understanding. Which of these is conformable to the nature of man? Can we surrender our own understandings? However we may strain after implicit faith, will not conscience in spite of ourselves whisper us, "This decree is equitable, and this decree is founded in mistake?" Will there not be in the minds of the votaries of superstition, a perpetual dissatisfaction, a desire to believe what is dictated to them, accompanied with a want of that in which belief consists, evidence and conviction? If we could surrender our understandings, what sort of beings should we become? By the terms of the proposition we should not be rational: the nature of things would prevent us from being moral, for morality is the judgment of reason, employed in determining on the effects to result from the different kinds of conduct we may observe.

not the de-
cisions of
other men:

Hence it follows that there is no criterion of duty to any man but in the exercise of his private judgment. Whatever attempts

but of our
own under-
standing.

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to

BOOK VII. CHAP. II. to prescribe to his conduct, and to deter him from any course of action by penalties and threats, is an execrable tyranny. There may be some men of such inflexible virtue as to set human ordinances at defiance. It is generally believed that there are others so depraved, that, were it not for penalties and threats, the whole order of society would be subverted by their excesses. But what will become of the great mass of mankind, who are neither so virtuous as the first, nor so degenerate as the second? They are successfully converted by positive laws into latitudinarians and cowards. They yield like wax to the impression that is made upon them. Directed to infer the precepts of duty from the *dicta* of the magistrate, they are too timid to resist, and too short sighted to detect the imposition. It is thus that the mass of mankind have been condemned to a tedious imbecility.

Tendency of coercion.

There is no criterion of duty to any man but in the exercise of his private judgment. Has coercion any tendency to enlighten the judgment? Certainly not. Judgment is the perceived agreement or disagreement of two ideas, the perceived truth or falshood of any proposition. Nothing can aid this perception, that does not set the ideas in a clearer light, that does not afford new evidence of the substantialness or unsubstantialness of the proposition. The direct tendency of coercion is to set our understanding and our fears, our duty and our weakness at variance with each other. And how poor spirited a refuge
does

BOOK VII. CHAP. II. does coercion afford? If what you require of me is duty, are there no reasons that will prove it to be such? If you understand more of eternal justice than I, and are thereby fitted to instruct me, cannot you convey the superior knowledge you possess from your understanding into mine? Will you set your wit against one who is intellectually a child, and because you are better informed than I, assume, not to be my preceptor, but my tyrant? Am I not a rational being? Could I resist your arguments, if they were demonstrative? The odious system of coercion, first annihilates the understanding of the subject, and then of him that adopts it. Dressed in the supine prerogatives of a master, he is excused from cultivating the faculties of a man. What would not man have been, long before this, if the proudest of us had no hopes but in argument, if he knew of no resort beyond, and if he were obliged to sharpen his faculties, and collect his powers, as the only means of effecting his purposes?

Let us reflect for a moment upon the species of argument, if argument it is to be called, that coercion employs. It avers to its victim that he must necessarily be in the wrong, because I am more vigorous and more cunning than he. Will vigour and cunning be always on the side of truth? Every such exertion implies in its nature a species of contest. This contest may be decided before it is brought to open trial by the despair of one of the parties. But it is not always so. The thief that by main
force

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force surmounts the strength of his pursuers, or by stratagem and ingenuity escapes from their toils; so far as this argument is valid, proves the justice of his cause. Who can refrain from indignation when he sees justice thus miserably prostituted? Who does not feel, the moment the contest begins, the full extent of the absurdity that this appeal includes? It is not easy to decide which of the two is most deeply to be deplored, the magistracy, the representative of the social system, that declares war against one of its members, in the behalf of justice, or in the behalf of oppression. In the first we see truth throwing aside her native arms and her intrinsic advantage, and putting herself upon a level with falsehood. In the second we see falsehood confident in the casual advantage she possesses, artfully extinguishing the new born light that would shame her in the midst of her usurped authority. The exhibition in both is that of an infant crushed in the merciless grasp of a giant. No sophistry can be more palpable than that which pretends to bring the two parties to an impartial hearing. Observe the consistency of this reasoning. We first vindicate political coercion, because the criminal has committed an offence against the community at large, and then pretend, while we bring him to the bar of the community, the offended party, that we bring him before an impartial umpire. Thus in England, the king by his attorney is the prosecutor, and the king by his representative is the judge. How long shall such odious inconsistencies impose on mankind? The pursuit commenced against the supposed offender is the

*passé*BOOK VII.
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posse comitatus, the armed force of the whole, drawn out in such portions as may be judged necessary; and when seven millions of men have got one poor, unassisted individual in their power, they are then at leisure to torture or to kill him, and to make his agonies a spectacle to glut their ferocity.

The argument against political coercion is equally good against the infliction of private penalties between master and slave, and between parent and child. There was in reality, not only more of gallantry, but more of reason in the Gothic system of trial by duel, than in these. The trial of force is over in these, as we have already said, before the exertion of force is begun. All that remains is the leisurely infliction of torture, my power to inflict it being placed in my joints and my sinews. This whole argument may be subjected to an irresistible dilemma. The right of the parent over his child lies either in his superior strength or his superior reason. If in his strength, we have only to apply this right universally, in order to drive all morality out of the world. If in his reason, in that reason let him confide. It is a poor argument of my superior reason, that I am unable to make justice be apprehended and felt in the most necessary cases, without the intervention of blows.

Its various
classes con-
sidered.

Let us consider the effect that coercion produces upon the mind of him against whom it is employed. It cannot begin with convincing; it is no argument. It begins with producing the

the sensation of pain, and the sentiment of distaste. It begins with violently alienating the mind from the truth with which we wish it to be impressed. It includes in it a tacit confession of imbecility. If he who employs coercion against me could mould me to his purposes by argument, no doubt he would. He pretends to punish me because his argument is important, but he really punishes me because his argument is weak.

OF THE PURPOSES OF COERCION.

NATURE OF DEFENCE CONSIDERED.—COERCION FOR RESTRAINT—FOR REFORMATION.—SUPPOSED USES OF ADVERSITY—DEFECTIVE—UNNECESSARY.—COERCION FOR EXAMPLE—1. NUGATORY.—THE NECESSITY OF POLITICAL COERCION ARISES FROM THE DEFECTS OF POLITICAL INSTITUTION.—2. UNJUST.—UNFEELING CHARACTER OF THIS SPECIES OF COERCION.

PROCEED we to consider three principal ends that coercion proposes to itself, restraint, reformation and example. Under each of these heads the arguments on the affirmative side must be allowed to be cogent, not irresistible. Under each of them considerations will occur, that will oblige us to doubt universally of the propriety of coercion. In this examination I shall take it for granted that the persons with whom I am reasoning allow, that the ends of restraint and example may be sufficiently answered in consistency with the end of reformation, that is, without the punishment of death. To those by whom this is not allowed in the first instance, the subsequent reasonings will only apply with additional force.

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CHAP. III.Nature of
defence con-
sidered.

The first and most innocent of all the classes of coercion is that which is employed in repelling actual force. This has but little to do with any species of political institution, but may nevertheless deserve to be first considered. In this case I am employed (suppose, for example, a drawn sword is pointed at my own breast or that of another, with threats of instant destruction) in preventing a mischief that seems about inevitably to ensue. In this case there appears to be no time for experiments. And yet even here meditation will not leave us without our difficulties. The powers of reason and truth are yet unfathomed. That truth which one man cannot communicate in less than a year, another can communicate in a fortnight. The shortest term may have an understanding commensurate to it. When Marius said with a stern look and a commanding countenance to the soldier that was sent down into his dungeon to assassinate him, "Wretch, have you the temerity to kill Marius!" and with these few words drove him to flight; it was, that he had so energetic an idea compressed in his mind, as to make its way with irresistible force to the mind of his executioner. If there were fallhood and prejudice mixed with this idea, can we believe that truth is not more powerful than they? It would be well for the human species, if they were all in this respect like Marius, all accustomed to place an intrepid confidence in the single energy of intellect. Who shall say what there is that would be impossible to men with these habits? Who shall say how far the whole species might be improved,

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CHAP. III.Coercion for
restraint:

were they accustomed to despise force in others, and did they refuse to employ it for themselves?

But the coercion we are here considering is exceedingly different. It is employed against an individual whose violence is over. He is at present engaged in no hostility against the community or any of its members. He is quietly pursuing those occupations which are beneficial to himself, and injurious to none. Upon what pretence is this man to be the subject of violence? For restraint? Restraint from what? "From some future injury which it is to be feared he will commit." This is the very argument which has been employed to justify the most execrable of all tyrannies. By what reasonings have the inquisition, the employment of spies and the various kinds of public censure directed against opinion been vindicated? Because there is an intimate connexion between men's opinions and their conduct: because immoral sentiments lead by a very probable consequence to immoral actions. There is not more reason, in many cases at least, to apprehend that the man who has once committed robbery will commit it again, than the man who dissipates his property at the gaming-table, or who is accustomed to profess that upon any emergency he will not scruple to have recourse to this expedient. Nothing can be more obvious than that, whatever precautions may be allowable with respect to the future, justice will reluctantly class among these precautions

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any violence to be committed on my neighbour. Nor are they oftener unjust than they are superfluous. Why not arm myself with vigilance and energy, instead of locking up every man whom my imagination may bid me fear, that I may spend my days in undisturbed inactivity? If communities, instead of aspiring, as they have hitherto done, to embrace a vast territory, and to glut their vanity with ideas of empire, were contented with a small district with a proviso of confederation in cases of necessity, every individual would then live under the public eye, and the disapprobation of his neighbours, a species of coercion, not derived from the caprice of men, but from the system of the universe, would inevitably oblige him either to reform or to emigrate.—The sum of the argument under this head is, that all coercion for the sake of restraint is punishment upon suspicion, a species of punishment, the most abhorrent to reason, and arbitrary in its application, that can be devised.

for reforma-
tion.

The second object which coercion may be imagined to propose to itself is reformation. We have already seen various objections that may be offered to it in this point of view. Coercion cannot convince, cannot conciliate, but on the contrary alienates the mind of him against whom it is employed: Coercion has nothing in common with reason, and therefore can have no proper tendency to the generation of virtue. Reason is omnipotent: if my conduct be wrong, a very simple statement, flowing from a clear and comprehensive view, will make

it

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it appear to be such; nor is there any perverseness that can resist the evidence of which truth is capable.

But to this it may be answered, "that this view of the subject may indeed be abstractedly true, but that it is not true relative to the present imperfection of human faculties. The grand requisite for the reformation and improvement of the human species, seems to consist in the rousing of the mind. It is for this reason that the school of adversity has so often been considered as the school of virtue. In an even course of easy and prosperous circumstances the faculties sleep. But, when great and urgent occasion is presented, it should seem that the mind rises to the level of the occasion. Difficulties awaken vigour and engender strength; and it will frequently happen that the more you check and oppress me, the more will my faculties swell, till they burst all the obstacles of oppression."

Supposed
uses of ad-
versity:

The opinion of the excellence of adversity is built upon a very obvious mistake. If we will divest ourselves of paradox and singularity, we shall perceive that adversity is a bad thing, but that there is something else that is worse. Mind can neither exist nor be improved without the reception of ideas. It will improve more in a calamitous, than a torpid state. A man will sometimes be found wiser at the end of his career, who has been treated with severity, than with neglect. But because severity is one way of generating thought, it does not follow that it is the best.

It:

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defective :

It has already been shown that coercion absolutely considered is injustice. Can injustice be the best mode of disseminating principles of equity and reason? Oppression exercised to a certain extent is the most ruinous of all things. What is it but this, that has habituated mankind to so much ignorance and vice for so many thousand years? Can that which in its genuine and unlimited state is the worst, become by a certain modification and diluting the best of all things? All coercion sours the mind. He that suffers it, is practically persuaded of the want of a philanthropy sufficiently enlarged in those with whom he is most intimately connected. He feels that justice prevails only with great limitations, and that he cannot depend upon being treated with justice. The lesson which coercion reads to him is, "Submit to force, and abjure reason. Be not directed by the convictions of your understanding, but by the basest part of your nature, the dread of present pain, and the pusillanimous terror of the injustice of others." It was thus Elizabeth of England and Frederic of Prussia were educated in the school of adversity. The way in which they profited by this discipline was by finding resources in their own minds, enabling them to regard unmoved the violence that was employed against them. Can this be the best possible mode of forming men to virtue? If it be, perhaps it is farther requisite that the coercion we use should be flagrantly unjust, since the improvement seems to lie not in submission, but resistance.

But

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unnecessary.

But it is certain that truth is adequate to awaken the mind without the aid of adversity. Truth does not consist in a certain number of unconnected propositions, but in evidence that shows their reality and their value. If I apprehend the value of any pursuit, shall I not engage in it? If I apprehend it clearly, shall I not engage in it zealously? If you would awaken my mind in the most effectual manner, tell me the truth with energy. For that purpose, thoroughly understand it yourself, impregnate your mind with its evidence, and speak from the clearness of your view, and the fulness of conviction. Were we accustomed to an education, in which truth was never neglected from indolence, or told in a way treacherous to its excellence, in which the preceptor subjected himself to the perpetual discipline of finding the way to communicate it with brevity and force, but without prejudice and acrimony, it cannot be doubted, but such an education would be much more effectual for the improvement of the mind, than all the modes of angry or benevolent coercion that can be devised.

The last object which coercion proposes is example. Had legislators confined their views to reformation and restraint, their exertions of power, though mistaken, would still have borne the stamp of humanity. But, the moment vengeance presented itself as a stimulus on the one side, or the exhibition of a terrible example on the other, no barbarity was then thought too great. Ingenious cruelty was busied to find new means of torturing the victim, or of rendering the spectacle impressive and horrible.

It

It has long since been observed that this system of policy constantly fails of its purpose. Farther refinements in barbarity produce a certain impression so long as they are new, but this impression soon vanishes, and the whole scope of a gloomy invention is exhausted in vain*. The reason of this phenomenon is that, whatever may be the force with which novelty strikes the imagination, the unchangeable principles of reason speedily recur, and assert their indestructible empire. We feel the emergencies to which we are exposed, and we feel, or we think we feel, the dictates of truth directing to their relief. Whatever ideas we form in opposition to the mandates of law, we draw, with sincerity, though it may be with some mixture of mistake, from the unalterable conditions of our existence. We compare them with the despotism which society exercises in its corporate capacity, and the more frequent is our comparison, the greater are our murmurs and indignation against the injustice to which we are exposed. But indignation is not a sentiment that conciliates; barbarity possesses none of the attributes of persuasion. It may terrify; but it cannot produce in us candour and docility. Thus ulcerated with injustice, our distresses, our temptations, and all the eloquence of feeling present themselves again and again. Is it any wonder they should prove victorious?

The necessity of political coercion arises from the defects of political institutions.

With what repugnance shall we contemplate the present forms of human society, if we recollect that the evils which they thus

* *Beccaria, Dei Delitti e delle Pene.*

mercilessly

mercilessly avenge; owe their existence to the vices of those very forms? It is a well known principle of speculative truth, that true self love and social prescribe to us exactly the same species of conduct*. Why is this acknowledged in speculation and perpetually contradicted in practice? Is there any innate perverseness in man that continually hurries him to his own destruction? This is impossible; for man is thought, and, till thought began, he had no propensities either to good or evil. My propensities are the fruit of the impressions that have been made upon me, the good always preponderating, because the inherent nature of things is more powerful than any human institutions. The original sin of the worst men, is in the perverseness of these institutions, the opposition they produce between public and private good, the monopoly they create of advantages which reason directs to be left in common. What then can be more shameful than for society to make an example of those whom she has goaded to the breach of order, instead of amending her own institutions, which, by straining order into tyranny, produced the mischief? Who can tell how rapid would be our progress towards the total annihilation of civil delinquency, if we did but enter upon the business of reform in the right manner?

Coercion for example, is liable to all the same objections as 2. unjust coercion for restraint or reformation, and to certain other objections peculiar to itself. It is employed against a person not

* *Book IV, Chap. IX.*