

JAMES MILL,
*Twelve Essays in the Supplement to the
Fourth, Fifth, and Sixth Editions of the
Encyclopaedia Britannica (1824)*

SUPPLEMENT
TO THE
FOURTH, FIFTH, AND SIXTH EDITIONS
OF THE
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WITH PRELIMINARY DISSERTATIONS
ON THE
HISTORY OF THE SCIENCES.

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VOLUME SECOND.

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1. "Banks for Saving," vol. 2, pp. 91-101 (written Dec. 1816)
2. "Beggar," vol. 2, pp. 231-48 (Dec. 1816)
3. "Benefit Societies," vol. 2, pp. 263-69 (Dec. 1816)
4. "Caste," vol. 2, pp. 674-54 (June 1817)
5. "Colony," vol. 3, pp. 257-73 (Feb. 1818)
6. "Economists," vol. 3, pp. 708-24 (Jan. 1819)
7. "Education," vol. 4, pp. 11-33 (Dec. 1819)
8. "Government," vol. 4, pp. 491-505 (Sept. 1820)
9. "Jurisprudence," vol. 5, pp. 143-161 (July 1821)
10. "Liberty of the Press," vol. 5, pp. 258-72 (July 1821)
11. " Nations, Law of," vol. 6, pp. 6-23 (April 1823)
12. "Prisons and Prison Discipline," vol. 6, pp. 385-95 (April 1823)

Editor's Introduction

To make this edition useful to scholars and to make it more readable, I have done the following:

1. inserted and highlighted the page numbers of the original edition
 2. not split a word if it has been hyphenated across a new line or page (this will assist in making word searches)
 3. added unique paragraph IDs (which are used in the "citation tool" which is part of the "enhanced HTML" version of this text)
 4. retained the spaces which separate sections of the text
 5. created a "blocktext" for large quotations
 6. moved the Table of Contents to the beginning of the text
 7. placed the footnotes at the end of the book
 8. formatted short margin notes to float right
 9. inserted Greek and Hebrew words as images
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Table of Contents

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

**JAMES MILL, *TWELVE ESSAYS IN THE SUPPLEMENT TO THE 4TH,
5TH AND 6TH EDITIONS OF THE ENCYCLOPAEDIA BRITANNICA*
(1824)**

[II-91]

BANKS FOR SAVINGS.↩

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

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

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

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

Let us consider the natural tendency of this situation of the labouring man. He can make no profit by money retained. He also lies under many chances of being unable to preserve it. The coarse and imperfect means for shutting his house, or any receptacle which it may contain, exposes his little treasure to the hand even of a clumsy depredator. Accordingly, we find, that persons in the lower situation of life, who acquire a reputation for the possession of hoards, are almost always robbed. If they are disposed to lend the [II-92] fruit of their industry and frugality, their limited experience of mankind makes them yield to the man who takes most pains to persuade them; and that is often the man who never means to pay them again, and who has, therefore, the strongest motives to take the measures necessary for gaining their confidence.

Money is for two purposes. It is either for present use, or future use; [Banks for Savings.](#) and wisdom directs that it should be employed for the one or the other, according as, in either case, it is calculated to contribute most to happiness upon the whole. But the poor man is thus deprived, in whole, or in part, of the means of applying his money to *future* use. To this extent, therefore, even wisdom itself would direct him to employ it for *present* use, in whatever way it is capable of adding most to his enjoyments. Parsimony in such a case is hardly a virtue.

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

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

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

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

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

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

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

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

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

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

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

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

It is expected that safe custody for money, and a profit by it, in the shape of interest, will produce a disposition to accumulate. This is the second stage. From this, other effects, which may be called effects of the third stage, are expected.

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

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

[II-93]

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

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

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

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

In opposition to the persons who spoke with enthusiasm of this susceptibility of improvement, under the name of the perfectibility of the human mind, Mr Malthus brought forward the principle of population. It was not enough for his purpose to say, that population ascended to the level of food; because there was nothing in that relation inconsistent with improvement, or opposite to the principles of perfectibility. He went, therefore, a step farther, and said, that population rose beyond the level of food; a situation in which vice and misery must of necessity prevail, and unlimited progression was impossible.

Though no part of the doctrine of Mr Malthus has been left uncontested, it is now, among thinking men, pretty generally allowed, that, excepting certain favourable situations, as in new countries, where there is unoccupied land of sufficient productiveness, which may be placed under cultivation as fast as men are multiplied, a greater number of human beings is

produced than there is food to support. This, it is understood, is the habitual condition of human nature. The disposition of mankind to marry, and the prolific power with which nature has endowed them, cause a greater number of human beings to be born than it is possible to feed; because the earth cannot be made to increase her produce so fast as the procreative power of the human constitution increases consumers.

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

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

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

For a share of the food which is brought into existence, the greater part of mankind have nothing to give but their labour. Of those who are endeavouring to purchase food by their labour, there is not enough for all; some must want. What is the consequence? Those who are in danger of being left out in the distribution, offer more labour for the same quantity of food; that is to say, they agree to work for less wages; by this competition, the wages of labour are reduced, and made so low that they are not sufficient to procure food for the families of all the labourers. The whole are placed in the lowest and most afflicting state of poverty; and of those whose wants are more than usually great, or supply more than usually small, a portion must die, from the want of a sufficiency of the necessaries of life. The state of wages is sufficient to afford the means of existence to as many as the food produced can barely preserve alive; the superabundance, who, by their competition, have rendered thus miserable the situation of the rest, must inevitably perish. Whatever the state of production in regard to food, the wages of the labourer are sufficient to enable the labourers, as a body, to raise a number of children sufficient to keep up the population to the level of the food. The labourer who has the number of children correspondent to that increase, has just enough to keep his family alive, and no more. Those who have a greater than this number, and not a greater than the usual means of procuring food, must partially starve.

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

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

[II-94]

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

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

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

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

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

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

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

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

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

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

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

Let us suppose that it is not wholly expended upon the furnishing of a house, but that a portion, at least, of it remains. This, it will be said, is reserved as a provision against want; and of this the beneficial effects may be reckoned sure. But abstracting from extraordinary cases of bad health, least common in the earliest stage of the married life, and other extraordinary accidents, the first pressure will arise from the increase of the family. After that

number of children is born, which exhausts the earnings of the father, the birth of another child produces the miseries of want. If there is no fund remaining from former accumulations, hardship introduces death, and the amount of the population is thus, upon the whole, kept down to the level of the food. If there is a fund remaining from former accumulations, it will now of necessity be consumed; and by its consumption will enable the family to go on a little longer; to rear a child or two more. But the number of children reared was before as great as there was food to maintain. If a greater number is raised, there is an excess of population, who bid against one another for employment, and lower the wages of labour. Already, the great mass of the population were in a state of unavoidable misery from the lowness of wages. An increase of poverty is now brought upon them; and their situation is rendered more deplorable than it was before. It is impossible not to consider this as one of the effects, which a fund accumulated before marriage, by the laborious part of the community, has a tendency to produce. And this is a tendency altogether noxious.

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

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

The following is the mode in which the authors of this opinion believe that the happy effects which they anticipate will take place. The means of profiting by the reserve of a portion of their earnings, [II-95] which savings banks will provide for the unmarried part of the labouring people, will give them, it is supposed, a taste for accumulation: Aware of the impossibility of accumulating after marriage, their desire of accumulation will make them defer the period of marriage: Of deferred marriages, the result will be a less numerous offspring: A smaller number of people in proportion to the food will be reared: The competition for food will be reduced; the competition for hands will be increased; wages will rise; and the cruel poverty of the mass of the population will be abated.

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

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

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

The question is, which class is likely to be the most numerous? and this is plainly one of those questions to which no very certain answer can be given. But if we consider the strength of the passions which urge to marriage, we shall probably suspect that it will not be easy for the love of saving to acquire an equal force in the breast of any considerable portion of persons who are young, whose education has been very bad, and who hence have little power either of foresight or of self-command.

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

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

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

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

1. Want of physical means of safe custody, such as *lock-up* places; thence, danger of depredation, and accidental loss.

2. Difficulty of opposing and never-yielding resistance to the temptations afforded by the instruments of sensual enjoyment, where the means of purchasing them are constantly at hand.

3. Want of the means of obtaining a profit by the savings of the poor, or the use of them in portions adapted to their peculiar exigencies.

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

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

1. Fund, solid and secure.

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

In the plan, however, of the bank which Mr Bentham contemplated for answering the purposes which he thus described, he did not direct his view to that simplest of all the forms of banking, the mere receipt of money, to be paid again with interest when demanded; the form to which the patrons of savings [II-96] banks at present appear judiciously to confine their attention. Mr Bentham's proposal was to receive into the frugality banks the deposits of the poor, not for the mere purpose of yielding an interest, and being withdrawn when wanted, but to form or purchase an annuity for old age, when the power of earning would be either destroyed or impaired.

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

Mr Bentham then proceeded to compare the effects of a system of frugality banks with those of friendly or benefit societies. To this comparison, however, we cannot with any advantage proceed, till that other species of institution is first described. We are, therefore, inclined to reserve it wholly to the article *BENEFIT SOCIETIES*, to which the reader is referred.

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

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

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

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

For the purpose of providing a safe and convenient place of deposit for the savings of labourers, servants, and other poor persons, a charitable establishment has been lately formed at Tottenham, in the county of Middlesex. It is guaranteed by six trustees, who are gentlemen of fortune and responsibility, most of them possessing considerable landed property. This renders it as safe and certain as institutions of this kind can be, and insures it from that fluctuation of value to which the public funds are liable. The books are kept by a lady, and never opened but on the first Monday in every month, either for receipts or payments. Any sum is received above one shilling; and five *per cent.* is given for every 20s. that lies 12 kalendar months; every person so depositing money being at liberty to recal it, any day the books are opened; but no business is transacted at any other time.

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

OBSERVATIONS.

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

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

Many would try to make a little hoard for sickness or old age, but they know not where to place it without danger or inconvenience. They do not understand how to put money in, or to take it out of the bank; nor will it answer for small sums, either in point of trouble or of loss of time. The same causes frequently occasion thoughtless servants to spend all their wages in youth, and in consequence to pass their old age in a workhouse,—a sad reverse from the indulgence of a gentleman’s family, to which they have [II-97] been habituated. Many instances indeed have occurred, that, for want of a place of security for their money, the poor have lost their hard earned savings, by lending it to some artful or distressed person, who has persuaded them it will be safe in his hands.

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

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

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

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

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

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

this will gradually decay.

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

So much for removing the causes of dislike. More is necessary to create a positive, and still more to raise an ardent attachment. The springs of human nature must be skilfully touched. Mr Duncan knew where to find them, and he looked to the means which the circumstances of the case afforded for placing them in action. “It may be observed in general,” he says, “that in all those situations, where it is practicable to assimilate the mode of management to the scheme of Friendly Societies, the advantage to be derived from such a circumstance ought not to be overlooked.” If there were nothing in the case but the actual existence of these societies, and the favour with which the people regard them, the importance of this advice would still be more than considerable. But, says Mr Duncan, “On this subject, it may be proper to attend to the following [II-98] remarks: Those who are at all acquainted with the history of friendly societies, must be aware, that they owe much of their popularity to the interest excited among the lower orders, by the share to which each of the members is admitted in the management of the institution. The love of power is inherent in the human mind, and the constitution of friendly societies is calculated to gratify this natural feeling. The members find, in the exercise of their functions, a certain increase of personal consequence, which interests their self-love in the prosperity of the establishment. Besides, by thus having constantly before their eyes the operation of the scheme, in all its details, they are more forcibly reminded of its advantages; and not only induced to make greater efforts themselves for obtaining these advantages, but also to persuade others to follow their example. Hence it happens, that a great number of active and zealous supporters of the institution are always to be found amongst the members of a friendly society, who do more for the success of the establishment than can possibly be effected by the benevolent exertions of individuals in a higher station.”

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

The power of choice is somewhat limited by the qualifications required. The society consists of two sorts of members, the ordinary, and the extraordinary, and honorary. The general meetings have alone the power of electing honorary members; but the Bank Trustee, the Lord-Lieutenant and Vice-Lieutenant of the county, the Sheriff-depute and his substitute, the members of Parliament for the county and burgh, the ministers of the parish, with certain

magistrates of the town, are honorary members *ex officio*; and there are certain regulated subscriptions or donations, of no great amount, which constitute the person paying them, *ipso facto*, an extraordinary or honorary member. Now, it is from this list of honorary and extraordinary members that the choice of functionaries by the general meeting is annually to be made, provided a sufficient number of them should be disposed to accept of the offices designed; if not, from such of the ordinary members as make deposits to the amount of not less than L.2, 12s. in the year.

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

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

Mr Duncan, from deference to the gentlemen who made the decision for the Edinburgh bank, seems willing to allow that a general meeting of all the contributors, and a reservation to that meeting of certain appropriate powers, useful and important as it is, may, in great cities, such as Edinburgh, be attended with inconveniences which outweigh its advantages. May not this, however, be a concession too easily made? It would, at least, be desirable to have good reasons presented for the sacrifice of so great an advantage, before we consent to its being made. There is an obvious inconvenience in assemblages of people, of any description, when too large. And if one bank were to serve for the whole of a great city, and the contributors should amount to any considerable part of the population, the assemblage would undoubtedly be too large. But this, under the circumstances in contemplation, would not be the case. To accommodate the customers, there ought to be a bank in every parish, or similar district. There would be no greater inconvenience in calling together the moderate number of contributors to such a bank in a city, than in the country. The fact is proved by the ample experience of friendly societies; the members of which do actually meet much oftener than once a-year, and devoid of many advantages which the mixture of persons of the upper classes would afford to the association of a savings bank. If any central, or general institution, to give unity and combination to the operations of the different banks of a great city, were found to be useful, it might be formed of delegates chosen by the committees of the several district or parochial banks; and thus, without any inconvenience that can be rationally contemplated, all that fervent interest which is the natural effect of giving the contributors themselves a part to act in the formation and conduct of savings banks, would be provided for and secured. In London itself, [II-99] there are various institutions, wholly dependent upon voluntary contributions, the subscribers to which, though extremely numerous, are annually called together for the election of committees and other managers. The society of *Schools for All* may be adduced as a conspicuous example. And where is the inconvenience that is ever found to result?

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

The circumstances of England were in several respects much less favourable to any plan founded upon the savings of the poor than those of Scotland. The disadvantages existing in England are justly enumerated by Mr Duncan, under four heads; 1st, The character and habits of the people; 2dly, The nature of the ecclesiastical establishment; 3dly, The system of poor laws; 4thly, The state of the banking business.

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

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

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

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

funds, the bank, in this way, took upon itself. The Southampton, like the Edinburgh bank, limited the amount of deposits which it would receive from any one individual; and fixed the sum at L. 25.

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

A bank was opened in Clerkenwell, another parish in the metropolis, on the 29th of January 1816, chiefly through the instrumentality of Charles Taylor, Esq., on a plan by which the depositers appoint their directors, their committees of accounts, their superintendents, &c. from their own number, and thus conduct the business of the institution wholly for themselves. The treasurer is allowed to retain to the amount of only L. 220, for which he gives security, and allows interest at 5 *per cent*. for the sum in his hands. The other funds are invested in government securities. The great defect in this otherwise admirably constituted institution, seems to be the limiting the choice of managers and functionaries to the depositers themselves. Why should the depositers deprive themselves of the advantage of choosing a person who would be eminently useful as a manager, though not of a rank of life to require the institution for his own use? If the depositers have the power of choosing, for the management, whom they [II-100] please, depositers or not, they will have all that share of action which is necessary to establish their confidence and animate their zeal; while, at the same time, men of superior education and influence may be joined with them, and prevent, by their wisdom and authority, any error to which the business might be otherwise exposed. As often as men of superior education and fortune showed a disposition to render themselves useful in the conduct of the institution, daily and universal experience prove how certainly and gladly they would be chosen. In the meantime, the prosperity of the Clerkenwell bank is a complete proof of the safety with which that co-operation of the contributors, the utility of which is so well demonstrated by Mr Duncan, may be employed in the greatest cities. Clerkenwell is a parish, a great part of which is inhabited by some of the poorest people in the metropolis; the establishment of the bank was attended with nothing which was calculated to excite any attention; with advertisement scantily sufficient to make it known in the district; yet on the 22d of April, less than three months after the time of its institution, it had 157 depositors, and had received L. 269, 11s. 6d.

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

managers; wholly excluding the co-operation of the depositors, and all intervention or control on their part. This institution was opened in Pantou Street, Hay Market, on the 15th of April following; and another, promoted by the principal gentlemen in the city, and founded on similar principles, was soon afterwards opened in Bishopsgate Street, for the eastern half of the metropolis.

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

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

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

There may be, and there are, solid objections to the rendering any great portion of the people the creditors of government, as being unfavourable to that independence of the people on the government, on which all security for good government depends; but if the people are to be rendered the creditors of government, there can be no objection to them being rendered so in a way convenient to themselves, rather than in a way which is the contrary. And if there is no other security but that of government to which the banks for the poor can have recourse, we are reduced to the alternative of either having no banks for the poor at all, or lending the money to government. It will occur to some persons, that it might be lent to the parishes on the security of the poor-rate. But to those who contemplate the abolition of the poor-rate, this will not appear desirable as a permanent expedient. If counties were managed according to their ancient constitution, the best plan might be, to lend it to the counties, on the security of the county rate. But even in this case, it could not be lent without admitting a prodigious evil, the principle of county debts.

No mention has been made of the plan of Mr Baron Mazeret, in the account which has been rendered [II-101] of the successive steps by which the business of savings banks has been brought to its present state; because it was not conceived that this plan corresponded to the idea of a savings bank. It is, however, necessary to be described, because it is not

impossible that some of the ideas realized in savings banks may have been derived from it. The plan of Baron Mazeret was a proposal for establishing life-annuities in parishes, for the benefit of the industrious poor. It was published in 1772, accompanied with the suggestion of certain alterations by the celebrated Dr Price. It was recommended to the nation to obtain a law, for enabling the parish officers in England to grant, upon purchase, to the labouring inhabitants life-annuities, to be paid out of the parish rates. The measure met with support from some of the most distinguished characters of the time, and a bill was brought into the House of Commons by Mr Dowdswell, under the auspices of Mr Burke, Sir G. Savile, Lord John Cavendish, Mr Dunning, Mr Thomas Townshend, and others, for carrying it into effect. The plan received the sanction of the Commons, the bill was passed, and carried to the House of Lords. Here it was not equally fortunate; it was not even permitted to come to a second reading. One cannot conceive any very good reason for throwing it out; because, if it produced any effects, they could not be evil. The defect of the project appears to consist in this, that it was not calculated to produce effects at all; it involved in itself an obstruction fatal to its operations. To purchase these annuities a sum of money, large to the purchaser, was demanded all at once. How was he to possess it? Whence was he to obtain it? The means were almost universally wanting, and likely to continue so.

It is worth while to mention, that a savings bank, entitled *Le Bureau d'Economie*, was established by law at Paris, in one of the first years of the French revolution, and it was in existence till a late period, perhaps is to the present. The account of it which we have seen, is in the *Archives of Useful Knowledge*, published in Philadelphia, where a bank of industry was lately established. Mr Bentham's plan of a frugality bank, added to this scheme two important amendments, which at once brought it within the range of practicability, and enlarged the bounds of its usefulness. He proposed that the people should purchase life-annuities, by sums deposited gradually; and that these annuities should be convertible into other forms of benefit, suitable to the exigencies of each individual.

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

General Rules
for the
formation of
these Banks.



BEGGAR.↩

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

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

Nothing more strongly indicates the deficiency of our knowledge upon this subject, than the different opinions which the Committee received on the proportion between those who beg from necessity, and those who beg from choice. The persons examined were those of whom the Committee made choice, as having possessed peculiar opportunities of knowledge; and this was a point to which their inquiries were peculiarly directed. Yet one part of the witnesses strongly asserted, that a proportion as large as one half were beggars from necessity; another part of them asserted that all beggars, with hardly any exception, prosecuted the occupation from choice.

Mr Martin, the conductor of an inquiry into the state of mendicity in the [Beggar.](#) metropolis, under instructions from his Majesty's Principal Secretary of State for the Home Department, which inquiry extended to about 4500 cases, stated, as "the general result of his information, that beggary is, in very many cases, perhaps in about half the cases of those who beg, the effect rather of real distress, than of any voluntary desire to impose. So far from having found, amongst those who have attended at the office, any reason to think that the whole was a matter of imposition, I have (says he) found cases of the most acute suffering, which have long been concealed, of some of the beggars, who belonged to parishes in the metropolis, who have not made their cases properly known to the parish-officers, and who have ventured to slip out of their parishes, not so much because they wished to impose, as

because they were driven by distress to beg.” Mr Martin grounded this conclusion also upon the general fact, that the number of women was much greater than that of men, and that of married women greater than that of single. “Men,” he remarks, “are stronger than women, have more resources, and are better able to provide for themselves; and single women are more eligible for service than married, and usually have only themselves to maintain.”

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

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

From other witnesses, however, of whom the experience was also great, the committee received affirmations of an opposite import. Mr John Cooper, a visitor of the *Spitalfields Benevolent Society*, was asked, “From the observations you have made upon the state of poor families, do you think any worthy families have recourse to begging in the streets?”—*Ans.* “I have no idea at all, from what has come under my own observations, that, in any individual case, persons, that were worthy objects, however distressed they were, have had recourse to street-begging.”

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

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

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

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

It may still be possible to reconcile these undoubted facts with the testimonies of Mr Martin and Mr Budd. It appears that a great proportion of the beggars to whom they allude are women, and women with families; whose spirits, where they are left to themselves, are less able to support them, and to make [II-233] the dread of disgrace an overmatch for the pains of hunger and the terrors of death. It appears, also, that a large proportion of them are the wives of soldiers, in the company of whom the sense of disgrace is apt to lose its pungency. People from the country, simple, and without resources, add a portion to the number of those whose mendicity cannot be regarded as the effect of vice. And it cannot, surely, be a source of wonder, that, out of so large a population, so great a portion of whom are liable to the extremity of want, there should be a few with whom the dread of disgrace should not be so powerful a motive as the love of food, and of life.

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

3. With regard to the number of beggars, an important fact appears to be ascertained; that it is gradually diminishing. Mr Martin said, "I do think that the number of beggars has something decreased since the first inquiry, nine years ago; and I am very much confirmed in that opinion, by what persons have told me, that they have not seen so many as they did. I really think there are not so many by one-fourth." Sir N. Conant, of the Police-office in Bow-street, said, "I think the number of beggars was greater thirty years ago than now. I have acted as a magistrate for more than thirty years.—Do you mean greater in proportion to the population?—Greater in fact. I am sure, on my own recollection and observation, that mendicity is a less nuisance now than it was thirty years ago."

Sir Daniel Williams, a magistrate attending the Police-office in Whitechapel, was asked, respecting the beggars in that district, "Do you think the number has increased within any given period?"—*Ans.* "I think, within the last two years, they have rather diminished." Mr John Stafford, chief clerk of the office in Bow-street, said, "It strikes me, from the knowledge I have had, having been chief clerk of the Police-office in Bow-street ever since the year 1803, that there are not the same number of beggars about the streets that there used to be; I think the number is considerably decreased." This corresponds so fully with what strongly meets the observation of every attentive man, and has been amply given in evidence before the Committees of the House of Commons, on the state of education, and the police of the metropolis, during the last session of Parliament, respecting the great improvement in the

morals and in the manners of the lower orders, that it may be regarded as a fact of which no reasonable doubt can be entertained.

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

The Reverend William Gurney said, "I am rector of St Clement Danes, and minister of the Free Chapel in West Street, St Giles's. In the course of my ministry there, I have had a great deal of occasion to visit persons in very great distress. I have ascertained, that there are four different ways of begging. Some are by letters, which are sent by post; and some are what we call knocker beggars, who go from house to house, knocking at every door. If they get a knowledge of any respectable person in the street, they pretend they have received money at his house, to make a sum to pay rent, or the postage of a letter from a son who has been six or seven years at sea, and from whom they expect a remittance; or for other purposes. On these occasions they have generally some written statement in their hands. Some beggars are stationary. They come to their stand at a certain hour, where they remain all day, or after so many hours repair to another. Of these beggars, those who are blind, or maimed, or have children, succeed the best. There are others, women and children, who are moveable beggars, following not the street but the people. For instance, at the time of the play, they are always very near the theatres; and if they see a young gentleman and a young lady walking together in deep conversation, they will pester them, and run before them till they give them something to get rid of them. Those people, at other times of the day, if it is a Sunday, for instance, will be found near chapels where there are large congregations; they know as well where the large congregations are as possible. There are others who are continually begging from house to house; they go through a great number of streets in the day, occasionally taking a ballad, or a bunch of matches, and pretend to be picking up bones in the street, and early in the morning kneeling down to areas, tormenting the [II-234] cook when she is busy in the kitchen, until they get some broken victuals, as they call it, but they actually sell this victuals; that I have found out. In St Giles's there are some eating houses for the very poorest mendicants, where they go and sell this victuals they get from different houses."

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

The following is a description given by the Reverend W. Gurney, of some other classes of beggars. He had mentioned a set of applications frequently made to him, by persons who pretended that prize-money, or benefits of some other sort were due to them, of which, however, being deprived by want of knowing the steps to be taken, they entreated a letter to somebody who would instruct them; “but their object was to get a letter with my name to it, with which probably in a short time they could get L. 20. If I have written to any body in the office of the Treasurer of the Navy, whom I knew, for instruction or counsel how they ought to act, recommending the bearer to this person for any information he could give upon such points; if I only said, I beg leave to recommend the bearer to your notice, they would paste this upon another sheet of paper, cutting off the bottom part (and one person was detected in doing this), and then they would take the name at the bottom, and so paste it together, making a kind of a recommendation of this person: knowing who I was acquainted with, some other clergyman, perhaps setting me down as giving them 10s.; that clergyman is induced to give them 10s. also, and to send them to some benevolent person in his congregation: and so they go on till they have got L. 20: and that has frequently been done, I do not mean always by imposition. But, in many cases, where persons have been in distress, through providential circumstances, I have written to another clergyman, saying, such a woman was distressed, and had so many children, and that her husband was out of work, and that this I knew to be the fact, for I had inquired. I have given half a guinea, and have given the names of others; and by this means sufficient relief has been procured without coming to the parish at all. But the impositions on the subject of recommendations are very great; I have had letters from all parts of the country, inquiring whether I gave a general recommendation to such a person; and they have said, we saw a letter purporting to be in your handwriting; we were pretty confident it was not written by you, but it was a very good imitation. One man in Staffordshire, where I had lately been, got a great deal of money upon such a letter. I conceive the beggars in the streets are more numerous at one time of the year than another; and it would be supposed the time of the year when they were most numerous, would be in the early part of the winter; but that is not the case, for now they are as thick as at any time of the year. I have been endeavouring for a long time to ascertain the reason of this; and the first obvious reason for the influx of beggars into the metropolis, at this season of the year, is, with respect to one class of beggars, those who do it by letters or recommendations, and not going from house to house, that they take advantage while Parliament is still sitting, or particular persons being in town; they perhaps are pretty stationary in London all the year; but they are more anxious at this time, and therefore more heard of, because people are going out of town, and therefore they are taking time by the forelock, and work double tides; that is the reason I very frequently have letters sent by friends of mine in affluence, Mr Wilberforce and others, requesting me to inquire into particular cases, and if I found them to be as represented, to give them so and so. I have generally been troubled more at this season of the year than at any other. As to those who knock at the door to beg, the reason of their being so numerous at this time of the year, I apprehend, is, that many come out of the country with a view to take the early hay-time about the metropolis, but they bring always a large suit with them. If a man comes to mow in the neighbourhood of the metropolis, they mow their way back again, the harvest beginning sooner near the metropolis; they bring with them a wife and six or seven children. I have seen hundreds coming up through Stanmore, when I resided there. They generally come too soon, and the streets are filled with these poor people: One says, if I could but get money to buy a fork I could get work; and another, if I could get money to buy a rake, I could get employment. I have had half a dozen with me since Saturday, stating that they came up to get a job of work, but the market is overstocked: there are so many Irish here. The consequence of these people coming is, their children are immediately set to begging in the streets, and with the dust upon them, having travelled a great way, and frequently in real want, they move the compassion of people very much; they are frequently sitting with papers stuck in their hats. In the course of six or eight weeks great

numbers of those will disappear; the husbands will get to mowing, their wives will get a hay-fork, and the children will get to weeding in the gardens: Then they get a dreadful habit, by coming to the metropolis, a habit of idleness and drinking; and those children are annually instructed in idleness and drinking, and of course lying; idleness is sure to bring on lying and theft. I dare say there are very few of these mendicant children who are not trained up to pilfer as well as to beg; they come principally, I believe, from the manufacturing counties. On a journey from Birmingham to London, two years ago, I passed not less than two hundred with their wives and children, who were begging as I passed."

The following statement is inserted in the Report [II-235] of the Committee, under the title of "Information communicated by three members of a Society instituted for Benevolent Purposes:"

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

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

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

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

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

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

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

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

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

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

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

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

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

“Do you know whether they change their beats?—I have seen them come out from twenty to thirty out of the bottom of a street, formerly called Dyot Street, now called George Street. They branch off, five or six together, one one way, another another. Invariably, before they get to any great distance, they go into a liquor-shop, and if one amongst them has saved (and it is rare but one of them saves some of the wreck of his fortune over night), he sets them off with a pint of gin, or half a pint of gin amongst them, before they set out. Then they trust to the day for raising the contributions necessary for their subsistence in the evening. They have all their divisions. The town is quartered into sections and divisions, and they go one part one way, another part another. In regard to the mendicity of people begging with children, I can give a little information upon that. There is one person, of an acute nature, who is practised in the art of begging, will collect three, four, or five children from different parents of the lower class of people, and will give those parents 6d. or even more *per* day, for those children to go begging with. They go in those kind of gangs, and make a very great noise, setting the children sometimes crying in order to extort charity from the people. I had an opportunity of seeing a number of those cases, being a parish officer. They will sometimes have the audacity to come to the Board for relief, which we have four days a-week: there is a great deal of money given in St Giles’s. They will, if necessary, swear they are all their own children, and being, in general, of Irish parents (wherever the tree falls it must lie), consequently they get some relief till we can make proper inquiry; but, in a very short time, they are found out, for we generally send to the place they come from; but the landlords and landladies are so cunning, they would swear that the whole of those children belonged to them. But we have people of their own class, to whom we [II-236] are obliged to give something to detect the impositions we are liable to, for we are often imposed upon. A great many of those cases were before me last year as a parish officer; where a woman had been in the habit of receiving 5s. a-week, and at last a woman of her own country came forward, and taxed her that three of the children were not her own. We never saw them again, but they went into other parishes, such as Mary-le-bone, St Andrew’s, and other parishes, and sought relief there; they know we cannot remove them. We have had other persons whose families are their own, and when they have a habit of begging, and get a good deal of money by that trade, they will not go to work. But we have complaints from a variety of persons round Bedford and Bloomsbury Square, of those persons being nuisances. And when the parties have come to the Board, we have offered them the house to come in with wife and children: —“No; I expect my husband home very soon, and I will not come into the house.” In those cases we get rid of them, but we invariably offer them the house. When they will not take it, then we stop the relief, for I think the house is the best thing for a family of children, and a

distressed family of that description.”

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

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

This is nearly the whole of the information which is contained in this celebrated Report, with regard to the *arts* which are employed by the beggars of the metropolis. We shall next consider the estimate which ought to be formed of their *gettings*. On this subject also exists a great bias to exaggeration. Both the Committee, and these witnesses, with certain exceptions, appear to have been led by it.

Probable
Amount of the
Gains of
Beggars.

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

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

Mr Sampson Stevenson was asked,—“Has it fallen within your knowledge what the largest sums are that have been gained by beggars in the course of the day?—That I have been unable to ascertain, but I have heard them brag of 6s., 7s., or 8s. a-day, or more,

according to their luck, as they call it; and if one gets more than the others, they divide it with the rest.”

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

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

The Reverend William Gurney was asked,—“Have you understood that the beggars’ walks are considered as a sort of property?—Yes; I have [II-237] no doubt of it; they never interfere one with another.

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

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

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

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

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

Mr Butterworth describes scenes of a similar sort, but has attention enough to accuracy to say, that he is only credibly informed of the things which he states. Not a question is put to him about the sources whence his information is derived; much less are any of the persons

who gave it brought before the Committee, who ought not to have been contented with the hearsay, when they might have had the original evidence. Mr Butterworth did, indeed, volunteer (for he was not provoked to it by any interrogation) the description of one person. "I know," he said, "a sober hackney-coachman, upon whose veracity I can depend, who has frequently conveyed beggars to their lodgings; and formerly, when he plied in St Giles's, has been called to the public houses which they haunt, to take them from thence, being so intoxicated they could not walk home." If this information of the hackney-coachman was of any value, how wrong it was not to call the hackney-coachman, and get his own information from himself? According to what appears from Mr Butterworth's words, he might have conveyed a beggar from those houses, either twice or two hundred times in his life.

This is a very imperfect mode of collecting evidence.

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

“Have you had an opportunity of making particular inquiry into the character of individual beggars?—I have; in fact, I made inquiry, not only of the landlord, but of some of those who seemed to be of a superior class, or petition writers; that was before I was overseer. A year or two ago this house lost its licence; it not only encouraged those kind of people, but people guilty of felonies, and so on. This threw them into other quarters; and they made their residence at a public-house called The Fountain, in King-street, Seven Dials, where they assembled not only at night, but in a morning before they started upon their daily occupations, as they express it; I have seen them come in. As it is a house, the landlord of which is very respectable, and has a family, I have gone into the bar on purpose to see their manner of going on; that is very near the tap-room: They come at night, perhaps individuals, and likewise those sailors, or pretended sailors, in a body; but those who go one and two together come also: those who are sailors never take anything on their backs like knapsacks, for they only beg or extort money; but the others beg clothing, or anything they can get, and they always have a knapsack to put it in; they will come loaded with shoes and various habiliments, which, being near Monmouth-street, the place where they translate old shoes into new ones, they sell, and likewise the clothing. I have heard them say, that they have made 3s. or 4s. a-day in begging shoes, for sometimes they got shoes that really were very good ones; and their mode of exciting charity for shoes is, invariably, to go barefooted, and scarify their feet and heels with something or another to cause the blood as it were to flow. I have seen them in that situation many times; and thus they sally out to their different departments, but invariably changing their routes each day, for one is scarcely ever seen in the same direction two days together, but another takes his situation. I have seen them myself; I never saw them outside: but I have seen considerable sums of money pulled out and shared amongst them, [II-238] both collectively and those who go two or three together. Victuals I do not think I ever saw brought into that place, for I rather think they throw it away when they get it. Mostly shoes and clothing, and such things as those, which they sell immediately. They stop as long as the house they use is open, and get violently drunk, and quarrel with one another, and very frequently fight; after that they are not allowed to remain, if they were, the licence would be stopped; and very likely there are houses in St Giles's where they spend the other part, if they have any left.

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

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

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

Nothing is more common, in cases of this sort, than to receive a violent impression from the strong cases, however few; to overlook and forget the small cases, however numerous; and from the strong cases solely to draw every inference to the whole. There are strong marks of this imperfection in the evidence which is given in this Report. Mr Stevenson, for example, in the passage which has just been quoted, gives it, without any restriction whatsoever, as a general characteristic of the beggars of whom he speaks, to be very abusive when their applications are refused. Now, this may safely be pronounced as one of the rarest occurrences. The writer of this article may give his own evidence. He has lived above fifteen years in the metropolis: he has walked more than most people, both in the streets of London, and in the roads and fields immediately surrounding it: he never gives anything to a casual beggar: he has been accosted by thousands of beggars: he cannot at this moment recollect that, in the whole course of that experience, he ever met with one abusive word: but he has a hundred times received a "Thank you, Sir," with a bow or a curtsy from the little boys and girls whom he has refused and repulsed, and to whom it is evident that such a lesson is taught by those on whom their conduct depends. The impostrous beggar, in fact, knows his art too well to lose his temper; and the spirit of the age, so much improved, renders a mild deportment necessary to the success even of the worst employment.

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

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

So slight an exercise of reflection is sufficient to show that the gain of beggars must of necessity be wretched, that one is astonished at the proof which is exhibited of the inattention of mankind, by the number of persons who believe the contrary. According to the principle of population, which supposes a greater number of hands than can find employment, the ordinary occupations and trades may all be regarded as overstocked. The lowest is necessarily the most overstocked of all; because the hands which overflow from the rest are all driven downwards, and the lowest receives the overplus of the whole. The lowest species of occupation is, therefore, of necessity underpaid; that is to say, the wages of the labourer are not sufficient to maintain him with such a family as is necessary to keep the number of labourers, in that occupation, at its existing amount. But it must necessarily be, that the gains of beggars, upon the whole, that is, the gains of an average beggar, are below, and considerably below, the earnings of individuals in the lowest and worst paid species of labour. If it were not, it would follow, that the wretched starving people, employed in the lowest, naturally the hardest and most painful, [II-239] species of labour, of consent, will choose to receive a small sum with hard and painful labour, when they might receive a larger sum without any labour at all; it would follow that, out of a multitude, amounting to the greater part of the population, all, or all but an insignificant portion, are endowed with this degree of heroic virtue. This would be to suppose a sensibility to moral considerations which, in the circumstances of an oppressive and degrading poverty, is utterly incompatible with the laws of human nature.

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

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

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

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

8. With respect to the causes of British mendicity, it will be useful, in [Causes of Mendicity](#). the first place, to give what dropped in detail from the witnesses before the Committee.

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

Edward Quin, Esq. a member of the establishment for sending the poor Irish to their own country, speaking of the persons whom they send, declares: “Most of those parties have been, I should imagine nine out of twelve, either in the army or navy, and mostly with families,

who have no means whatever of returning home, except, perhaps, a temporary pass, twopence a mile, or a penny a mile; we have known a man, with a wife and six children, coming from the Peninsula, sometimes with 9d. or 1s. or 2s. a-day.”

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

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

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

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

“The widows, where not charity work-house cases, were generally found burdened with families, frequently the widows of soldiers killed in battle. The married women were either old, or with families, their husbands being labourers out of employment, or soldiers abroad, many of whom had once enjoyed the county allowance as militiamen’s wives, but who had been deprived of that resource in consequence of their husbands having volunteered into regiments of the line. There seems some reason to apprehend that the allowance to the wives and families of militiamen is gradually eradicating that pride which, with the lower ranks in this country, made parish [II-240] support disgraceful, and the resource only of the utterly helpless and friendless.”

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

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

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

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

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

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

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

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

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

Sir Nathaniel Conant, the magistrate, describes the same evil in nearly the same words. Respecting the beggars produced by this cause he was asked,—“Do you think they constitute a large proportion of the beggars in London?—I cannot state that; there are a great many, almost all the persons not actually known in a parish, who have occasion to apply for parish relief, apply in their last extremity. They are shifted about from post to pillar for two or three days, before they can obtain relief. They beg at the corner of a street; they are taken up by the watchman; and when they are found to belong to a parish, they are let out, instead of being taken to the overseers. I conceive a good many of those who run after the passengers are in that situation. I conceive [II-241] that, if they could go to the parish-officers at the moment of casualty, they would not be in the streets.

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

CLASS I. PAROCHIAL INDIVIDUALS.

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

CLASS. II. NON-PAROCHIAL INDIVIDUALS

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

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

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

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

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

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

You think those persons did not know where to apply, till you informed them?—In many instances they did not know how to apply, or they have been so intimidated by the letter of the law they were afraid.

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

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

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

“Do you conceive, that the system of removals at once adds considerably to the expence of the rates, and is a great grievance to the morals of the poor?—That [II-242] it degrades the poor to a very great degree is certain; and that it adds to the rates, but mostly in the

metropolis. The managers of the poor are very willing, thinking to get rid of them in a short time, to maintain them, rather than send them to a remote quarter; if it is within 20 or 30 miles, they will remove them, but if it is 200 miles off they do not go to the expence.

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

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

Into the mischievous tendency of the principle upon which the system of the English poor laws is built, holding out a premium for worthlessness, and for that excessive multiplication of the people, to which a state of general wretchedness is attached, we shall not at present enter. It will come to be considered, where THE POOR, and the policy regarding them, become the subjects of discussion. What, in this place, chiefly calls for attention, is the course of procedure and detail, in the hands of the parish officers; not as a system of waste and of oppression upon the contribution, nor as a system of tyranny and vexation to the paupers, but as a mode of making beggars. This they do, by their modes both of giving and withholding relief. They give it under such circumstances as to make people fly from it to beggary; they withhold it in such a manner as both to compel and seduce them into beggary. Mr Gurney was asked,—“What is the police establishment of your parish?—We have four beadles and six constables, besides special constables occasionally; but there is a great terror and alarm on the minds of the parish officers of all the parishes, lest the work-house should be overstocked, and lest the parish should be burthened; and, as long as persons get their livelihood without looking to them, though it is by pilfering, unless they actually know that they are pilfering, they take no notice. I have often thought that if many of our poor laws were imperative, instead of permissive, it would be useful; and I am afraid many of the parish officers are ignorant of their duty, as well as the beadles and constables.

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

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

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

Some of the witnesses, Mr Colquhoun in particular, bring forward a very important subject. They give the state of the criminal laws as one of the chief among the causes of mendicity.—“About 5000 individuals,” he says, “are vomited out of the jails, without character. These people come on society, without any asylum provided for them. If such an asylum could be established, I think, in a very short time, it would relieve the town of a great many of the beggars.” The operation of the penal laws upon the moral state of the people is a field of inquiry far too extensive to be introduced into the present article. That an ill-contrived system of correction for offences may degrade the minds of a people, destroy their sensibility to moral considerations, render many of them incapable of that self-esteem, on which the abhorrence of becoming a beggar is founded, nobody can help perceiving. That a great part of the British system of penal law is infected with this tendency, has long been the complaint of discerning and philosophic minds. The public is not a little indebted to the popular writings of Mr Colquhoun, for the degree of attention from men in power which it cannot long be hindered from receiving. Another place in this work will be found for giving to the subject that degree of elucidation which it so highly deserves.

Of all the causes of beggary, *war* may undoubtedly be assumed as one of the most extraordinary. We have already seen in what manner the people converted by it into soldiers swell the ranks of mendicity; but this is only a small part of the deplorable effects. It brings the condition of the whole of the [II-243] labouring mass down nearer to the mendicant level; and, of course, a new and additional portion down to it altogether. This it does by the consumption which it produces. Exactly in proportion as money is spent upon war, exactly in that proportion is the means of employing labour, that is, of buoying up the condition of the people, destroyed; exactly in that proportion must the people, *ceteris paribus*, sink. These are conclusions which may be regarded as scientific, and which will never be called in dispute except by those who are ignorant of the subject. It is not impossible for war to be accidentally accompanied with circumstances which counter-balance this tendency, even in respect to wealth; but this is exceedingly rare. The great men very often gain by war: the little almost always lose.

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

pronounced to be bad.

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

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

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

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

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

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

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

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

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

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

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

We do not think it is necessary to pursue this subject. The evidence appears to be satisfactory, that beggary, when considered as a *cause* of evil, turns out to be a cause of no great importance. Of the inconveniences sustained by the nation, a very [II-244] small portion can be traced to beggary. For even the loss of labour, which is the main article, is very inconsiderable, as the number of able-bodied mendicants is very small, compared with that of the very young, the very old, the mutilated, and diseased.

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

10. We come now to consider the remedies which may be applied to the disease of beggary; the *facienda*, in short, the things to be done for its removal. [Expedients for suppressing Beggary.](#)

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

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

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

The following testimony was given by Sir Nathaniel Conant:

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

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

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

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

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

Can you suggest any alteration of the law, which would have the effect of clearing the streets?—I think that might be effected by a strict execution of the existing laws; but that would introduce such a degree of severity as to a considerable part, not perhaps half, that it would be quite as great as the laceration of the mind of the passenger on seeing such objects.

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

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

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

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

Sir D. Williams gave the following testimony:—

“Do you take any steps, through the medium of your officers, to take up beggars?—We have given instructions generally to take up all beggars; and it [II-245] has been done also by several parishes in the neighbourhood, who have directed their beadles to take them into custody.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It thus, we think, sufficiently appears, that the law for the compulsive prevention of beggary cannot be executed, or, more accurately speaking, it is unfit for execution; it cannot be executed without [II-246] producing a much greater quantity of evil than it seeks to remedy; and therefore the magistrates take upon them, without scruple, to violate it, and leave it without execution.

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

Another of the remedial operations, importunately demanded, is to make provision immediately for the careful and efficient education of the whole mass of the population, down to the lowest individual. On the potent connection between good education, and that sort of conduct which keeps people above the level of mendicity, as well as on the mode in which education should be provided, our sentiments will be given with more propriety on another occasion.

As the tendency in population to increase faster than food, produces a greater number of individuals than can be fed,—as this is the grand parent of indigence, and the most prolific of all the sources of evil to the labouring portion of mankind, take all possible measures for preventing so rapid a multiplication; and let no mere prejudice, whether religious or political, restrain your hands in so beneficent and meritorious an undertaking. It would be easy to offer

suggestions on this head, if we were not entirely precluded from going into detail. It is abundantly evident, in the meantime, that indirect methods can alone avail; the passions to be combated cannot be destroyed; nor, to the production of effects of any considerable magnitude, resisted. With a little ingenuity they may, however, be eluded, and, instead of spending themselves in hurtful, made to spend themselves in harmless channels. This it is the business of skilful legislation to effect.

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

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

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

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

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

Under the head of improvement in the criminal law, it may be fittest to speak of that indispensable instrument for the cure of beggary,—a system of *Reformatories*, or houses in which bad habits may be eradicated and good acquired. On this point, some of the witnesses, whose testimony is entitled to the greatest respect, used a language unusually strong. The chaplain to Bridewell Hospital said, “I have long thought, *seeing so much misery as I have done*, that, as to remedy, very little could be done, unless you deprive the beggars of the pretext of begging; *that that could be only by a large penitentiary system.*

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

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

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

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

Mr Colquhoun was asked,—“Do you think there could be any law devised by which there could be a possibility of furnishing relief to that class of persons who may be properly called beggars, by which they could be removed out of the streets?—I think it is perfectly possible to lessen the evil in a very considerable degree, but it must be by legislative regulation, and at pretty considerable expence. The situation of this town, to which so many wander up, is such that there must be an asylum for beggars, [II-247] with a species of work-house, or what I would call a Village of Industry, that would apply to all. That struck me so strongly in the year 1792, that I wrote a paper on the subject; and I believe if the war had not broken out, it would have taken place. About 5000 are vomited out of the jails, without character; those people coming on society, it would have been a most desirable thing to have had an Asylum for them; but it was so gigantic a thing, that that prevented its being carried into effect. If such an Asylum could be established, I think in a very short time it would relieve the town of a great many of the beggars; but the magistrates must necessarily have some place to send them to.

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

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

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

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

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

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

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

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

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

We find Benefit Clubs, and Savings Banks, held forth as means for the preventing of beggary. But we question, whether the sort of people who apply to savings banks and benefit clubs are apt to become beggars. We see, that those among the common people, who have had any moral feelings implanted in them, will in general die rather than beg. We see also, that the having a provision already made is no security against mendicity, when the mind is worthless; because many of the Greenwich and Chelsea pensioners beg, and are among the most troublesome of all beggars. It would surely not be difficult to find a better mode of paying these pensioners, so as to afford a check upon their vices. Some way might also be found of punishing those parishes, who, when a beggar is passed to them, instantly let him out again, to prey upon the public. When a beggar appears, if it is resolved to suppress them altogether; or when he acts in any such manner as to create a nuisance, if it is only proposed to suppress what is noisome about them; it should always [II-248] be easy at the moment for any passenger, or observer, to put in execution the means of taking them up. For this purpose, it would be necessary that a constable or beadle authorized for this purpose should be in every street, and his residence rendered conspicuous to all the passengers.

Under the head of remedies for the disease of beggary, it is necessary to speak of societies for the suppression of it. In the first place, it is abundantly evident, that an assemblage of private individuals have little power over the chief *causes* of mendicity; over wars, for example, excessive procreation, and bad legislation. They can only endeavour to counteract, by such powers as they possess, the operation of these causes. They may, indeed, contribute *indirectly* to the removal of the causes; namely, by holding them up in their true colours, to the legislature, and to the nation. This, it may be observed, in one of the ways in

which they may effect the greatest quantity of good; may, in fact, advance with the greatest expedition to the accomplishment of their own end. With the means possessed in this country of operating upon the public mind, and the influence of the public mind upon the legislature, a society of gentlemen, rendered conspicuous by their union, and the beneficence of their proceedings, might, by representations, sufficiently persevering, and sufficiently strong, more especially if the operation was not confined to one society, but common to a number of societies, in numerous parts of the country; effect almost any improvement of which the nature of the case would admit.

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

Society at
Edinburgh for
the Suppression
of Beggary.

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

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

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

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

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

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

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

(F.F.)

BENEFIT SOCIETIES. ↩

THE general conception of these institutions may be shortly expressed. [Definition and Objects.](#)
 A number of individuals associate together, and, by payments made at stated times, create a fund, out of which they receive certain specific sums on certain specific occasions.

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

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

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

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

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

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

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

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

For persons merged in poverty, and totally deprived of education, as the English population heretofore have so generally been, it is not easy or common to have much of foresight, or much of that self-command which is necessary to draw upon the gratifications of the present for those of a distant day. When a people thus situated have a provision made for them, to which they can with certainty have recourse, as often as they themselves are deprived of the means of earning their own subsistence; and yet, notwithstanding this security, choose to form themselves almost universally into Benefit Societies, in order that, by taking something from the means of their present scanty enjoyments, they may in sickness, disablement, and old age, be saved from the necessity of having recourse to public charity, and [II-264] may continue to live to the end of their days upon the fruit of their own labour, no burthen to the public, or dependent upon its bounty,—they exhibit a combination of admirable qualities, the existence of which could hardly be credited, if it were not seen; above all, in a country in which the higher ranks too often display an eager desire to benefit themselves at the public expence.

There is much similarity in the constitution of these societies. The rules and regulations of from twenty to thirty of those established in the metropolis, as well as those of several in other places, have been perused for the purpose of this article. The payments are, in general, monthly, and about two shillings the most common amount; though sometimes associations are formed of persons whose incomes are fixed pretty high, and then the payments are somewhat larger. The mode of regulating the benefit is commonly by three different rates of allowance; one during a temporary sickness; another, commonly one half of the former, during a chronical illness; and a third, still less than the preceding, a permanent annuity for old age. When a member falls sick, so as to be unable to labour, he receives the allowance for sickness; if the disease continues beyond a specified number of weeks, he is reduced to the chronical allowance; if the chronical illness continues beyond a certain number of months, the member is put upon the superannuation list, and receives the allowance for old age. Besides these rates, there is almost always a sum of several pounds which is paid for the funeral expences of a member or his wife. It is one of the ill-grounded desires of the least instructed part of the population of this country, to have what they call a decent, meaning by decent an *expensive*, funeral. As this is so much absolute waste, a consumption for which nobody is the better, and ravaged from a suffering family at a moment when most commonly their resources are diminished, or rather destroyed, the sooner they can be weaned from this superstition so much the better. It might soon be done by the example of their superiors. If those among them who are above vulgar error would enjoin their successors to put them in the earth at the smallest expence which the physical operation would admit, the childish passion for a costly funeral would soon disappear. It is necessary that sepulture should be performed in places, and by persons pointed out by the proper

authority, for the security due to the health of the living. But if the business of the cemetery is not performed altogether at the public expence, and in the same manner for all, which would be the best regulation, there assuredly ought to be no fees, nor any charge beyond the rigid payment of the labour. When the religion of the relatives requires a devotional service to be performed at the grave, it ought assuredly to be performed without any fees or presents to the actors in the scene. Fees to the clergyman, and others, in a church of England funeral, are a serious grievance to the poor.

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

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

Of some of the rules, which are also very generally adopted, the reason is not so easily seen. One of them is, that none of the members shall belong to any other association of the kind. If a member complies with all the rules of one society, it can be of no detriment to that society, if he belongs to another. A man whose earnings place it in his power, may thus secure to himself a double benefit in sickness, disablement, or old age. It would lead to the same end if a man was allowed to take more than one of what may be called the shares of one society, double, for instance, the monthly and other payments, on condition of receiving all the allowances double; but his security, as long as clubs are on a precarious footing, would be somewhat increased by dividing the risk.

By another of these rules, the utility of which seems rather more than doubtful, a member, while receiving aid, is not allowed to work. The intention of this is sufficiently evident. It is to prevent that sort of imposition to which the societies in question are most exposed, receipt of bounty at seasons when it is not required. The question is,—whether if a man was allowed to earn, were it ever so little, as soon as he was capable, and even, when entitled to relief, to divide the produce with the club; deducting, for example, from his allowance, a portion equal to one half of his earnings,—both parties would not find their account in it? and whether means might not be discovered of guarding against imposition as effectually in that case as by the expedient which is now in use? In the case of the superannuation [II-265] annuity, the member is, in general, at liberty to do any thing which he can for himself, provided his earnings go not beyond a particular amount.

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

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

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

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

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

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

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

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

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

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

greatest number, it is probable, the greatest something of the two.

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

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

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

The difficulty of making good the stated payments to the club, at moments of great pressure, as when employment is wanting, or a man's wife and children are sick, is objected to Benefit Societies. This is an inconvenience, no doubt; but we have seen that it is not unattended with compensation. In fact, a man must be in a state of distress very uncommon, if he is prevented by real necessity from paying his [II-266] club-money. Besides, this is one of the occasions on which very extraordinary exertions are made by his acquaintance and friends; especially if he is not a man thoroughly worthless, whose vices, not his misfortunes, are the cause of his distress, to supply him with the means. And this is an exercise of virtue in these acquaintances and friends, which is highly useful; and tends forcibly to the increase of the benevolent feelings in the minds both of those who make it, and of those in favour of whom it is made.

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

the number of those who suffer forfeiture from real necessity, and not from their vices, is small, bearing a very insignificant proportion to the whole. For a hardship to the very small number, a great benefit to the very great number is not to be foregone. This is the very principle on which bad government is distinguished from good.

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

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

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

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

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

It is, therefore, a prodigious recommendation of Benefit Societies, that in them the people act for themselves. We do not mention this, however, as one of the circumstances in which they differ from [II-267] Savings Banks. It is, indeed, true, that in most of the Savings Banks which have yet been started, the upper people have taken upon them to manage for the under. But this is not necessary. The contributors to Savings Banks may themselves, if they choose, manage a bank just as well as a club-box; in fact, the business of the bank is far more simple than that of the box. There is one important example of a bank conducted by the people themselves, in that established in Clerkenwell, at the suggestion of Charles Taylor, Esq.

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

“For a view of the powers of the institutions, to secure independence, let Mr Rose’s table be compared with the Benefit Society long established in this parish. By the table the amount of *one shilling per week* after one year is L.2, 12s. If the contributor should be ill at the beginning of this year, there is nothing for him: if quite at the end of the year, he should be ill four weeks, and should draw equal to the allowance of the Bushey Benefit Society, his capital is gone; and he must begin again. A member of the society pays *two shillings per kalendar month*, and, if he has paid one pound to be free, supposing him under twenty-five years of age (and other ages in proportion), he will receive 12s. a-week during illness in any part of the whole of the year; and will find his right to the same payment for future years undiminished. There is no occasion to go through the intermediate years. Let us take the twentieth. After twenty years, the contributor to the bank (if he has had no illness, which would quickly have exhausted his stock, especially in the earlier years) will have paid L. 52, and will be worth L. 77, 8s. 6d. We will suppose that he is come to old age, or some lasting infirmity. He can afford 6s. a-week for five years, and then comes to the parish, with the aggravation of disappointed hopes of independence. In the society the payments in twenty years will amount to L. 24; the receipt 6s. a-week in old age, if his life should be protracted to the (I hope incalculable) date of a national bankruptcy.

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

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

Even Mr Duncan says, "There is one point of view in which the Friendly Society scheme can claim a decided advantage. An individual belonging to the labouring part of the community cannot expect, by making the most assiduous use of the provisions of the Parish Bank, to arrive at sudden independence;—on the contrary, it is only by many years of industry and economy that the flattering prospects held out by that system can be realized. But health is precarious, and an accident or disease may in a moment put an end to all the efforts of the most active and expert. It is under such circumstances that a very striking difference appears in favour of the scheme we are considering. He who should trust to the progressive accumulation of his funds in a Parish Bank, might now find himself fatally disappointed. If he had not been fortunate enough to realize a considerable capital before the sources of his subsistence were dried up, the illness of a few weeks or months might reduce [II-268] him to a state of want and dependence, and cause him to experience the unhappiness of mourning over impotent efforts and abortive hopes. On the other hand, the man who has used the precaution to become a member of a Friendly Society, has made a comfortable and permanent provision against the sudden attack of disease and accident. The moment that he comes to acquire the privileges of a *free member*, which, by the rules of most of these institutions, is at the end of the third year after he began to contribute, he is safe from absolute want, and the regular manner in which his weekly allowance is paid him enhances its value. Nor is this provision liable to any of those objections, which have been so strongly and so justly urged against the well-intended but mistaken system of poor rates. Instead of degrading and vitiating the mind, its tendency is directly the reverse. The poor man feels that he is reaping the fruit of *his own* industry and forethought. He has purchased by his own prudent care an honourable resource against the most common misfortunes of life, and even when deprived of the power to labour for a livelihood, the honest pride of independence remains to elevate and ennoble his character."

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

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

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

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

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

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

Thus far on the side of good. On the side of evil, a great fear has been expressed, that out of any joint proceedings of the people would arise mischief to the government. The operation of fears of this description has been one grand cause of the evils which human beings have brought upon one another. It is a circumstance full of suspicion, when governments count upon the hatred of their people. It seldom happens, and seldom can happen, unless when they know well that the people have reason to hate them. It is not natural for the people to hate their government, unless oppressed by it. The people, instead of being disposed to hate a good government, are far too much disposed to be pleased with a bad one; as the history of the whole earth so abundantly and wofully testifies. If a government takes care of the interests of the people, and gives them instruction sufficient to know their own interests, that is to say, takes no measures to prevent their instruction (for that, in such a state of society as ours, includes all that is necessary), it will have nothing to fear from the little societies which the people may form, to insure one another against some of the calamities to which they are most commonly exposed. Besides, if ever the people are stimulated to combine against the government, they will find better mediums of combination than the Benefit Societies, which appear to have an unnecessary and improper jealousy of one another.

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

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

This deserves a few words of illustration.

For a long time, the unhappy state of the English law rendered the Benefit Societies a mere object of prey. Any person whatsoever, who found it agreeable to cheat them, might do so with perfect impunity. They had no means of redress. This was owing to one of the fopperies or quaint conceits of the English law, bred in times of ignorance and imposture, [II-269] and hugged with ecstasy by the lawyers, in spite of the wisdom of an enlightened age. In consequence of the conceit to which we allude, no assemblage of men could be regarded as one body, or entitled to sue for property possessed in common, unless they had certain ceremonies performed in regard to them,—ceremonies exquisitely useless; after the performance of which, the lawyers would give them a nickname (that of a corporation), and would then permit them to sue as one party, for any cause of action common to them all. The ceremonies, the performance of which gave an assemblage of persons this potent name, depending upon the will of great men, were not easy to be got; nor was the getting of them without an expence fatal to such institutions as Benefit Clubs. They remained, therefore, deprived of the benefit of law till the year 1793, when an act was passed which had two objects in view. One was to take securities against certain dangers at that time intensely associated with the idea of any thing called an assemblage of the people. Another was, to give to Benefit Societies, though without the name corporation, which performs legerdemain, if not magic, in the kingdom of the lawyers, something of the protection of law. The treasurers and trustees, as vested with the property of the society, were enabled to bring or defend any action, suit, or prosecution, relative to the property of the society. But to obtain this advantage, it was rendered incumbent upon the society to make known all its rules to the justices of the peace, and obtain their approbation.

Inconveniences
experienced
from
peculiarities of
English Law.

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

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

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

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

(FF.)

CASTE.↩

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

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

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

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

It is stated in the common histories of Greece, that Cecrops distributed into four hereditary classes, or tribes, all the inhabitants of Attica. And we are informed by Plutarch, in his Life of Theseus, that by this prince, the class of priests, and that of nobles, in other words the magistrates or military leaders, were united into one: whence the society was composed of three classes; 1. The sacerdotal, legislating, and ruling class; 2. The class of husbandmen; and, 3. The class of tradesmen. “To the nobility,” says the illustrious biographer, “he committed the choice of magistrates, the teaching and dispensing of the laws, and the interpretation of all holy and religious things; the whole city, as to all other matters, being as it were reduced to an exact equality; the nobles excelling the rest in honour, the husbandmen in profit, and the artificers in number. And Theseus was the first who, as Aristotle says, out of an inclination to popular government, parted with the regal power; which Homer also appears to attest, in his catalogue of the ships, where he gives the name of PEOPLE to the Athenians alone.” There is a passage near the beginning of Plato’s *Timæus*, which, though in a work of fancy, is not without some weight, as evidence either of conclusions which were drawn by men of research, or of traditions which were current among the people. In this passage, not only is it asserted, that, in the primeval state of the inhabitants of Attica, they resembled the Egyptians in the division into hereditary classes [II-648] and professions; but a very accurate description is given of those classes, five in number; viz. 1. The class of priests; 2. The class

of handicrafts; 3. The class of shepherds and hunters; 4. The class of ploughmen; 5. The military class. Πρωτον μεν το των ιερεων γενος, απο των αλλων χωρις αφωρισμενον· μετα δε τϑτο το των δημϑργων, οτι καθ' αντο εϑασον, αλλω δε τϑ επιμεμυμενον, δημϑργει το τε των νομεων και των θηρευτων· το τε των γεωργων· και δη το μαχιμον γενος, απο παντων των γενων κεχωρισμενον, οϑς υδεν αλλο πλην τα περι τον πολεμον υπο τϑ νομϑ προσεταχθη μελειν.

We are informed by Aristotle, that the people of Crete were divided into castes, after the manner of the Egyptians, by the laws of Minos. Εοικε δε τ νυν ϑδε νεωgreeκτι τϑτ' ειναι γνωριμον τοϑς περι πολιτειας φιλοσοφϑσιν, οτι δει διηρησθαι χωρις κατα γενη την πολιν, και το τε μαχιμον ετερον ειναι, και το γεωργϑν· εν Αιγυπτω τε γαρ εχει τον τροπον τϑτον ετι και νυν· τα τε περι την Κρητην. Τα μεν τϑν περι Αιγυπτον, Σεσωσριοϑ, ωϑ φασι, υτω νομοθετησαντοϑ· Μινω δε τα περι Κρητην. *Polit.* vii. 1.

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

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

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

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

After this evidence of the general diffusion of the institution of castes, in the rude ages of the world, especially in Asia, there is a temptation, from the following passage of Herodotus, (Lib. I. cap. 101.) to infer its existence among the Medes, at the commencement of the

monarchy. Εστὶ δὲ Μηδῶν τσσαδε γενεα, Βῦσαι, Παρητακηνοι, Αδιζαῤτοι, Βῦδιοι, Μαγοι. There is nothing in the passage which serves to fix the meaning of the word γενεα; and the names, it is plain, are words of the ancient Median language. But we know that the Μαγοι were the priests; and hence there is reason to conclude, that the other words also are names of classes and professions; in other words, of hereditary castes.

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

Human nature is very uniform in the phenomena which it exhibits. The new world displays a striking resemblance to the old. The same stage of society presents nearly the same results. There is reason to conclude, that something which resembled the institution of castes existed among the ancient inhabitants of Peru and Mexico. The Count Carli, the celebrated author of the *Lettres Americaines*, when treating (Lett. xiii. and xiv.) of the laws of the Peruvians says: “Les citoyens furent distribues en classes ou tribus. * * * Il n’etoit pas permis, ni par mariage, ni par changement d’habitation, de confondre [II-649] une classe avec l’autre: car la loi defendoit de se marier dans une autre famille que celle d’ou l’on sortoit. * * * N’oublions pas le soin qu’ou avoit de l’education des enfans. C’etoit toujours le pere qui elevoit son fils. L’education consistoit à apprendre aux enfans rôturiers le metier que chaque pere de famille exerçoit,” &c. We are informed by Clavigero (*Hist. of Mexico*, B. iv. § 5.), that “the sons in general learned the trades of their fathers, and embraced their professions; thus they perpetuated the arts in families, to the advantage of the state.”

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

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

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

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

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

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

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

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

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

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

In the early stages of society, however, the wants of men are few; and the ideas of the legislator himself are incapable of extending to a great variety of cases. In such periods, the power of superstition is always exceedingly great. Unacquainted with the laws of nature, and exposed to the most dreadful vicissitudes, which they are altogether unable to foresee, human life appears to men in that situation to hang altogether upon invisible powers. The human mind is incessantly occupied with conjectures respecting what those unknown powers will produce, and with tormenting apprehensions that they will produce evil rather than good. The persons who, in this state of things, are skilful enough to create a persuasion that they are better acquainted than others with the will of these powers, more especially if accompanied with a persuasion that they have an influence over that will, and can turn it more or less whichever way they please, become an object of supreme regard. Nothing can be done

without them. They are the most important class in the community. When society is first divided into classes, for the sake of the division of labour, the priests, therefore, are always a separate class, and always in the place of highest distinction.

After the evils to which men in the rude state of society conceive themselves liable from the unknown and invisible authors of physical events, the evils to which they are liable from the incursions of hostile men, appear the next in magnitude. While the institutions [II-650] of society are imperfect, and the human mind is weak, these evils are very great, and present a terrific picture to an imagination perpetually haunted with fear. In the rude ages of society, therefore, the soldier is always a character of great importance. He is the barrier against those evils which rank next in order after the evils against which the priest affords relief. When classes are first formed, the military are, therefore, always a separate class, and next in rank and veneration to the class of the priests. It is remarkable, that the rank and consequence of both classes are founded upon fear. It is also remarkable, though a natural consequence, that, in all ages, they are most apt to be venerated by the most timid persons,—the most timid sex, for example; over whose imagination the priest and the soldier have a proverbial away. It is farther observable, and a necessary consequence, that as the fears with respect to invisible powers, and with respect to the incursions of hostile men, gradually decline as society advances, and have less and less effect upon the imaginations even of those who are most apt to be governed by the passion of fear, so the respect for the castes of priest and soldier are destined to sink in relative importance, as the institutions of society are improved, and the human mind becomes strong.

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

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

It is obvious, that reflection upon the laws of human nature would lead us to draw a picture, nearly the same with this, if we were called upon to describe the state of society, at the time when the division of labour is first introduced, even if we had no specific facts to direct our inquiries. In a remarkable passage in Plato, in his second book *De Republica*, he ascribes the origin of political association and laws, to the benefits which were sought for by the division of labour. Γεγνεται πολις, ὡς ἐγ' ὦμαι, ἔπειδαν, τυγχανει [Editor: illegible word] ἕκαστος, ἔκ αὐταρχησ, ἀλλὰ πολλῶν ἐνδοσης. As men cannot be supplied with accommodations in any tolerable degree, but by the division of labour and employments, one man producing one thing, another another, and every man getting what he wants, by exchange with other men, an association of a certain number of men is necessary for well being; and hence society and laws. In exact coincidence with the deduction which we have presented above, he says, that the simplest form of a society would consist of four or five orders of men. Ἀλλὰ [Editor: illegible word] πρώτη [Editor: illegible word] καὶ [Editor: illegible word] τῶν [Editor: illegible word] τῆς τροφῆς [Editor: illegible word] [Editor: illegible word], [Editor: illegible word] δι [Editor: illegible word] [Editor: illegible word] [Editor: illegible word]. Ἐπὶ [Editor: illegible word] ἡ [Editor: illegible word] ἀνωγατοτατῆ [Editor: illegible word] ἔκ [Editor: illegible word] ἡ [Editor: illegible word] ἀνδρῶν. The coincidence is very nearly complete between the speculation and the practice; between what is in this manner inferred, and what is recorded of ancient nations, and witnessed among the Hindus.

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

So far the *aim*, at any rate, was good. The benefit of the whole society was the object which all these regulations were accounted useful to promote, and no degradation of any of the classes was either intended by any of these enactments, or necessary for the ends which they were destined to serve.

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

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

As we derive our most minute and practical acquaintance with the shape into which society is [II-651] moulded by the establishment of castes, from our intercourse with the Hindus, the particulars which are at this day exhibited in Hindustan, and provided for by their laws, afford the most certain means of acquiring precise and specific ideas concerning this remarkable institution.

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

assigns to a Sudra, namely, to serve the before-mentioned classes, without depreciating their worth.”

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

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

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

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

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

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

3. The Vaisyas, the agricultural and commercial class. It is still less [Agricultural Caste](#). necessary to multiply particulars [II-652] under this head. When the two extremes are sufficiently explained, what modifications of respect or disrespect belong to the intermediate stages, may be easily inferred.

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

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

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

Though this is the primary and original formation of castes, the institution, unless where it happens to be early broken up, does not rest here. The distribution of the members of the community into four classes only, and the appropriation of their services to four species of employment, though a great step in improvement at the time they were instituted, must have become productive of many inconveniences, as the wants of society multiplied. The bare necessities of life, with a few of its rudest accommodations, are all the means of gratification which it affords, or is capable of affording to mankind. As the desires of mankind, however, speedily extend beyond such narrow limits, a struggle must have early ensued between the first principles of human nature, and those of the political establishment.

Inconveniences
which flow from
this Institution
as Society
advances.

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

When a class of this description became numerous, they must have filled society with the greatest disorders. The nature of the case would have drawn the philosophical mind to this conclusion, had no testimony existed. It so happens, however, that this is one of the few facts in the ancient history of the Hindus, which can be ascertained from their records. In the preface to that compilation of the *Hindu Laws*, which was translated by Mr Halhed, it is stated that, after a succession of good kings who secured obedience to the laws, and under whom the people enjoyed felicity, came a monarch, evil and corrupt, under whom the laws were violated, the mixture of the classes was perpetrated, and a new and impious race were produced. The Brahmens put this wicked king to death; and, by an effect of miraculous power, created a successor, endowed with the most excellent qualities. Nevertheless the kingdom did not prosper, by reason of the Burren Sunker (so were the impure and irregular brood denominated); and it required all the wisdom of this sage and virtuous king to devise a remedy. He resolved to form a classification of the mixed race; and to assign them occupations. This accordingly was the commencement of arts and manufactures. The Burren Sunker became all manner of artisans and handicrafts. Of the classes into which they were distributed, one was appointed to the weaving of cloth, another to works in iron, and so in all other cases; [II-653] till the subdivisions of the race were exhausted, and the wants of the community were provided for. Among the Hindus, thirty-six castes of the impure race are enumerated, all inferior in rank and privileges even to the Sudra. To proceed farther in the detail, would be inconvenient and useless. By this supplement to the institution of the four primary castes, two great evils were remedied at once; the increasing wants of an improving society were supplied, and a class of men, who had been the pest of the community, were converted to its service.

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

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

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

[General View of the Effects of this Institution.](#)

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

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

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

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

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

of one generation are not transmitted to another more surely when they are transmitted from father to son, than when they are transmitted in the way of promiscuous instruction. Nor does it necessarily, or even commonly, happen, that the learner gets more careful instruction from his father, than he would from a man who is not his father; or, that he himself is more intent in his application, and careful to learn, because it is his father who instructs him.

In the sciences and the fine arts, the power of excelling in which depends upon rare combinations of circumstances, to limit the number of competitors, and shut up the field from all but the members of a particular tribe, is obviously a powerful expedient for diminishing the chance of progression. In regard to literature and knowledge the case is clear and decisive. To confine the prosecution of it to a particular tribe, is to insure a perpetuity of ignorance and misery to the human race. It will be decidedly the interest of the knowing class to maintain as much ignorance as possible among the rest of the community, that they may be able the more easily to turn and wind them conformable to their own purposes; and, for that end, to study, not real knowledge, not the means of making mankind wiser and happier, but the means of deluding and imposing upon them; the arts of imposture. With this clear and incontrovertible inference, how exactly does the historical fact correspond? [II-654] How truly and faithfully have the Brohmens acted up to that rule? They have made it a law revealed from heaven to keep the great bulk of the community in ignorance. And what branch of knowledge have they ever studied but the science of delusion? There is first their theology; a mass of absurd fictions to chain the imagination of ignorant and foolish men. And then there is astrology, which concludes the circle of all their studies, and may be justly styled the "Second Part of the Act of Imposture;" even their mathematics, in which they made some little progress, being studied in no other shape than as a part of the business of astrology.

Another circumstance appears to merit no slight regard. The institution of castes is calculated to multiply the evils, so dreadful in magnitude, which are apt to arise from the principles of population, and is opposed to the measures which are calculated to lessen or prevent them. The evils which are apt to be produced by an occasional superabundance of people in any one of the departments of industry and subsistence, are exceedingly diminished, when the greatest possible facility is given to the supernumerary individuals, of distributing themselves through all the other departments of industry and subsistence. And these evils, it is obvious, are all raised to the greatest height when the possibility of that distribution is taken away; and individuals, in whatsoever degree superabundant, are still confined to their own department. As this is a topic, the elucidation of which is easy to carry on, we shall content ourselves with the bare hint which has thus been given, and leave the development to the reflections of the reader.

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

It was intended, after thus presenting the reasons on which we conclude that the institution of castes is an arrangement altogether opposite to the interests of human nature, to have stated and answered the reasons which have been advanced by Dr Robertson, in the *Appendix* to his *Historical Disquisition Concerning India*, and very recently by the Abbé Dubois, in his *Description of the Character, &c. of the People of India*, to prove that the

institution of castes is really beneficial. But after looking over these reasonings, with a view to that answer, they have appeared to us to be so weak and insignificant, as to be altogether unworthy, the trouble of transcription. A sufficient answer to every point which they adduce, will be found in the considerations which we have already urged upon the subject; and we doubt not, that we may safely intrust the decision to the judgment of the reader.

(F. F.)

COLONY.↩

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

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

Again, however, the term *Colony* is sometimes employed in a sense in which the idea of a body of people, drawn from the mother country, hardly seems to be included. Thus, we talk of the British colonies in the east, meaning, by that mode of expression, the East Indies. Yet it can hardly be said, that any body of people is drawn from the mother country to inhabit the East Indies. There is nobody drawn to *inhabit*, in the proper sense of the word. A small number of persons, such as are sent to hold possession of a conquered country, go; and, in this sense, all the conquered provinces of the ancient Roman empire might be called, what they never have been called, colonies of Rome.

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

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

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

In the nature of an establishment of this description [III-258] there is no mystery, and hardly anything which requires explanation. The colonists lived in a Roman province, under Roman laws, and differed not materially from the people of any other local jurisdiction. Being once got rid of, no farther advantage was expected from them than from the other inhabitants of the country, in paying taxes for example, and furnishing men for the army. In some few instances, some benefit in the way of defence was looked to in the planting of colonies, when they were established in newly conquered countries, the people of which were not yet patient under the yoke, or when they were placed in the way of invading enemies. But not much advantage of this sort can be derived from a colony, which in general has more need to receive than ability to yield protection.

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

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

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

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

In regard to those detachments of the population of the Grecian states which made themselves, either from political disgust, or political oppression, there is nothing which stands in need of explanation. The motive which gave rise to them is familiar and obvious; and the sort of relation in which they and the mother country stood to one another, importing mutual benevolence, but no right in the one to command, or obligation on the other to obey, every body can immediately understand.

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

A population is said to be redundant—When? Not when it is numerically of either great or small amount; but solely and exclusively when it is too great for the quantity of food. Any one country produces or procures a certain quantity of food in the year. If it has a population greater than such [III-259] a quantity of food is sufficient to maintain, all that number which is over and above what it is capable of maintaining is a redundancy of population.

A curious phenomenon here presents itself. A redundancy of population, in the states of ancient Greece, made itself visible even to vulgar eyes. A redundancy of population in modern Europe never makes itself visible to any but the most enlightened eyes. Ask an ordinary man, ask almost any man,

Effects of the
Principle of
Population in
Greece.

if the population of his country is too great,—if the population of any country in Europe is, or ever was too great?—so far, he will tell you, is it from being too great, that good policy would consist in making it, if possible, still greater; and he might quote, in his own support, the authority of almost all governments, which are commonly at pains to prevent the emigration of their people, and to give encouragement to marriage.

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

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

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

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

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

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

In ancient Greece the greatest portion of the food was bought by the great body of the people; the state of whom, wretched or comfortable, legislation has never yet been wise enough much to regard. All manual labour, or at least the far greatest portion of it, was performed, not by free labourers serving for wages, but by slaves, who were the property of the great men. The deficiency of food, therefore, was not distributed in the shape of general

poverty and wretchedness over the great body of the population, by reduction of wages; a case which affects, with very slight sensations, those who regard themselves as in no degree liable to fall into that miserable situation. It was felt, first of all, by the great men, in the greater cost of maintaining their slaves. And what is felt as disagreeable by the great men is sure never to continue long without an effort, either wise or foolish, for the removal of it. This law of human nature was not less faithfully observed in the states of ancient Greece for their being called republics. Called republics, they were, in reality, aristocracies; and aristocracies of a very bad description. They were aristocracies in which the people were cheated, with an idea of power, merely because they were able, at certain distant intervals, when violently excited, to overpower the aristocracy, in some one particular point; but they were aristocracies in which there was not one efficient security to prevent the interests of the many from being sacrificed to the interests of the few; they were aristocracies, accordingly, in which the interests of the many were habitually sacrificed to the interests of the few; meaning by the many, not the slaves merely, but the great body of the free citizens. This was the case in all the states of Greece, and not least in Athens. This is not seen in reading the French and English histories of Greece. It is not seen in reading Mitford, who has written a *History of Greece* for no other purpose, but that of showing that the interests of the many always *ought* to be sacrificed to the interests of the few; and of abasing the people of Greece, because every now and then, the many in those countries showed, that they were by no means patient under the habitual sacrifice of their interests to the interests of the few. But it is very distinctly seen among other places, in reading the Greek orators, [III-260] in reading Demosthenes for example, in reading the *Oration* against Midias, the *Oration on Leptines*, and others, in which the licence of the rich and powerful, and their power of oppressing the body of the people, is shown to have been excessive, and to have been exercised with a shameless atrocity, of which the gentleness and modesty of the manners of modern Europe, even in the most aristocratically despotic countries, do not admit.

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

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

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

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

In the first place, it should be very distinctly understood what it is we mean, when we say, in regard to such a country as Great Britain, for example, that the supply of food is too small for the population. Because it may be said immediately, that the quantity of food may be increased in Great Britain; a

General
Remarks on the
Principle of
Population.

proposition which no man will think of denying.

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

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

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

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

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

There can be no doubt that, by employing next year a greater proportion of the people upon the land than this year, we should raise a greater quantity of food; by employing a still greater proportion the year following, we should produce a still greater quantity of food; and, in this way, it would be possible to go on for some time, increasing food as fast as it would be possible for the population to increase. But observe at what cost this would be. As the land, in this course, yields gradually less and [III-261] less, to every new portion of labour bestowed upon it, it would be necessary to employ gradually not only a greater and greater *number*, but a greater and greater *proportion* of the people in raising food. But the greater the

proportion of the people which is employed in raising food, the smaller is the proportion which can be employed in producing anything else. You can only, therefore, increase the quantity of food to meet the demand of an increasing population, by diminishing the supply of those other things which minister to human desires.

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

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

It is no use, then, to tell us that we have the physical power of increasing food as fast as population. As soon as we have arrived at that point at which the due distribution of the population is made between those who raise food, and those who are in other ways employed in contributing to the well-being of the members of the community, any increase of the food, faster than is consistent with that distribution, can only be made at the expence of those other things, by the enjoyment of which the life of man is preferable to that of the brutes. At this point the progress of population ought undoubtedly to be restrained. Population may still increase, because the quantity of food may still be capable of being increased, though not beyond a certain slowness of rate, without requiring, to the production of it, a greater than the due proportion of the population.

Suppose, then, when the due proportion of the population is allotted to the raising of food, and the due proportion to other desirable occupations, that the institutions of society were such as to prevent a greater proportion from being withdrawn from those occupations to the raising of food. This it would, surely, be very desirable that they should effect. What, now, would be the consequence, should population, in that case, go on at its full rate of increase,—in other words, faster than with that distribution of the population, it would be possible for food to be increased? The answer is abundantly plain: All those effects would take place which have already been described as following upon the existence of a redundant population, in modern Europe, and in all countries in which the great body of those who have nothing to give for food but labour, are free labourers:—that is to say, wages would fall; poverty would overspread the population; and all those horrid phenomena would exhibit

themselves, which are the never failing attendants on a poor population.

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

What are the best means of checking the progress of population, when it cannot go on unrestrained, without producing one or other of two most undesirable effects,—either drawing an undue proportion of the population to the mere raising of food, or producing poverty and wretchedness, it is not now the place to inquire. It is, indeed, the most important practical problem to which the wisdom of the politician and moralist can be applied. It has, till this time, been miserably evaded by all those who have meddled with the subject, as well as by all those who were called upon by their situation to find a remedy for the evils to which it relates. And yet, if the superstitions of the nursery were discarded, and the principle of utility kept steadily in view, a solution might not be very difficult to be found; and the means of drying up one of the most copious sources of human evil; a source which, if all other sources of evil were taken away, would alone suffice to retain the great mass of human beings in misery, might be seen to be neither doubtful nor difficult to be applied.

The only question for which we are here required to find an answer, is that of colonization. When the population of a country is full, and its increase cannot go on, at its most rapid pace, without producing one of the two evils of redundancy, a portion of the people, sent off to another country, may create a [III-262] void, which, till population fills up, it may go on as rapidly as before, and so on for any number of times.

Connection of
this Principle
with
Colonization.

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

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

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

It has been often enough, and clearly enough, explained, that it is only capital which gives employment to labour; we may, therefore, take it as a postulate. A certain quantity of capital, then, is necessary, to give employment to the population which any removal for the sake of colonization may leave behind. But if, to afford the expence of that removal, so much is taken from the capital of the country, that the remainder is not sufficient for the employment of the remaining population, there is, in that case, a redundancy of population, and all the evils which it brings. For the well-being of the remaining population, a certain quantity of food is required, and a certain quantity of all those other things which minister to

human happiness. But to raise this quantity of food, and this quantity of other things, a certain quantity of capital is indispensably necessary. If that quantity of capital is wanting, the food, and other things, cannot be obtained.

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

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

Expediency of a Colony for Delinquents examined.

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

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

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

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

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

We have a high authority for this affirmation. The committee of the House of Commons, who were appointed in the session of 1812 “to inquire into the manner in which sentences of transportation are executed, and the effects which have been produced by that mode of punishment,” stated solemnly [III-263] in their *Report*, that “No difficulty appears to exist among the major part of the men who do not wish to remain in the colony, of finding means to return to this country. All but the aged and infirm easily find employment on board the ships visiting New South Wales, and are allowed to work their passage home. But such facility is not afforded to the women. They have no possible method of leaving the colony but by prostituting themselves on board the ships whose masters may choose to receive them. They who are sent to New South Wales, that their former habits may be relinquished, cannot obtain a return to this country, but by relapsing into that mode of life which, with many, has been the first cause of all their crimes and misfortunes. To those who shrink from these means, or are unable, even thus, to obtain a passage for themselves, transportation for seven years is converted into a banishment for life, and the just and humane provisions of the law, by which different periods of transportation are apportioned to different degrees of crime, are rendered entirely null.”

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

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

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

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

The great importance of this above the previous case, consists in this, that when you take security against the crimes of the convicted delinquent, you take security against the crimes of only one man, and that a man in your hands, with whom you can deal as you please. When, by means of the mode of dealing with him, you deter all other men from following similar courses, you provide security, not against one man alone, but many men, any number of men, of men undetected, and not in your power, each of whom may be guilty of many crimes before he can be stopt.

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

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

[Examination of the supposed Advantages of Colonies.](#)

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

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

1. We shall consider the first supposition; that of their yielding a tribute to the mother country. This will not require many words, as it is a supposition which few will be found to entertain. In regard to the West Indies, no such idea as that of a tribute [III-264] has ever been formed. Even in regard to those taxes, which a vain and unprofitable attempt was made to impose upon the formerly existing colonies in North America, they were never dreamt of as a tribute, and never spoken of but in a sense contrary to the very idea of a tribute, that of reimbursing to the mother country a part, and no more than a part, of that which they cost her in governing and defending them.

[No Advantage to be got in the shape of Tribute.](#)

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

So far is India from yielding a tribute to Great Britain, that, in loans and aids, and the expence of fleets and armies, it has cost this country enormous sums. It is no doubt true, that some acts of Parliament have assumed the existence of a tribute from India, or what has been

called a surplus revenue, for the use of the nation. But Parliament, we have pretty good experience, cannot make things just by affirming them. *Things* are a little more stubborn than the credulity of Englishmen. That is, in general, obedient enough to the affirmation of these who lead the Parliament, and who have sometimes an interest in leading it wrong. *Facts* take their own course, without regard to the affirmations of Parliament, or the plastic faith of those who follow them.

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

Let any body but consider what is included in the word government. And, when he has done that, let him then tell himself that the colonies must be governed. If he has the sufficient quantity of knowledge and reflection, no further proof will be necessary.

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

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

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

One other supposition may be urged in favour of the tribute. The expence, it may be said, of governing the colony by a deputation from the mother country, may be escaped, by allowing the colony to govern itself. In that case, the colony will not choose to pay a tribute. If the tribute rests upon the ground of friendship, it will not be lasting. If the mother country extorts it by force, the colony is, in fact, governed by the mother country; and all the expence of that mode of government is ensured. If it be urged that the colony may continue to pay a [III-265] tribute to the mother country, and that voluntarily, because the mother country may be of use to it; that, we may answer, is a bargain, not a tribute. The mother country, for example, may yield a certain portion of defence. But the colony is saved from the expence of providing for itself that defence which it receives from the mother country, and makes a good bargain if it gets it from the mother country cheaper than it would be provided by itself. In this case, too, the expence incurred by the mother country is apt to be a very full equivalent for the tribute received. It is evident, that this sort of bargain may subsist between any two states whose circumstances it may suit, and is not confined to a mother and daughter country. It is therefore no part of the question relating to colonies.

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

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

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

In the idea of deriving a peculiar advantage from the trade of the [View of Dr Smith's Reasonings.](#) colonies, is necessarily included the idea of monopoly. If the trade of the colony were to be free, other nations would derive as much advantage from it as the mother country; and the mother country would derive as much advantage from it, if the colony were not a colony.

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

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

of profits in the colony.

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

His argument is, that the monopoly of the colonial trade necessarily raises the profits of stock in the mother country; and that “whatever,” to use his own expression, “raises in any country the ordinary rate of profit higher than it otherwise would be, necessarily subjects that country both to an absolute and to a relative disadvantage, in every branch of trade of which she has not the monopoly.”

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

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

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

In answer to this objection, Dr Smith endeavours to prove, that the employment into which the capital of England is forced by the monopoly, is less advantageous to the country than that into which it would have gone of its own accord. As the foundation of his reasoning, he assumes, that “the most [III-266] advantageous employment of any capital to the country to which it belongs, is that which maintains there the greatest quantity of productive labour, and increases the most the annual produce of the land and labour of that country.” Upon this principle, he maintains, that the home trade is more advantageous than any trade of export and import, because the same capital puts in motion two portions of industry, that of the buyer and that of the seller. That the trade of export and import, in which the returns of capital take place at short intervals, is more advantageous than a trade in which they take place at distant intervals; as a capital which returns, for example, twice in the year, puts in motion twice as much industry in the mother country, as one which returns only once in the year: And that a carrying trade is the least advantageous of all trades, because it serves to put in motion, not the industry of the country to which it belongs, but the industry of the two countries, the communication between which its employed to maintain. The colony is, therefore, less advantageous than the home trade; it is less advantageous than the trade with the neighbouring countries of Europe; and a great proportion of it is less advantageous than

any trade of export and import, because it is a mere carrying trade. The employment into which the capital of Great Britain is forced by the monopoly of the colony trade, is, therefore, a less advantageous employment than that into which it would have gone of its own accord.

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

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

But there is another case; namely, that in which the trade of the colony is placed in the hands of an exclusive company. In that case it is, on the other hand, true, that the mother country may obtain a given quantity of the goods of the colony for a less quantity of her own goods than otherwise she would do. In this case, the goods of the mother country are placed, with regard to the goods of the colony, in the situation in which those commodities which can only be produced in a limited quantity, particular wines, for example, which can only be produced on one particular spot, are placed with regard to all the rest of the goods in the world. It is evident that any quantity of the rest of the goods in the world may be given for those wines, if people are sufficiently desirous to possess them; that there is no limit, in short, to the quantity, but the unwillingness of people to part with more of the things which they possess to obtain the commodities which are thus in request. The same would be the case with a colony, the trade of which was entirely in the hands of an exclusive company. The exclusive company, by limiting the quantity of the goods of the mother country which they chose to send to the colony, might compel the colony to give for that limited quantity any quantity of the produce of their own land and labour, which their desire to obtain the goods of the mother country would admit. If the goods of the mother country were goods which excited a very strong desire, if they were goods of the first necessity, the necessary materials of food or the instruments of their industry, there would be no limit but one to the greatness of the quantity of their own produce which they might be compelled to pay for a given quantity of the produce of the mother country. When nothing was left to the colony of the whole produce of its labour but just enough to keep the labourers alive, it could not go any farther. Up to that point, if dependent for articles of the first necessity, it might, by an exclusive company, undoubtedly be stripped.

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

The facts would be these. Whatever foreign goods the colony bought, she would be still obliged to purchase from the mother country. No doubt, the competition of the merchants of the mother country would, in this case, compel them to sell as cheap to the colony as to any other country. Wherein, then, would consist the advantage? In this, that England might thus sell in the colony, with the usual profits of stock, certain kinds of goods, which not being able to manufacture so cheaply as some other countries, she would cease to manufacture, except

for the monopoly. But still a very natural question arises,—What advantage does she derive from forcing this manufacture, since she makes by it no more than the ordinary profits of stock, and might make the ordinary profits of stock by the same capital in some other employment? The answer is, that she might by this means obtain a greater quantity of the goods of the colony, by a given quantity of the produce of her own labour, or, what comes to the same thing, an equal quantity of the goods of the colony, by a less quantity of the produce of her own labour, than she could in a case of freedom.

It may be seen to be so in this manner. England desires to purchase, say 10,000 hogsheads of sugar. This is her consumption. For this she will give, of the produce of her own labour, whatever quantity it is necessary to give. She wishes, however, to give as little as possible; and the question is, in what way [III-267] she may give the least. The sugar is worth, say L. 500,000. England sends goods to the colony which sell for L.500,000. Now, apply the supposition introduced above. Suppose that, if trade were free, these goods from England, which the manufacturers and merchants of England cannot afford to sell for less than L. 500,000, could be had for L. 400,000 from some other country. In that case, it is evident that the same quantity of these same goods with which England, under the monopoly, purchased 10,000 hogsheads of sugar, would now purchase only 8000; for that is the ratio of the L. 400,000 to the L. 500,000. What then would happen, supposing England still to resolve upon having 10,000 hogsheads of sugar? One of two things must of necessity happen. Either she will purchase the sugar with the same goods, or she will not. If she purchases it with the same goods, it is evident that she must give a greater quantity of goods; she must give one fifth more of the produce of her labour; one fifth more of her industrious people must be withdrawn from administering to other productions, and employed in enabling her to obtain the same quantity of sugar. This quantity of produce, in that case, the mother country saves by means of the monopolized trade of the colony. This quantity she loses by losing such a colony. But, undoubtedly, the mother country would, in such a case, endeavour to purchase the sugar, not with such goods as she purchased it with before, but other goods. She would endeavour to purchase it with goods which she could manufacture as cheaply as any other country. But supposing the colony had no demand for any goods which the mother country could afford as cheap as any other country, even in that case the mother country would still have a resource. If there was any country in which she could sell such goods for money, she could purchase the same quantity of sugar for the same quantity of the produce of her own labour as before.

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

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

It is very evident, in the first place, that, whatever the mother country gains, the colony loses. Now, if the colony were part of the dominions of a foreign state, there is a certain way of viewing such questions, in which that result would appear to be perfectly desirable. But, suppose that the colony, which is the fact, is not part of the dominions of a foreign state, but of the same state; that it is, in truth, not part of a different country, but of the same country; its subjects, not part of a different community, but of the same community; its poverty or riches, not the poverty or riches of another country, but of the same country; How is the result to be viewed in that case? Is it not exactly, the same sort of policy, as if Yorkshire were to be drained and oppressed for the benefit of

No ultimate Advantage derived from the exclusive Trade of Colonies.

Middlesex? What difference does it make, that one of the portions of the same empire is somewhat farther off than another? Would it, for that reason, be more rational to pillage Caithness, than to pillage Yorkshire, for the sake of Middlesex? Does the wealth of a state consist in the wealth of one part, effected by the poverty of another part? Does the happiness of a state consist in the happiness of one part, effected by the misery of another? What sort of a rule for guiding the policy of any state would this be supposed? Assuredly this would be a contrivance, not for increasing her wealth and happiness, upon the whole. It would be a contrivance for diminishing it. In the first place, when of two parties equally provided with the means of enjoyment, you take a portion from the one, to give it to the other, the fact is,—a fact too well established, and too consonant with the experience of every man, to need illustration here,—that you do not add to the happiness of the one, so much as you take from the happiness of the other; and that you diminish the sum of their happiness taken together. This, in truth, is the foundation, upon which the laws for the protection of property rest. As the happiness of one man is, or ought to be, of no more value to the state, than the happiness of another man, if the man who takes from another man a piece of property, added to his own happiness, as much as he took from the happiness of the other, there would be no loss of happiness upon the whole, and the state would have no ground, in utility, on which to interfere.

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

By means of such a policy, a portion of the capital of the state is employed in a channel in which it is less productive than it would have been in the channel into which it would have gone of its own accord. It is a point established in the science of Political Economy, that it is not good policy to confine consumption to any sort of home manufacture, when it can be purchased more cheaply abroad. It is upon this ground that we have laughed at the late and present outcries of the Germans, because the English sell their goods cheaper than they can make them. The reason is, because when a country continues to consume an article made at home, which it could get cheaper from another country, it does neither more nor less than insist, that it shall employ a certain number of men's labour in providing it with that article, more than it would be necessary to employ if it imported the article; and, [III-268] of course, it loses completely the benefit of these men's labour, who would be employed in producing for it something else, if they were not employed in producing that article. The country is, therefore, the poorer, by the whole value of these men's labour. The case is exactly the same, where the colonies are confined to the manufactures of the mother country. When the colony is obliged to employ, for the purpose of obtaining a certain quantity of goods from the mother country, the labour of a greater number of men than she would be obliged to employ to get the same quantity of goods from another country, she loses the labours of all that additional number of men. At the same time, the mother country does not gain it; for, if the mother country did not manufacture for the colony, her capital would be liberated to another employment, and would yield the same profits in that as it did in the former employment.

We have still, however, to examine that extraordinary case which we before supposed, in which the mother country cannot produce any sort of commodity whatsoever as cheap as other countries; and, if trade were free, of course would sell nothing in a foreign market. The case here is somewhat altered. In liberating the colony from the monopoly of the mother country, there would be no change of capital from a less to a more productive employment; because, by the supposition, the mother country has not a more productive employment to

which her liberated capital can be sent. Events would succeed in the following order: The colony would obtain the goods which it demanded, with a smaller portion of its own labour, — would hence be more amply supplied with goods. But it is not supposed that this event would give to its industry a more beneficial direction. In the case of a sugar colony, at any rate, its industry would remain in the same channels as before. Such would be the effects in regard to the colony. What would they be in regard to the mother country? If her capital is no longer employed in manufacturing for the colony, she can always, indeed, employ it with the same profit as before. But she still desires the same quantity of sugar; and her goods will not go so far as before in the purchase of it. Whatever fall would be necessary in the price of her goods to bring them upon a level with the goods of other countries, is equivalent, as far as she is concerned, to a rise of the same amount, in the price of sugar. In this case, the mother country would lose exactly as much as the colony would gain. The community, taken as a whole, would be neither the richer nor the poorer, for driving things out of the free into the compulsory channel. The people of the mother country would be so much the richer,—the people of the colony would be so much the poorer.

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

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

To these conclusions, one or two of the doctrines of Dr Smith will be [Farther Remarks on Dr Smith.](#) seen to be opposed, and, therefore, require a few words of elucidation.

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

Both parts of this doctrine may be disputed. In the first place, it may be disputed, whether the monopoly of the colony trade has any tendency to raise the profits of stock in the mother country. In the next place, it may be disputed, whether a high rate of profits in any country, has any tendency to lay it under any disadvantage in its traffic with other nations.

First, it may be disputed, whether the monopoly of the colony trade would increase profits. The expulsion of foreign capital would create a vacuum, whence, according to Smith, a rise of profit, and an absorption of capital from the mother country. The question is, whether capital would not flow into the colonies from the mother country, till it reduced the profits in the colony, to the level of the profits in the mother country, instead of raising those in the mother country, in any degree toward a level with those of the colony. That it would do so appears to be capable of demonstration. Mr Ricardo's argument would be very short. Nothing, he would say, can raise the profits of stock, but that which lowers the wages of

labour. Nothing can lower the wages of labour, but that which lowers the necessaries of the labourer. But nobody will pretend to say that there is any thing in the monopoly of the colony trade, which has any tendency to lower the price of the necessaries of the labourer. It is, therefore, impossible that the monopoly of the colony trade can raise the profits of stock. By those who are acquainted with the profound reasonings of Mr Ricardo, in proof of the two premises, this argument will be seen to be complete. There is not a demonstration in Euclid, in which the links are more indissoluble. To those who are not acquainted with those reasonings, we are aware that the propositions [III-269] will appear mysterious; and yet, we are afraid that, in the few words to which we are confined, it will not be possible to give them much satisfaction.

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

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

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

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

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

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

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

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

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

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

One other disadvantage of the colony trade is adduced [III-270] by Dr Smith. It turns the capital of the country out of a more into a less profitable employment, by turning it from the home to a foreign trade, from a foreign of quick to a foreign of slow returns, and from a foreign to a carrying trade. This doctrine, too, requires some explanation, and more, to be sufficiently clear, than can here be bestowed upon it. The home trade is not necessarily more advantageous than the foreign, nor the foreign of quick than the foreign of slow returns, nor any of them all than the carrying trade. These trades, it may be allowed, increase the gross produce of a country, in the order in which Dr Smith has arranged them. But a country is happy and powerful, not in proportion to its gross, but in proportion to its net revenue, not in proportion to what it consumes for the sake of production, but to what it has over and above the cost of production. This is an important fact, which, in almost all his reasonings, Dr Smith has overlooked. It will hardly, however, be denied, that in various circumstances, any one of these trades, the carrying trade itself, may be more conducive to a net revenue than any of the rest; and in a state of freedom will be sure to be so, as often as the interest of individuals draws into that channel any portion of the national stock.

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

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

Value of Colonies in reference to the Navy examined.

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

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

In nothing, perhaps, have the fears of communities done them so much mischief, as in the taking of securities against enemies. When sufficiently frightened, bad governments found little difficulty in persuading them, that they never could have securities enough. Hence come large standing armies; enormous military establishments; and all the evils which follow in their train. Such are the effects of taking too much security against enemies!

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

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

As the passion of England has always been to have too great a navy; a navy, which, by its undue expence, contributed to weakness; so it has been its passion to have too many sailors for the supply of that navy. The sailors of a navy are drawn from the sailors of the maritime trade. But a navy of a certain extent requires, for its supply, a maritime trade of only a certain extent. If it goes beyond that extent, all the excess is useless, with regard to the supply of the navy. Now, what reason has ever been assigned to prove, that the maritime traffic of Great Britain would not, without the monopoly of the colonies, afford a sufficient supply of sailors to a sufficient navy? None, whatsoever: none, that will bear to be looked at. But till a reason of that sort, and a reason of indubitable strength, is adduced, the policy of the navigation laws remains totally without a foundation. In that case, it deserves nothing but rejection, as all the world must allow. It is a violent interference with the free and natural course of things; [III-271] the course into which the interests of the community would otherwise lead them; without any case being made to appear which requires that violent disturbance.

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

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

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

She must always sell the metal so cheap, as to exclude the metal of those other mines from the market; that is, a trifle cheaper than they can afford to sell it. But, if her mines are sufficiently fertile, the metal may cost her much less in working than the price at which she may thus dispose of it. All the difference she may put in her exchequer. In three ways this might be done. The government might work the mines wholly itself: It might let them to an exclusive company: It might impose a tax upon the produce at the mine. In any one of these ways it might derive a sort of tribute from the rest of the world, on account of the gold and silver with which it supplied them. This could not be done, if the mines, without being taxed, were allowed to be worked by the people at large; because, in that case, the competition of the different adventurers would make them undersell one another, till they reduced the price as low as the cost of working would allow. Could the tax at the mine be duly regulated, that would be the most profitable mode; because the private adventurers would work the mines far more economically, than either the government or an exclusive company.

It is evident that this is a mode of deriving advantage from the possession of the richest mines of the precious metals, very different from that which was pursued by the Spanish government, and which has been so beautifully exposed by Dr Smith. That government

endeavoured to derive advantage from its mines, by preventing other countries from getting any part of their produce, and by accumulating the whole at home. By accumulating at home the whole of the produce of its mines, it believed (such was the state of its mind) that Spain would become exceedingly rich. By preventing other countries from receiving any part of that produce, it believed that it would compel them to continue poor. And, if all countries continued poor, and Spain became exceedingly rich, Spain would be the master of all countries.

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

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

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

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

It is never then by *keeping* the precious metals, that a country can derive any advantage from them; it is by the very opposite, by *parting with* them. If it has been foolish enough to hoard up a quantity of the produce of its capital and labour in the shape of gold and silver, it may, when it pleases, make a better use of it. It may exchange it with other countries for something that is useful. Gold and silver, so long as they are hoarded up, are of no use whatsoever. They contribute neither to enjoyment nor production. You may, however, purchase with them something that is useful. You may exchange them either for some article of luxury, and then they contribute to enjoyment; or you may exchange them for the materials of some manufacture, or the necessaries of the labourer, and then they contribute to production; then the effect of them is to augment the riches, augment the active capital, augment the annual produce of [III-272] the country. So long as any country hoards up gold and silver, so long as it abstains from parting with them to other countries for other things, so long it deprives itself of a great advantage.

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

Cause of the
desire to possess
Colonies.

It never ought to be forgotten, that, in every country, there is “a Few,” and there is “a Many;” that in all countries in which the government is not very good, the interest of “the Few” prevails over the interest of “the Many,” and is promoted at their expence. “The Few” is the part that governs; “the Many” the part that is governed. It is according to the interest of

“the Few” that colonies should be cultivated. This, if it is true, accounts for the attachment which most of the countries, that is, of the governments of modern Europe, have displayed to colonies. In what way it is true, a short explanation will sufficiently disclose.

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

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

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

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

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

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

That the colonies multiply exceedingly the causes and pretexts of war, is matter of history; and might have been foreseen, before reaping the fruits of a bitter experience. Whatever brings you in contact [III-273] with a greater number of states, increases, in the same proportion, those clashings of interest and pride out of which the pretexts for war are frequently created. It would exhibit a result, which probably would surprise a good many readers, if any body would examine all the wars which have afflicted this country, from the time when she first began to have colonies, and show how very great a proportion of them have grown out of colony disputes.

(F. F.)

ECONOMISTS.↩

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

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

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

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

For such lights as M. de Gournay did not derive from his own reflections, he seems to have [III-709] been chiefly indebted to the writers of England; but there appears some reason to conclude, that the best of these had not fallen in his way. We do not perceive, for example, any sign of acquaintance with the writings of Locke.—It is worth mentioning here, as an historical fact, not very generally known, that there were some few minds in England, which, at a comparatively early period, had attained to wonderfully correct notions on the principles of commerce. Among the most remarkable of those ingenious minds were the Lord-Keeper Guilford and his brother, Sir Dudley North, an eminent merchant, in the reign of Charles II. There is a passage on this subject in the *Life of the Lord Keeper*, written by his brother, the Honourable Roger North, so interesting, that we deem it worthy of a place in the *History of Political Economy*.

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

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

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

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

“There was a law passed, or rather was continued, this Parliament, called the coinage. This was a certain tax laid to pay for coining money, whereby any man who brought into the mint bullion, took out coined money, weight for weight. Sir Dudley North was infinitely scandalised at this law, which made bullion and coined money par, so that any man might gain by melting: as, when the price of bullion riseth, a crown shall melt into five shillings and sixpence; but, on the other side, nothing would ever be lost by coining; for, upon a glut of bullion, he might get that way too, and upon a scarcity, melt again; and no kind of advantage

by increase of money, as was pretended, like to come out. The Lord Treasurer gave some of the banker goldsmiths and Sir Dudley North a meeting. Charles Duncomb, a great advancer, had whispered somewhat in his lordship's ear, that made him inclinable to the bill; Sir Dudley North reasoned with them against it, beyond reply; and then the answer was, *Let there be money, my Lord; by God, let there be money.* The reasons why this scheme prevailed were, first, that the crown got by the coinage duty; next, that the goldsmiths, who gained by the melting trade, were advancers to the Treasury, and favourites. The country gentlemen are commonly full of one profound mistake; which is, that if a great deal of money be made, *they* must, of course, have a [III-710] share of it; such being the supposed consequence of what they call plenty of money; so little do assemblies of men follow the truth of things, in their deliberations; but shallow unthought prejudices carry them away by shoals!

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

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

Jean-Claude-Maria Vincent, Seigneur de Gournay, was an extraordinary man for the age and country in which he was produced. He was born at St Malo in the month of May 1712, the son of Claude Vincent, one of the most considerable merchants of the place. Destined to commerce by his parents, he was sent to Cadiz when scarcely seventeen years of age. His

vigilant attention to business did not hinder him from finding time, well husbanded, and diligently applied, not only for storing his mind with general knowledge, but for unravelling the combinations of commerce, and ascertaining its elementary principles. After he had raised himself to great eminence as a merchant, and to a high reputation for knowledge of the principles of commerce, the ministers of France conceived the design of turning his knowledge to advantage in the office of Intendant of Commerce, as they call it, to which he was raised in 1751.

No sooner was M. de Gournay invested with his office, than he began to wage war with the established system of regulations and restrictions; which the experience of twenty years of mercantile practice, the most varied and the most extensive—discussions with the most intelligent merchants of Holland and of England—the perusal of the best writers on the subject, and the impartial application of his own philosophical thoughts, had all conspired to make him regard as a source, not of national advantage, but of continual vexation and hardship to individuals, and of poverty to the state. “He was astonished,” says M. Turgot, “to find that a citizen could neither make nor sell a commodity, without having purchased a privilege, by getting himself made, at a great expence, a member of some corporation; that if he made a piece of cloth, for example, of any quantity and quality different from those commanded in certain regulations, instead of being allowed to sell it to those purchasers whom such quantity and quality suited the best, he should be condemned to see it cut in pieces, and to pay a fine heavy enough to reduce a whole family to beggary. He could not conceive how, in a country where the succession to titles, to estates, and even to the crown itself, rested upon custom, and where the application of even the punishment of death was rarely guided by any written definitions, the government should have thought proper to fix by written laws, the length and breadth of each piece of cloth, and the number of threads which it ought to contain.—He was not less astonished to see the government take in hand to regulate the supply of commodities; proscribe one sort of industry, in order to make another flourish; shackle [III-711] with peculiar restrictions the sale of the most necessary articles of subsistence; prohibit the storing of commodities, of which the quantity produced varies greatly from year to year, while the quantity required for consumption is pretty nearly the same; restrain the export and import of a commodity, subject to the greatest fluctuation of price; and dream of ensuring the plentiful supply of corn, by rendering the condition of the labourer more uncertain and more wretched than that of any other part of the community.” (*Œuvres de M. Turgot*, III. 333.)

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

familiar, who is at all conversant with political science.

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

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

Francis Quesnay was born in the village of Ecquevilli, in the year 1694. According to the *Nouveau Dictionnaire Biographique*, he was the son of a labourer, and confined till he was 16 years of age to the business of the field. According to M. Dupont de Nemours, the editor and commentator of the works of Turgot, and a zealous Economist, he was the son of a small proprietor, who cultivated his own little property; and he was eminently indebted to his mother for the fashion of his mind. Though he was educated as a physician, and rose to such eminence in his profession as to be first physician to the King, the early occupation of his mind on the business of agriculture, had given the current of his thoughts a permanent direction; and, when he was summoned to reflect on the sources of wealth by the discussions probably to which the speculations of M. de Gournay had given birth, agriculture was the object on which his attention was more particularly fixed. He produced several works on different points of the science and practice of medicine; and it was only at a late period of life, that his works on political economy appeared. His chief production on this subject, *Physiocratie, ou du Gouvernement le plus avantageux au genre humains*, was first published in 1768. Not only had the speculations which he broached, and which he propagated with much fervour and diligence, considerable success in the world, but he had the fortune to gain a considerable number of proselytes, who exerted themselves with an ardour for the diffusion of his doctrine, and with a devotion to the opinions of their master, which more resembled the enthusiasm of the votaries of a new religion, or that of the followers of some of the ancient philosophers, than the indifference with which new speculations in philosophy have on all other occasions been received in modern Europe; and which gave to the Economists more of the character of a sect or a school, than has appeared to belong to those who have in recent times concurred in any other system of philosophical opinion.

There was, in truth, in the system of M. Quesnay and the other Economists, many things well calculated to attract attention and excite enthusiasm. From a few simple principles, they deduced, as they imagined, by a chain of very close and imposing arguments, a system of changes which would easily be introduced, without the smallest interruption to the tranquillity and happiness of the existing generation, calculated to remove from society all the deformities by which it was overspread, and to communicate to the mass of human beings a [III-712] fulness of happiness hitherto altogether unknown. At this point, therefore, we

may close the historical part of this article; for the success of the great work of Dr Adam Smith, in a short time, superseded the *political economy* of the sect; and after the political economy was discredited, the rest of their doctrines met with little regard. The memory of them, however, is well worthy of being preserved; and this task we shall now, in as few words as possible, endeavour to perform.

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

Man must have subsistence. Upon this ground they first took their stand. This being allowed, it followed, of course, that whatever was the best means of obtaining subsistence, would command the operations of men, as soon as ever it was sufficiently known.

Of these means, the first and fundamental is the establishment of property. This they proved by convincing arguments. We cannot exist without consuming. The nature of man leads to a rapid multiplication of human beings, and the earth yields a spontaneous nourishment for only a few. To make food keep pace with population, labour must be employed upon the ground. Men would be born for no other purpose than that of destroying one another, if there were not means of increasing the quantity of food in proportion to those that were born. Labour, then, is one of the physical necessities of nature. But if labour be necessary, so is property, because, without property, there can be no labour.

The proof of this proposition is short and irresistible. Nobody would labour under an assurance, that he would derive no advantage from his labour. Nobody would labour without a certain probability that he should enjoy the fruits of his labour. Now, this is property. The only question, then, which remains is, what is the degree of assurance with respect to the fruits of a man's labour? In other words, what are the laws of property, which tend most to secure the benefits which human beings derive from their labour? This, said the Economists, is the object, and the end of our researches.

They proceeded in their inquiry by the following steps. As a means to this labour, on which every thing depends, a man must be free to use his natural faculties of labour—his muscular powers. This freedom they called *the property of his person*. As another means to the same end, he must be free to use exclusively, and to preserve, what he acquires by his labour. This they called his *moveable property*.

Here we see the origin of that to which men have assigned the names of *rights* and *duties*. The exclusive powers assigned to the man over his person, and over the fruits of his labour, are called his *rights*. To allow these exclusive powers, by abstaining from every act which would impair them, is called the *duties* of all other men. Here we see, also, that *rights* and *duties* are reciprocal; that they imply one another; that they are created together; and that the one cannot exist without the other. Destroy the *rights* of property in the man, you destroy, by the same act, the *duties* of other men to exclude themselves from what was called his property. Destroy, in the same manner, the *duties* of other men to exclude themselves from what was called his property, and you destroy, at the same time, his *right* to that exclusion. *Rights* and *duties* are, in fact, but different names given to the same thing, according as it is regarded under one or another of two points of view.

Another important concatenation is here also to be seen. *Rights* are advantages; things to be enjoyed. *Duties* are burthens, abstracted from things to be enjoyed. Why should men accept these burthens, submit to these duties? Why? but because they find their advantage in doing so. It is plain how they find their advantage in doing so, and there is, there can be, no other reason. Men submit to the *duties* of respecting other men's *rights*, that they may have

rights themselves. It is good for them to have *rights*; there can be no rights without *duties*. It is better to have the *rights* submitting to the *duties*, than by renouncing the *duties* to have no *rights*. The *duties* are then the price which is paid for the *rights*. The *duties* which one man yields to other men, are the price which he pays for having *rights* of his own. *Duties*, then, are in themselves *evils*; and they never ought to exist, except when they are compensated by a greater good. Nobody ought to be subjected to a burthen, which is not either to himself, or to the community in which he has clubbed his private interests, attended with a good, sufficiently great, to overbalance the evil which he is made to endure. *Utility*, then, is the exclusive foundation of *duty*.

Having laid this foundation, the Economists proceed.

On the necessity of subsistence rests the necessity of property, and on the necessity of property rests the necessity of a certain inequality in the conditions of men. This inequality exists, because a good is obtained through it, which can in no other way be obtained; and that good, the parent of every thing else to which the name of good is applied. "Those who complain of it," says Mercier de la Riviere, one of the chief expositors of the doctrines of the sect, "see not that it is a link in the chain by which the human species must drag from the abyss of non-production every thing which they enjoy. As soon as I have acquired the *exclusive* property of a thing, another man cannot have the property of it at the same time. The law of property is the same for all men; each man, however, acquires in proportion to his faculties of acquiring; but the measure of these is different in different men. And besides this fundamental law, there is, in the whirlpool of accidents, a continual succession of combinations, some more, some less fortunate, which increase the causes of that inequality of acquisition, without which the motives to acquisition cannot exist. "I admit, however," he in conclusion adds, "that in any given community, these differences in the [III-713] possessions of different men, may become the source of great disorders, and which augment again these same differences beyond their natural and necessary degree. But what follows from this? That men ought to establish an equality of conditions? Certainly not; for to that end, it would be necessary to destroy all property, and, by consequence, all society; it only follows that they should correct those disorders which make that which is an instrument of good, become an instrument of evil; which alters in such a manner the distribution of things, that *force* places all the rights on one side, and all the duties on the other."

We have seen that the necessity of labour to procure the means of life, and the means of enjoyment, produced a necessity of *property personal*, and *property moveable*, as the two sorts were named by the Economists. The necessity of raising food, as well as the first material of most of the other articles of human enjoyment, by labour upon the *land*, produces a like necessity of creating a *property in the soil*. The proof of this proposition is not less short and convincing, than that which regards the other species of property. To make the land yield a produce useful to man, it must be cleared of many incumbrances, and prepared with much labour and expence. No adequate return can be obtained for this labour, to the man who would bestow it, without a perpetuity of possession. It is essential for the well-being of the species, that the labour should be yielded, and in the greatest degree of perfection. It cannot be yielded, perhaps, at all, certainly in no tolerable degree of perfection, without that exclusive possession which constitutes property. Property in land is, therefore, essential to the well-being of the human species.

We see in this manner what are the *rights*, and what are the *duties*, which the supply of the first wants of human nature renders it necessary to constitute. But as all mankind are not disposed to respect *rights* and *duties*, it is necessary, in order to obtain the advantages which they are destined to produce, that measures should be taken to protect them.

The measures taken to protect them are generally comprehended under one name, that is, *government*. The protection of the rights, or, which means the same thing, the insuring of the duties, is the *end*, the government is the *means*; and the question is, what combination of means is best adapted to the purpose?

This assuredly is the most important question to which the human faculties can be directed. And the Economists have never yet received the credit, which is their due, for the ability and success with which they laboured to resolve it. No speculations can be conceived of more importance than those in which they engaged, nor has it yet become easy to throw upon them a greater portion of light.

The grand classes of means by the skilful combination of which they conceived that the end might be obtained, were either more direct, or more indirect. The more indirect were liberty and evidence; the more direct—laws exactly adapted to the end, magistrates exactly adapted to the execution of these laws, and a Supreme, or, as they called it, “*Tutelary Power*.” We shall endeavour, in a few words, to communicate their leading ideas on each of these particulars.

1. *Liberty*. We have seen that the end which is aimed at through property, as a means, is the greatest possible abundance of the things adapted for human enjoyment; and that property is a means altogether indispensable for that end. It is now to be proved, that liberty is absolutely necessary to enable property to answer the purpose of a means to that end; and that, without liberty, the existence of property is deprived of almost all its advantages. In fact, the right which a man has not the liberty to enjoy, is not a right. The right of property in a man’s person, in his moveables, in his land, is the right of enjoying; but the *right* of enjoying, and the *liberty* of enjoying, are the same thing. Liberty, therefore, cannot be hurt without damaging the right of property; and the right of property cannot be hurt without damaging liberty. “It is,” says Mercier de la Riviere, “so inseparably connected with the right of property, that it is confounded with it, and that the one cannot exist without the other. Deprive a man,” he cries, “of all the rights of property, and I defy you to find in him a vestige of liberty. On the other hand, suppose him deprived of every portion of liberty, and I defy you to show that he truly retains every right of property.”

It is now pretty clear that liberty is necessary to produce that abundance of production which is the end aimed at by the constitution of all *rights* and *duties*. Man is excited to labour, only in proportion as he is stimulated by the desire of enjoying; but the desire of enjoying can only be a motive of action in so far as it is not disjoined from the liberty of enjoying. You cannot have productions in abundance, without the greatest possible inducement to labour;—you cannot have the greatest possible inducement to labour, without the greatest possible liberty of enjoyment. The chain of evidence is, therefore, complete.

“Let us not,” say the Economists, “seek in men, beings which are not men. Nature has destined them to know only two springs of action, or moving powers; the appetite of pleasure, and the aversion to pain. It is in the purpose of nature, therefore, that they should not be deprived of the liberty of enjoying, since, without that liberty, the first of those two powers would lose the whole of its force. *Desire of enjoying*, *Liberty of enjoying*; these are the soul of the social movements; these are the fruitful seed of abundance, because that precious combination is the principle of all the efforts made by human beings to procure it.”

2. *Evidence*. Property, and by consequence liberty and security of enjoying, being proved to constitute the essence of what they called the natural and essential order of society, it was seen to be in reality a chain of *physical* consequences, involving nothing arbitrary, nothing changeable; evident, on the other hand, simple, and resting on no other ground than that of being the most advantageous possible to the whole body of the community, and to every one

of its members.

“The best possible order of society, however,” [III-714] they observed, “cannot be established where it is not sufficiently known; but for that very reason, that it is the best order, the establishment of it, as soon as it is known, must become the common ambition of men; it must then introduce itself by *necessity*; and, once established, it must, by *necessity*, continue for ever.” These were bold promises; but the proof was correspondent. “The best possible order of society must introduce itself, as soon as known, and preserve itself for ever, as soon as introduced; because the appetite of pleasure, and the aversion to pain, the only moving powers within us, lead naturally and constantly toward the greatest possible augmentation of enjoyments; and the desire of enjoying implies, by necessity, that of the means by which enjoyment is procured. It is, then,” said the Economists, “impossible that men should know their best possible condition, without a consequent union of all wills, and all power to procure and to preserve it. Imagine not,” they cried, “that for the establishment of this essential order, it is necessary to change the nature of men, and divest them of their passions; their passions, on the other hand, become auxiliaries in this establishment; and, for the most complete success, it is only necessary to place them in a condition to see with *evidence* that it is in this order alone they can find the greatest possible sum of enjoyments and of happiness.”

These philosophers made some admirable observations upon the nature of evidence, and the important purposes to which it is subservient. They made a distinction between those propositions which a man receives without evidence, and those which he only receives upon the strength of evidence. The first they denoted by the word *opinion*; the second they marked by the names of *knowledge* and *certainty*. “As error,” they said, “is every thing which is not truth; in like manner, what is not *evidence* is only *opinion*: and whatsoever is only opinion is arbitrary, and liable to change. It is evident, therefore, that these opinions are not a sufficient foundation for the natural and essential order of societies. A solid edifice cannot be erected on a basis of sand; and that into which nothing arbitrary can enter, which is and must be unchangeable as the ends to which it is directed, can never be founded on a principle so arbitrary and various as opinion; opinion, which, however just and true it may accidentally be, so long as it is not founded on evidence, is but opinion still, and liable every moment to be subverted and expelled by any other opinion, however extravagant and absurd.”

Evidence is the knowledge, clearly attained and possessed by ourselves, of all that is necessary to see the truth or falsehood of an object of belief. This excludes all doubt, all uncertainty, every thing arbitrary, all exercise of will. A man can no more help believing that which he actually holds in his mind evidence sufficient to prove, than he can help seeing the object which is painted on his retina.

From this irresistible power of evidence the Economists deduced the most important consequences. “Not only is it,” they said, “the essential characteristic of evidence, to stand the test of the most severe examination, but the most severe examination can have no other effect than that of displaying it to more advantage; that of giving to it a power more predominating and supreme: while, on the other hand, sufficient examination destroys prepossession and prejudice, and establishes in their place, either evidence, or at least suspension of judgment, where evidence, on which to found a judgment, is out of our reach.”

On the first of these propositions, that “evidence can stand the test of the most severe examination,” they said, “that all attempt at proof was surely unnecessary; it was self-evident. And hence,” they said, “was evidently deduced this most important consequence, ‘that the liberty of examining, of criticising, and of contradicting evidence, is always, and necessarily, without inconvenience.’”

“That a sufficient examination destroys prepossession and prejudice,” they regarded as a proposition equally indisputable: and from this it followed, as an irresistible consequence, “that the most unbounded liberty of examination and contradiction is of primary and essential importance; for no examination can be *sufficient*, till all the reasons of doubt are exhausted.”

That a sufficient examination establishes evidence in the place of error in the case of all questions where evidence is within our reach,” was a truth, they said, resting on the same immovable basis; and from this it followed, as an evident consequence, “that liberty of inquiry will lead by necessity to the clear and public knowledge of what is the best possible order of human society; for on this subject, evidence is undeniably within our reach.”

We may thus regard evidence as a sort of beneficent divinity, whose pleasure consists in spreading peace on earth. Never do you behold mathematicians at war with mathematicians on account of the truths which they have established on evidence; if they give into a momentary dispute, it is only while they are yet in the avenue of inquiry, and have investigation solely in view; but as soon as evidence has pronounced, either on the one side or the other, every man lays down his arms, and only thinks of enjoying in peace the good which is thus acquired in common.”

Pass now,” say the Economists, “from the evidence of *mathematical* to that of *social* truths; to the evidence of that order of human affairs in society which would produce to men the greatest possible amount of happiness. From the known effects of evidence in the first of these cases, try to conceive what would be the effects of it in the second; what would of *necessity* be the internal condition of a society governed by that evidence; what would of *necessity* be the political and respective situation of all nations, if they were illuminated by its divine effulgence; consider, if men, rallied under the standard of that evidence, would have any division among them; if any motive for war would be sufficiently powerful to make them sacrifice to it their best, and to themselves *evidently* best possible condition: penetrate still deeper, and see if the pictures which that medium presents to you do not excite in you sensations, or rather transports, which elevate you above yourself, and appear to indicate, that, by [III-715] means of evidence, we communicate with the divinity.

But, to increase your sensibility to the impressions which those pictures will make upon your understanding and your heart, place in opposition all the inconveniences which, in a state of ignorance, arise from the force of *opinion*.

A certain thing is forbidden under the sanction of punishments capable of inspiring the greatest terror. What power can such prohibition and punishments have against an opinion which tends to despise them? None; we have too many examples to prove it.

A man is placed by his birth in a situation in which he might effect the happiness of a great number of other men, if he made a beneficent use of his advantages; What is it the man performs when his *opinion* is wrong? He sacrifices his advantages to the disorder of his opinion; lives and dies unhappy.

One man, unarmed, commands an hundred thousand with arms in their hands, of whom the weakest is stronger than he. What constitutes his power? Their opinion; they obey him in obeying it; they follow their leader because they have an opinion that they ought to follow him.

Do you wish to see other effects which characterize the force of opinion? Consider the effects of honour; of that sort of enthusiasm which prefers toil and fatigue to repose, poverty and privation to riches, and death to life, on which it finds the secret of shedding a lustre.

Opinion, of one sort or another, governs the world. Even when it is but a prejudice, an error, there is no power in the moral world comparable to its power. Fruitful in phantoms, it borrows all the colours of reality, in order to deceive. Source inexhaustible of good and of evil, it is through it alone that we see, by it alone that we will, and we act. According as it borders upon truth or falsehood, it produces virtues or vices, the great man or the villain. No danger stops it; difficulties render it more intense; at one time it founds empires, at another destroys them.

“Every man is therefore a little kingdom upon the earth, governed despotically by opinion. He will burn the temple of Ephesus, if it is his opinion that he should burn it; in the midst of the flames he will brave his enemies, if his opinion is that he ought to brave them. Our physical powers themselves are so completely subordinate to the power of opinion, that, to have the command of our physical powers, it is necessary to begin by having the command of our opinion; but how is it possible to have the command of opinion, while it is the sport of ignorance, and its nature arbitrary? How is it possible to fix and to unite the opinions of men, but by the agency of evidence? Is it not visible, that the Author of nature has appointed no other means for chaining our arbitrary will?

We ought to look, therefore, upon ignorance, as the necessary principle of all the evils which have afflicted society; and upon the knowledge, that is, the evidence of the best possible order of society, as the natural source of all the good which is destined for the inhabitants of the earth.

But, as all the physical forces in the world cannot render that evident which is not so; and as evidence can spring from nothing but *adequate examination*, from the necessity of that evidence clearly follows the *necessity of examination*; from the necessity of examination clearly follows the necessity of the *greatest possible liberty of contradiction*; and in addition to that liberty, the existence of all those political institutions which are required to give to evidence its greatest possible *publicity*.”

The *publicity of evidence* was a subject on which the Economists dwelt with peculiar emphasis; and which they branched out into a number of the most important consequences. “The necessity of it,” they said, “was apparent from this, that the proper order of society cannot be solidly established, but in proportion as it is sufficiently known. In any society, if some men only had knowledge and evidence of this order, while the multitude rested in other opinions, it would be impossible for this order to govern; it would in vain command; it would not be obeyed. This state would be that of a perpetual intestine war of one part of the nation with another. By *intestine war* they did not, however, mean,” they said, “only that which is performed with arms in the hands, and by open force; they more peculiarly referred to those disguised and clandestine ravages and oppressions, exercised under forms of law; to those dark and predatory practices, which sacrifice all the victims which artifice is able to bring within their power; to all those disorders, in a word, which tend to make all particular interests enemies of one another, and thus to uphold, among the members of the same political body, an habitual war of clashing interests, the contending effects of which tear in sunder all the bonds of society. This situation is so much the more dreadful, in as much as, excepting the superior and governing force of evidence, there is no power in nature equal to that of opinion; as, in its aberrations opinion is tremendous, and as no means exist, by which we can make sure of retaining it always within proper limits, when it is once given up to its own inconstancy, and to seduction.

“From the *publicity*, which is an indispensable condition to possession of evidence respecting what is best in the social order, we are conducted to the necessity of *public instruction*. Though faith,” said the Economists, “be the gift of God, a peculiar grace, which cannot be the work of men alone: nevertheless it is held that the preaching of the gospel is

peculiarly necessary to the propagation of the faith. Why, then, should not every one have the same opinion with regard to the publication of the social order, more especially as that publication has no need of being aided by grace and supernatural light? This order is instituted for men, and all men are born to live under it; it is then required by this order that men should know it, and accordingly they have all a sufficient portion of natural faculties, to be able to elevate themselves to that knowledge. For the same reasons that knowledge is required, instruction is required, by which alone certain kinds of knowledge can be attained.”

The Economists did not enter into details respecting establishments necessary for instruction. They, [III-716] however, affirmed, that such establishments “constituted a part of the essential form of a society, and that they could hardly be too numerous, because instruction can never be too common.” They affirmed, also, that “verbal instructions did not suffice; that it was necessary to have doctrinal books, suited to the purpose, and in every body’s hand. This help,” they said, “was so much the more important, as it was clear of all inconvenience, for error cannot stand the presence of evidence; and contradiction is not less advantageous to evidence, than it is fatal to error, which has nothing to fear so much as examination.”

What they affirmed with respect to the necessity of those which they called doctrinal books, and of the liberty which ought to reign with regard to them, “was founded,” they said, “upon the very nature of that order which is due to society, and of the evidence which belongs to it. That order,” they observed, “is either perfectly and evidently known, or it is not. In the first case, its evidence and simplicity render the formation of heresies on the subject of it altogether impossible. In the second case, men cannot arrive at knowledge or evidence, but through the conflict of opinions. It is certain that an opinion can be established only upon the ruins of those which are opposed to it; it is further certain, that every opinion which is not founded upon evidence will be contradicted, until it is either destroyed, or recognised on evidence for a truth, in which case it ceases to be a bare opinion, and becomes an evident principle. And thus, in the pursuit of truths, capable of being established on evidence, the conflict of opinions leads, of necessity, to evidence, because it is by evidence alone it is capable of being terminated.”

This doctrine is of such infinite importance, that we are willing to prolong it, by adding the illustration which the Economists were accustomed to adduce. “If a man should be actuated by any motives to write a book, endeavouring to persuade his countrymen that they might live without subsistence,—that they ought to make commodities without the materials,—that they multiply themselves by change of place, or any other extravagant opinion; it would be highly useless for the public authority to give itself any concern or labour to prevent such a book from making an impression upon the public mind. And, far from feeling any alarm, every body would rest securely upon the evidence of the contrary truths; assured that this evidence would always be sufficient for itself, and would quietly triumph over all the ridiculous efforts which would be made to oppose it.

“So absolutely necessary is it to leave to the whole body of society the greatest possible freedom of examination and contradiction; so absolutely necessary is it to abandon evidence to its own strength, that there is no other power which can supply its place; physical power, of what magnitude soever, can command actions alone, never opinions. The experience of every day affords to this truth the evidence of the senses. So little have our physical powers any influence over our opinions, that our opinions, on the contrary, exercise an uncontrollable dominion over our physical powers. Our physical powers are put in motion, and guided by our opinions alone. The common or social, called the *public force*, is formed by the union of the physical powers of many individuals. This supposes, necessarily and invariably, a correspondent union of evils; and this can never exist but in consequence of an union of opinions, good or bad. It is, therefore, to reverse the order of things, and take the effect for

the cause; to desire to give the public force a power over opinion, while it is from the union of opinions that public force holds its own existence; and while, by consequence, it can have no stability but in proportion to that which reigns in the opinion on which it is founded; that is to say, in proportion as bare opinions, stripped of evidence, are replaced by opinions fixed and invariable, because founded upon evidence which cannot deceive.”

3. *Laws*. Having established as incontrovertible truths, that property is necessary to the production of the means of human life and enjoyment; that the system of human rights and duties spring from it as natural consequences, and that the natural and essential order of societies is nothing in reality but the chain or connected order of these same rights and duties, the Economists laid down the following definition: “That the Essential Form of a Society is the continuation of all those social institutions which are necessary to consolidate the right of property, and secure to it all the liberty which essentially belongs to it.”

Among these instrumental establishments, an important place is held by laws, of which they communicated the following very striking and original idea:

“A multitude of men assembled without acknowledging any respective rights, any reciprocal duties, would not form a society. That does not consist in the meeting of a number of men in a particular place. It may subsist among men very remote in respect of place, and not subsist among men very near in respect of place. *That which really constitutes the union, are the conditions of the union*. These conditions are the systems of rights and duties, in other words, the conventions entered into for their common interest by the members of the associated body. The laws, then, are precisely those conventions; by operation of which, the reciprocal rights and duties are established in such a manner that the members of the society are no longer permitted, arbitrarily, to depart from them.

Of these conventions, some are of such a nature as cannot be defined very exactly, or at least cannot be enforced by artificial sanction, but must be left to the natural coercion of the approbation and disapprobation of mankind. Such are the common duties of morality; gratitude, veracity, charity, and the like. But the next class of these conventions are those which are capable of being defined exactly, and enforced by artificial sanctions; as, that murder shall not be committed; property shall not be stolen. This last class of conventions are those which are properly called *laws*.

The first property necessary to give those laws their best possible *form* (for, in regard to their substance, [III-717] it is always supposed that they are strictly conformed to that utility, from which the whole system of rights and duties takes its origin), is, that they be definitive: to distinguish, by an incontrovertible line, what each of them does, from what it does not comprehend. This is implied in the very notion of a law; which is to render something *positive*, which would otherwise be *arbitrary*.

The second property necessary to give laws their best possible form, is, that they be written, This is, indeed, implied in the first property; because no combination of ideas can be rendered *positive* and *unvarying*, of which the *expression* is not *positive* and *unvarying*. But nothing can render an expression positive and unvarying, but a permanent sign; and of permanent signs, none is equal to writing.

The third property necessary to give to laws their best possible form, is, that the reason of each be annexed to it. The distinction is very important between the *letter* of the law, and the *reason* of the law. The *letter* of the law is its textical composition; the *reason* of the law is the motive by which it was dictated. *The man who is guilty of murder shall receive a certain punishment*. This is the *letter* of the law. The *reason* is, that, *if murder were common, and not restrained by adequate motives, the happiness of human beings, if not the species, would soon be destroyed*. Having thus acquired a knowledge of the reason of the law, I possess the

evidence of its *utility*. And of this I should not have been possessed, had I seen in the law nothing more than the *letter*. Let us suppose two laws, which equally assign the punishment of death; the one for homicide, the other for walking at certain hours in the day. Is it not clear that they would be viewed with different eyes; that the one would appear to be just, the other tyrannical? That we should feel within ourselves a natural disposition to submit to the one, a disposition to avail ourselves of every thing which might serve as a means to deliver us from the hateful yoke of the other. This difference arises from the different judgment we form of the *reason* of these bad laws. The first carries with it the *evidence* of its *utility*; and that *evidence* overcomes and binds without resistance the understanding and the will. The other carries with it, instead of the evidence of utility, the evidence of nothing but a disproportional rigour, of a manifest evil, to which our understanding, and consequently our will, can never submit.

It is not, therefore, in the *letter*, but in the *reason* of the laws, that we must seek for the first principle of a constant submission and obedience to the laws; for that principle can be nothing but the dominion exercised over our minds by the *evidence* of the justice of necessity, that is, the *utility* of the laws; now this evidence is not in the *letter* of the laws; to establish that submission, therefore, generally and invariably, two conditions are requisite; one is, that the reason of the laws contain conclusive *evidence* of their *utility*, commonly called their justice and necessity; the other is, that the publication of this evidence be so complete, in respect both of clearness and diffusion, as to lodge it in the mind of a majority of all classes of the people. Men, persuaded that their laws were bad laws, might, indeed, for a time be constrained to observe them; but such a submission, contrary as it is to nature, could not be durable, nor escape daily breaches on the part of those who regarded themselves as suffering by the injustice of the laws. *Submission to the laws is always, and necessarily, proportional to the idea which we hold of their justice and necessity*; that is, their indispensable use in procuring good and eschewing evil.

If laws,” said the Economists, “are any thing but the results of the natural order of society, or of that system of duties and rights which are rigidly founded upon the interest of all; if the legislature of any country sets up rights and duties of another sort, these new rights and duties are contrary to the first; and hence, of necessity, the laws which prescribe them are in a state of perpetual opposition with our understandings and wills.” This contrariety they proved in the following manner. “All the rights which a reasonable being can desire, are summed up in that of property; because from the right of property results the liberty of enjoying; a liberty which ought to have no bounds but those which are assigned to it by the similar rights of property belonging to other men. As the essential order of society thus determines the measure of liberty belonging to each of its members, and as that measure is the greatest which can be, without disturbing that essential order itself, it is impossible that any thing should be added to the liberty, that is, to the rights of one set of men, without taking from the liberty, and by consequence from the property, of other men; and this is an injustice, and disorder, the tendency of which is destructive to the society.”

It is destructive to the society, because it throws it into a state of violence. “My neighbour,” says Mercier de la Riviere, “will be content that he is not allowed to reap or to injure my crop; but for the same reason he will not be content that I should be allowed to reap or to injure his. On the view of such an injury permitted, in regard to any other man, he will take the alarm, his fears will be excited for himself, and this anxiety will be a state of torment, from which his reason will perpetually urge him to seek relief. A law which violates the principle of utility, is a law therefore resisted by that evidence which governs beyond control the human will. To make such a law, is to put the society into a state of violence; because it is to put the minds of men into a state hostile to one another, and more or less hostile to the laws.

4. *Magistrates*. By this term the Economists understood judges, and, in a word, all the leading functionaries employed in giving execution to the laws. Agreeably to the doctrines already exhibited, they conceived that the first service of the magistrates, is that of shedding the light of *evidence* upon the particular cases, which have been too obscure for the parties. But as there are some minds with which you cannot be sure of being able in every case to bring evidence, as it were, in contact, the magistrate needs to be armed with a coercive power; and all that is necessary is, that he affords to the rest of the community *evidence* that in [III-718] such cases, the power has been used agreeably to the principle of general good.

From these premises, the chief consequence which they deduced was, that the legislative and judicial powers are never to be united in the same hand, without destroying among the people all certainty of the justice and necessity of their laws, that is, the very essence of the laws themselves.

“The essential form of positive laws,” they said, “in that which makes them to be what they ought to be, is, that they consist of certain visible signs which show that, in the institution of them, that order has been followed, which is necessary, *1st*, to ensure their justice and necessity, that is, their adaptation to the ends of obtaining good and avoiding evil; *2dly*, to render their adaptation to those ends evident or certain to the individuals whom they concern. Now it is clear, that these conditions could not be fulfilled, if the legislative power was to engross the judicial functions. The legislator and judge, being the same person, neither could the legislator find any resource against his own mistakes in the close review and experience of the judge; nor, on the other side, could the arbitrary will of the judge find any bridle or chain in the authority of the legislator; but the laws, however good in themselves, would be rendered evil by a variable and corrupt administration.

If the legislator were judge also, his business would be to consummate and to crown all the mistakes which he incurred, or the abuses which he committed in the formation of the laws. If the judge were legislator also, the laws existing only in conformity to his will, he would be under no necessity to consult the laws in passing his judgment; and would always ordain as law-maker, what he should have to determine as law-interpreter. Thus, the *reason* of the positive laws would be found to consist in nothing but the will of the legislator, as he would be guided in making them by nothing but its arbitrary impulses; and in the same manner the *reason* of the judicial decisions would be found to consist in nothing but the mere will of the judge, whose independence would enable him to make them whatever he pleased. This double malady abundantly proves, that those laws would be stript of the essential characteristics of law, the evidence of their justice and necessity, and an absolute exemption from every thing arbitrary.”

The duties of the judge they deduced in the following order: As the laws are in themselves mute, and the magistrate is the organ through which they speak, he is particularly charged with the *guardianship* of the laws. It is of importance to know what is implied in the term guardianship of the laws. It relates either to the laws which *are* made, or to those which are *to be* made. The natural strength of the laws consists in the evidence of their goodness. Their weakness consists in the strength of the hands which dispose of the physical power. As the laws are mute in themselves, they cannot wield that evidence in which their strength consists. The magistrates, who are the mouth of the laws, ought, therefore, to wield it for them, and to resist the hands in which the physical power is deposited, when they attempt the infringement of the laws, with all the force which evidence can be made to exercise over the minds of the community.

The same principles demonstrate what are the duties incumbent on the depositaries of the judicial power with regard to laws *to be* made. As laws ought all to be founded on that concatenation of the causes of human good which the Economists denominated “the primary

and essential reason of all laws; the *evidence* of that primary and essential reason was,” they said, “a deposit, so to speak, in the hands of the judicial instruments, of which they owed an account, to the legislature, to the nation, and to God himself, of whose supreme will that evidence is the decisive token. It was their first duty, therefore, to have a perfect *knowledge* of that primary and essential reason.” Their next duty was, on all occasions, as far as their utmost efforts could extend, to impart that evidence to the governing power; and to make it as clear as it can be made, what laws, not yet proposed, that evidence shows that the society requires.

The Economists farther affirmed, “that no man can, without rendering himself criminal towards earth and heaven, undertake to perform the office of judge, according to laws that are *evidently* unjust. He would, in that case, cease to be a minister of justice, in order to become a minister of iniquity. If any law, for example, ordained that a man should be condemned to the ultimate punishment, on the mere denunciation of another man, and without any inquiry into the truth of the allegation, is it not evident, that such a law would be a law of murder? And is it not equally evident, that the barbarian, who should pronounce a judgment agreeably to that law, would be the voluntary instrument of murder? It is necessary, however, either to go the full length of saying, that a man can, without guilt, become the instrument of such a law, or allow that no minister of the law ought to lend his ministry to the execution of a law evidently unjust; for if he may, for one such law, so be may for all, however atrocious; no outrage to humanity, no excess of evil, presents any limiting point.”

5. The *tutelary authority*. “The union of wills to form that of individual powers; the union of individual powers to form a common or public force; the deposit of that force in the hands of a chief, by whose ministry it may command, and make itself obeyed,—these,” said the Economists, “are the component parts of the tutelary authority. The tutelary authority is nothing more than a physical force resulting from an union of wills; and, by necessary consequence, it is impossible for it to be either powerful or secure, unless the intuitive and determining force of evidence be the principle of that union.

“In one sense, it may be affirmed, that the right of commanding belongs to evidence alone; for, in the order of nature, evidence is the only rule of conduct bestowed upon us by the Author of nature. But all men are not equally capable of seizing evidence; and even if they were, the interest of the moment often operates upon them with such vehemence, that the appetite of enjoyment will not, in a state of disorder, be restrained by the evidence of [III-719] duty. Among human beings, therefore, it is necessary, that the natural authority of evidence be armed with a physical force; and that the legislative power, though it commands in the name of evidence, have the disposal of the public force, to ensure obedience to its injunctions.”

From the analysis of what is necessary to constitute the tutelary authority, the key-stone, as it were, of the arch of human society, that which gives to the whole its binding force, and retains the parts in their order, the Economists deduced a variety of most important conclusions, of which we can only present the more striking as a sample.

The first is, That the legislative and executive powers are essentially inseparable; and that all the fine-looking theories, which have solicited and obtained so much of the admiration of a superficial world about the virtues of their separation, are phantoms in the air, the mere visions of imagination. “To dictate laws is to command; and as our passions render it impossible, that commands should be more than useless sounds, without the physical power of making them obeyed, the right of prescribing laws can have no existence without the physical power of enforcing them. The depositary of the power is, therefore, and necessarily, the master of the right; and the executive power is always and certainly the legislative power. Let the enemies of this conclusion turn and torture the subject which way they please, they

never can escape from it. Suppose, in order to form two powers, that the legislative right is confided to one organ, the public force to another, when opposition arises, which of the two is to be obeyed? As it is impossible that two contradictory commands can be obeyed at the same time, it must be absolutely decided which of the two is in preference to be obeyed. Now, this decision is, by the very fact, the destruction of the other power, and the establishment of that one. These two powers, therefore, unavoidably run into one; the legislative power necessarily becomes the executive power, or the executive becomes the legislative.

The second is, That the legislative never has, never can have, a right to make *bad* laws. A right to make bad laws, they said, is a contradiction in terms. A right supposes a *compact*; it is the offspring of an agreement, tacit or express; the idea of it can no more exist without that of a mutual convention, than a debt without the contract of debtor or creditor. The compact upon which all rights are founded is that of mutual advantage; it is the union of all wills, freely determined by a great interest, of which the *evidence* is visible to all. How can that union, which only exists for the sake of a good, continue to exist, if it is seen to produce evil? The hope cannot be framed, of maintaining it by force; because force is its effect; force can exist only subsequent to union, and in consequence of union. The horrid prerogative of being able to make bad laws, supposes necessarily a state of ignorance; a state in which the vices of the laws are not illuminated by evidence; for it is impossible that a community should consent to uphold that which visibly hurts them. The power exists in this hateful situation, but the right as little there, as any where else.

The Economists come next to the important question, What is *the security for the right use of the legislative power*? On this subject, their anxiety to secure to their opinions the benefit of publicity, and the favour of those in whose hands the governing powers were actually deposited, led them to use the veil of expressions too general, and into some positive mistakes. "The security," they said, "for the right use of the legislative power, is the interest of that same power, which can, in the general order alone, find its own best possible state. The irresistible force which evidence acquires by publicity is also that security. This evidence exists in its greatest force in the body of the magistrates, who cannot, without ceasing to be ministers of justice, lend their ministry to the execution of laws evidently unjust; or forbear, without being criminal, their utmost endeavours to make the *evidence* of that injustice as clear as possible, both to the legislature and to the nation.

The grand question followed, *What are the hands in which the legislative power ought to be deposited*? Having demonstrated that the legislative and executive powers cannot by possibility exist in any but the same hands, and that they form together what they denominated the *tutelary authority*, they proceeded to inquire what was implied in the idea of authority. "Unite," said they, "upon one object a multitude of opinions and of wills; from that union will arise naturally and necessarily an union of physical forces for the accomplishment of those wills; and from the whole together will result an authority, or, in other words, *a right of commanding, founded upon a physical power of procuring obedience to what is thus commanded*. If these opinions and wills should disunite, and form, for example, two parties; the forces will for that reason be divided; there will be two forces, two authorities, and, by consequence, two societies. That two authorities cannot exist in the same society, they maintained by the following proof. Such authorities must be either equal or not equal. If equal, each of them taken separately is null. If unequal, the superior is the real and only authority. That, in the first case, each taken separately would be strictly and literally null, arose, they said, from the very nature of equality, which rendered it absolutely impossible that the one could do any thing without the other. Neither of them, therefore, could procure a single act of obedience, except by their union; but, at the very moment of their union, they cease to be two authorities, and form both together only one authority made out of the union

of both. Unity is, then, a part of the very essence of authority; to divide it, is to reduce it to an incapacity of acting, that is, to extinguish it, for authority is not authority but in so far as it can act to procure the execution of its will.”

From the necessary unity of the tutelary authority it followed, they said, by necessary consequence, that the organ of that authority must be one man. That the physical force which is one of its component parts, can be directed only by one will, is above the need of proof. But it is said that one will may be formed out of the union of several wills; and that the public force is not subject to the separate wills till the union takes place.

[III-720]

To this the Economists made answer, that, if the opposition of one will can suspend the effect of all the others, it reduces authority to inaction, and for that reason destroys it. The reason why physical force is necessary is, that you cannot count upon the union of all wills. If, to avoid this objection, you have recourse, they said, to plurality of suffrage, you build no longer on the basis of evidence. That which divides opinions is not yet evident. As nothing in government ought to be arbitrary, and every thing that is not arbitrary is founded on reasons, that is, *evidence*; there cannot be diversity of opinions on matters of government, except from the effect of ignorance, or of bad design on the part of the deliberants. But it cannot be determined by a few voices less or more, on which side the ground of evil lies: experience shows, that an accredited error may long unite partizans in much greater number than the truth by which it is opposed. The number of those who concur in an opinion cannot render that evident which is not evident; their opinion is only opinion still; which is, of course, subject to change, for nothing but evidence is unalterable. And with respect to bad design; as that results from particular interests, it can never be determined whether the number of those whom such interests command is the greatest or the least. On both accounts, then, plurality of suffrage is not security.

But the greatest evil, they said, of the mode of determining, by majority of votes, the question respecting the social order, was, that it set individual interest in opposition to public; in which case, the public interests are sure to be sacrificed. “How great soever the differences among men, they have within them, nevertheless, two grand moving powers common to all, and which are the source of all their actions; the appetite of pleasure, and the aversion to pain. To suppose that men can move in opposition to those powers, is to suppose that the cause can depend upon the effect. But the desire of enjoyment, and opinion by which it is modified, cannot act naturally and constantly in the direction of the public interest, when authority is divided among several persons who are liable to have interests opposite to one another. For it may be laid down as a truth, which will not admit of contestation, that the public interest cannot be considered as generally safe, when it is in opposition to the private interests of those who are entrusted with it. If one or more of the public administrators behold any great advantage to themselves in a sacrifice which has been made, or which may be made, of the public interest, we ask, said the Economists, What can prevent the sacrifice from being made? Not the two springs of action which nature has placed within us to be the cause of all we do; for they are, in this case, put in opposition to the public interest. Not any other authority in opposition to that of the public administrator; since, by the supposition, they themselves engross the whole of the governing power.”

The remaining evil which the Economists ascribed to this expedient was, that it attached to the number of votes a despotical authority, which can safely and usefully belong to *evidence* alone. “Under this system, it is not evidence,” they said, “which governs; it is opinion, or the will of a certain number of men actuated by the same opinion. The mischief apt to result cannot be estimated; it is without bounds. Suppose, in fact, that the vote of the majority is dictated by private interests, and that *evidence* is on the side of the minority; is it

not monstrous that the former should command? and that the form of the government should lend to bad design a title to triumph over evidence itself? This excess of disorder is nevertheless inevitable, under so defective a plan of government; and the nation remains absolutely without protection against the scourges with which, under private interest, set in opposition to public, it may be lacerated; especially if these private interests are the interests of men who, by their riches or otherwise, are in possession of power.

“We forget not,” they said, “that the mischievous tendency of private interest, would find a counterpoise in the *knowledge of the nation*. It is very true, that, in a nation really enlightened, a nation that had from *evidence* the knowledge of its own true interests, the body of rulers could not abuse their authority. But why? because the evidence of the abuse would, in that case, annihilate the authority. But the idea of a nation governed by plurality of suffrage, and by evidence at the same time, involves an absurdity. Again, a nation sufficiently instructed to know all the links in the chain of social good and evil, would never sanction a form of government which places the common interest in opposition to the private interests of those to whom it is entrusted. Besides, it would be ridiculous to suppose a nation sufficiently instructed to have the wills of all united under the evidence of what is best in the social order, and to suppose its rulers, at the very same time, so ignorant as to be divided on those subjects, and reduced for a ground of decision to plurality of suffrage.

So long, on the other hand, as a nation is not thus instructed, the people, properly so called, sunk in ignorance and prejudices, see no farther than the nearest objects by which they are surrounded; each canton thinks the interest of the state is all summed up in the interest of that canton; each profession in the interest of that profession; the knowledge of relations and dependencies is absolutely wanting: such men cannot ascend from effects to causes, much less enumerate the links in the chain of causes and effects. It becomes, therefore, morally impossible for them to act by principle and by rule. Ever credulous and prone to prepossession, they must be gained in order to be persuaded; the same artifices must be practised upon them which are used to seduce them. The resolutions of men, the sport of momentary impressions, must have all the inconstancy of these impressions. Divided into rich and poor; the rich look upon the poor as made for them; and upon every power which they wish to possess, as naturally their due. The poor, justly discontented with the treatment they receive, and mistaking the cause, are tempted to envy the condition of the rich, and to regard as injustice the inequality of the partition which is made between them. It is evidently, [III-721] herefore, unsafe to choose the body of administration exclusively from either of these two classes. Nor would much be gained, if one half were chosen from the one and the other from the other. If the separate portions continued to be governed by the prejudices and views of the classes to which they belonged, they would do nothing but contend; and there is only one way in which they could receive a motive to cease; *if collusion would enable them to serve their own private interests by sacrificing the interests with which they were entrusted.*”

The Economists come, then, to their grand conclusion with respect to the artificial or physical security of the social order. To the question, what is the best form of government? They answered, The government of a single individual uniting in his own person the whole of the legislative and executive powers, in other words absolute. “All men,” they said, “would confess that the best form of government was that which was so perfectly conformable to the natural and essential order of societies, that no abuse could result from it; that form, in short, which renders it impossible to make gain out of misrule; which subjects him who governs to the absolute necessity of having no greater interest than that of governing well.” This advantage would be found, they affirmed, in the government of an hereditary sovereign, and it would be found in no other.

The reason was, that in no other could the interests of governor and governed be rendered absolutely the same. As the hereditary sovereign is the hereditary proprietor of the sovereignty, the interest of the sovereignty is his interest. The interest of the sovereignty means, the most perfect possible state of the governing authority; that is, the most perfect possible assurance of obedience to its command. But obedience to command can only arise out of the union of wills. And there can be no perfect assurance of the union of wills to obey, but from one cause; the evidence that what is commanded is for the benefit of those who are to obey. The interest of the hereditary sovereign, therefore, and the interest of the community, is one and the same.

With regard to the famous idea of the *balance* of a constitution;—that fancied arrangement of things in which the power and will of one part of the instruments of government finds a counterpoise in the power and will of another;—this pretended counterpoise the Economists treated as a perfect chimera, a mere imposition of the imagination, a sort of a daydream.

The nation, they said, is either instructed or not instructed. Let us examine the supposition of the balance in both cases. If it is instructed, or, in other words, possesses the evidence of the causes of good and evil in society, there is no balance of forces; there is only one force, because force follows will, and here wills are united. They carry the development of this idea to a great length, to which our limits will not permit us to follow them.

If the nation is not instructed, or, in other words, does not possess the evidence of the causes of good and evil in society, the establishment of counter-forces is impracticable. To ignorance there can be only one salutary counteracting force, and that is, evidence. The effect of ignorance in the sovereign is dreaded, and to remove the dread, another man's ignorance is provided. This is what people call making counter-forces: it must be confessed that they are not of the very best sort of materials. How could it ever be imagined that confidence for any thing stable, could be laid on any thing so unaccountable as the results of ignorance?

Let us adopt this chimera for a moment, and ask if it be possible to assure ourselves, that each force will be the same to-morrow which it appears to be to-day. It is evidently impossible; nay, what each appears to-day may be a *false* appearance; for resting only on opinion, detached from evidence, it rests on what can never be exactly known.

The idea of a balance is the idea of two powers, one tending by its own force in one direction, another urging it by an equal force in an opposite direction. The effect is rest. To balance the power of the sovereign, acting in one direction, you provide another power acting in an opposite direction. If the powers are equal, they destroy one another, and there is no action. If they are unequal, there are not two powers, but only one power; for the greater swallows up the less.

The theory of a constitutional balance is founded on a metaphor, a contrivance of language; and moral forces are supposed to be subject to the laws of material forces. Material forces acting on a body in different directions, make it assume a certain determinable duration between the two. But it has not been considered, that, in physics, the direction given does not depend upon the opinion of the things which act. In morals, on the other hand, the things which are depended upon for counteraction change their duration, according to their opinion. A theory which supposes that to be uniform and constant, which is known to be the reverse, is evidently absurd.

Suppose every thing which the theory needs to be supposed. Conceive an assembly, or assemblies, provided to counteract the sovereign, and so constituted, as to form the most perfect counteraction possible; that the sovereign can ordain nothing but with the consent of the assemblies, and the assemblies nothing but with the consent of the sovereign. In this case,

it is not a government of one, but a government of many; each member of the assemblies shares in the sovereignty; they are so many partners, therefore, with a particular partner at their head. The question is, what are the interests of the partnership? Those of the nation or not? The interests of the partnership doubtless are, to make it as profitable to the members as possible; for it would be absurd to suppose them not governed by their private interests. Suppose, then, that there is originally a tendency to counteraction between the sovereign and the assemblies. It is very obvious, that they will put an end to this counteraction, as far as they discover that the suspension of it is conducive to their private interests. This is a law of nature, and may be taken for granted. As far, then, as the serving of the private interests of the members is [III-722] concerned, there is no balance of opposite forces; the forces combine instead of opposing, and so far the balance is lost. The loss of the balance to this extent may be a loss engrossing the whole of the protection to the common interest which it was expected to yield; or it may be a loss not extending so far. If it goes to the whole extent of that protection, there is to the purpose in question no balance at all. If it does not go to the whole extent, there will still be some balance, more or less. What then is the case? The case is, that the loss goes to the whole; and that the balance does not exist. The balance does not exist, as far as the private interests of those who share among them the governing powers are concerned. But it is only from the private interests of those who govern, that the nation has any thing to fear; it is only against these interests that the balance is provided. As far, however, as these private interests are concerned, the balance does not exist. As far, therefore, as the balance is even *supposed* to be of any service, the balance is excluded by the law of nature. It follows as a corollary, that in a country where the people depend upon what is called *a balance*, as the whole of their security for good government, they have no security at all.

Such is the analysis which the Economists present of the causes of good and evil in human society, and of that order of things, which best insures the presence of the one and the absence of the other. That part of their doctrine which alone is yet known to the mere English reader, their *political economy*, is introduced as only an auxiliary exposition. It is part of the development by which they endeavoured to prove the identity which they supposed, between the interests of the sovereign and the interests of the people. But, as a very distinct account of this part of their system has been given by Dr Adam Smith, and has been repeated in a variety of publications; and as our object rather was the exhibition of those doctrines of the sect, which nobody has yet presented to our countrymen in their own language, we shall content ourselves with only marking the place which their political economy held in their general system.

As the society has public expences, it is necessary that it also have a public revenue. To reconcile the formation of a public revenue with the idea of social order, it ought to be formed, if possible, without infringing the property of individuals, for the sake of which the order of society itself is established. It ought, therefore, if possible, to be formed without diminishing the revenue of individuals. When the real origin of revenue, the source from which it all is drawn, is sufficiently understood, the mode of forming a revenue for the sovereign, without diminishing that of individuals, would be immediately apparent. *The source of all riches is the land; because the land alone, of all the sources of production, yields a produce greater than the cost of the production.* The surplus produce of the land, therefore, constitutes a fund, which is over and above the remuneration to the agents of production, and out of which the revenue of the sovereign may be taken, without diminishing the motive to production; that is, without retarding the natural progress of the state in wealth, population, and felicity.

To lay the foundation for this plan of a public revenue, it was necessary to prove that the land is the only source of production; and that manufactures and commerce, though they alter the form of things, never add any thing to the amount or value of production. In the development of these views, one of the most remarkable results at which the Economists arrived, was the necessity of perfect freedom to all the proceedings which lead to production; as giving to produce that form which is most agreeable to those who are to make use of it. Till the time of the Economists, the necessity of holding those proceedings in chains, and binding them to the will of governments, was the universal doctrine of governments, and to a great degree of speculators themselves. The general principles of the Economists respecting the *freedom* of property necessary to constitute the foundation of social order, led them to infer the evil of those abridgments of freedom; but they examined the inference in detail, and showed that the meddling officiousness of governments to compel industry to one thing, and exclude it from another, not only failed to effect any good purposes, but of necessity created obstructions of the greatest magnitude to production in general; and tended powerfully to keep down the wealth, population, and prosperity of the state. The light which they diffused on this subject, and which soon produced a grand effect on the minds of men, was a good, the magnitude of which is beyond calculation.

Another of their conclusions is, that the revenue of the sovereign, taken, as they said it ought to be, wholly from the net produce of the land, ought to be a fixed and unalterable proportion of that produce. The reason appeared to them conclusive. If the proportion was variable, and depended upon the will of the owners of the land, they might be induced to break upon the public revenue, and deprive the state of those benefits which the public revenue is necessary to produce. If it depended upon the sovereign, the property of the land might be detached from that of its produce; no body would have a motive to become a proprietor in land; and all the advantages which depend on the existence of that property would be lost; the production of subsistence would fail; and the community could not exist.

This proportion being once fixed, there is no longer any contrariety between the interest of the sovereign and the interest of any portion of his people. And the proprietors of land are as completely and securely exempt from contributing to the expence of the state, as any other class of the community. The sovereign derives no part of his revenue from the subject; and this deplorable source of the conflict of interests is wholly cut off. The proportion being settled for ever between the sovereign and the land-owners, that alone is the property of the land-owner which is the proportion remaining to him. The rest is, with regard to him, as if it did not exist. The sovereign they denominated, therefore, *co-proprietor* of the land. And between him and the land-owner, commonly so called, a perfect community of interests is fixed. It is the interest of the sovereign that the produce of the land should increase; [III-723] because, with every increase in the produce of the land, his revenue increases. It is also the interest of the land-owner that the produce of the land should increase, because it is from the same cause that his revenue increases.

III. In the remarks which we have to offer on the doctrines of this sect, we must content ourselves with a few general strictures on one or two leading points.

The most important slips which the Economists made in tracing the laws of the social order, are found in their deductions respecting the *tutelary authority*. Many steps, nevertheless, in that doctrine they have established. That the legislative and executive power are essentially the same, and cannot be separated except in *appearance*, they seem to us to have placed beyond the reach of dispute. That no security for good government can be found in an organization of counter-forces, or a *balance* in the constitution, they have proved in a manner equally satisfactory. But we think they have not proved, that a security for good government can ever be found in the personal interests of a sovereign who unites in himself the whole of the legislative and executive power. And we think they have not proved that this

security, if it cannot be found in the interests of such a sovereign, can be found in nothing else.

1. That the Economists do not reason correctly from their own principles, when they regard the interests of the sovereign as an adequate security for good government, may be made apparent, we should hope, by an argument of a very few steps.

In a perfect state of the social order, they say that the interest of the sovereign would be the same with that of the community; and the evidence of this identity would be so clear to the sovereign, that the effect of it would be irresistible on his mind. But in a perfect state of the social order, they say also, that the interest of *every* man would consist in the most exact conformity to all the rules of that order, and that the evidence of this truth would be so apparent as to be sure of its effect. In the only state, therefore, in which the interest of the individual entrusted with the tutelary authority could be relied on as a security, the tutelary authority itself would not be required; for in a state in which every man would, of his own accord, do what is best, an authority to compel him to do so would be worse than useless.

The moment when you suppose a tutelary authority to be necessary,—the moment at which you suppose there is any man in the community who can regard his private interest as consisting in any degree in what is hurtful to the community, how can you be sure that the depository of the legislative and executive powers will not be that man? It can be easily shown that no man is acted upon by stronger forces to impel him in that direction.

In order to prove that the legislative power cannot be exercised by the community at large, the Economists declare expressly, “that if we study the nature of each man in particular, we shall find, in general, that he would, if possible, have nothing but rights on his own side, nothing but obligations on the side of other men. The legislative power can be exercised with safety only by those who possess in perfection the evidence of the justice and necessity of the original and pervading laws of social order. It cannot, therefore, be exercised in safety by a body of men, among whom unequal rights exist, and must exist; and who at the same time are all separately desirous that the inequality should be in their favour.”

Admit this,—admit that all men in general desire to have nothing but rights on their own side, obligation on the side of other men; to have the inequality all in their own favour; to possess advantages, in short, over their fellows in the community; and it is surely absurd to talk of security in the interest of the sovereign.

It is a part of their doctrine, that he who is entrusted with the legislative power cannot be entrusted with the judicial power; because in that case the same party, both legislators and judges, would destroy law, by the exercise of arbitrary will. This is a direct admission, or rather an unlimited affirmation, that the interest of the sovereign is not a security such as good government requires. Again, it is said by the Economists, “that under a government conformable to the principles of order, the positive laws would be of a justice and necessity *publicly evident*; and that in order to apply these laws, the judges would unite two sorts of knowledge, both of its meaning and of its reason; and, secondly, a knowledge of the facts which constitute the case in which they are required to decide.” No men, according to them, are more urgently called upon, none can be more reasonably expected to be in full possession of the evidence of that interest which every man has in the preservation of the social order. Yet so far are the Economists from saying that the interest of these men, and the evidence they could possess of that interest would be a sufficient security for the right administration of their trust; that they declare them liable to the greatest malversations, and that the ultimate security would lie in the sovereign, who would check them. It is surely matter of wonder, how the Economists could fail to perceive, that the very same motives which they rejected as security for the right use of authority in the judges, they trusted to as complete security in the

sovereign; though likely to operate on the judges with greater force than upon him.

2. We think it may also be made apparent, that the Economists do not reason correctly from their own principles, when they conclude, that if security for good government cannot be found in the interests of one man entrusted with the whole of the legislative and executive powers, it can be found in nothing else.

They expressly state, that, “the first, the real depositary and general guardian of the laws is the nation itself, at the head of which is the sovereign. Accurately speaking, the deposit and guardianship of the laws *can* belong to those alone who are armed with the superiority of the physical force, to procure to that deposit its necessary superiority. This being evident, it is the nation as a body which naturally and necessarily is the depositary and guardian [III-724] of its own laws; because there is in the nation no power comparable to that which results from the combination of its powers.” Again: —

In contending that the legislative and executive powers must always be exercised by the same hands, they affirm that those powers could only be exercised by those who had in their hands the superiority of the physical force. Observe, now, the legitimate conclusion:—

The people alone have the physical force necessary to constitute them guardians of the laws. The same force is necessary for the makers and the executors of the laws. No body, therefore, but the people, ever can, accurately speaking, have either the legislative or the executive powers.—In a state of ignorance they may be led by fraud to lend their powers to their own destruction. But it is a part, also, of the doctrine of the Economists, that in a state of knowledge, in which they may be easily placed, it is not possible they should make any but a good use of their power.

“A nation,” they said, “governed according to the natural and essential order of society, has *necessarily* the perfect evidence and knowledge of it, and therefore sees with certainty that it enjoys its best possible situation. This perception, of necessity, unites all the wills and all the forces in the nation for the support of that order; and, by consequence, for the creation and preservation of all the institutions which are best adapted to that support.” The people, therefore, may be safely trusted.

In a nation governed badly, governed not according to “the natural and essential order,” but according to what the Economists called the “*political* order;” “it is always,” they said, “one part of the nation which governs the rest; the weaker which governs the stronger. In this case, too, the power of him who commands consists in nothing but the powers united of those who obey him. And this union of their forces supposes, of necessity, the union of their wills; which can be founded only upon the persuasion that this obedience procures them their best possible condition. The powers of the nation, in this vicious order, are less at the disposal of the sovereign, than at the disposal of those who hire to him their agency, and, by consequence, sell to him the means of procuring obedience from the nation; his situation is therefore at bottom a real dependence; his situation is precarious, uncertain, changeable; he is put in chains, which he dares not attempt to break.” In every situation, therefore, it is the will of the people, either of the whole of the people united, or of a part of the people united against the rest, which is, in reality, both the legislative and the executive power. Estimate, therefore, as high as you please, exaggerate to any excess the inconvenience of being governed by the people, you have that inconvenience still; you are bound to it by the inexorable law of nature; it is not within the range of possibility that you should escape from it.

We have already seen, that the Economists declare, that “every man wishes to have all the rights on his own side, all the duties on the side of other men; that every man likes inequality, in short, when the inequality is in his own power.” From this they infer, that the community

cannot safely govern; but from this it may with much more justness be retorted upon them, that nothing else can safely govern. The interest of the community, say the Economists, is easily known; the evidence of it is within the reach of all descriptions of the people, and so cogent as to be irresistible. The union of wills, according to their doctrine, follows as a matter of course. Here, therefore, it should seem, we have a much better security, than can be found in the interest of any *individual*, sovereign or subordinate.

It is remarkable enough, that the Economists have wholly overlooked, in their criticism on the plans opposed to their own, *the representative system*; and yet it is pretty evident, that it is by means of the representative system, that the grand problem of government must finally be resolved. The speculations connected with this subject will, however, find a more fitting place under the article GOVERNMENT.

For the exposition of the original errors of this sect in *political economy*, it is unnecessary to do any thing more than refer to the immortal work of Dr Adam Smith. A few years ago, these errors, under something of a new form, were revived in this country, with a success which shows how much the *opinions* of that great proportion of the community, whose opinions are not formed upon *evidence*, are liable to change by every fluctuation of circumstances. From an opinion, which had governed this nation for ages, that to its commerce alone it owed its being the richest nation upon earth, our countrymen, under the momentary threat of circumstances, which created an unreasonable fear of being deprived of commerce, embraced, with an avidity hardly conceivable before experience, the doctrine of Mr Spence, that commerce was no source of riches at all. What the author of this article thought necessary to be said in opposition to these doctrines at the time, he presented in a tract, entitled, *Commerce Defended, in Answer to Mr Spence*. [*]And an able exposure of the same errors was published on the same occasion by Major Torrens, in a pamphlet, which he entitled the *Economists Refuted*.

(F. F.)

END OF VOLUME THIRD.

EDUCATION.↩

THE end of education is to render the individual, as much as possible, an instrument of happiness, first to himself, and next to other beings.

The properties, by which he is fitted to become an instrument to this end, are, partly, those of the body, and, partly, those of the mind.

Happiness depends upon the condition of the Body, either immediately, as where the bodily powers are exerted for the attainment of some good; or mediately, through the mind, as where the condition of the body affects the qualities of the mind.

Education, in the sense in which it is usually taken, and in which it shall here be used, denotes the means which may be employed to render the *mind*, as far as possible, an operative cause of happiness. The mode in which the *body* may be rendered the most fit for operating as an instrument of happiness is generally considered as a different species of inquiry, and is thought to belong to physicians and others, who study the means of perfecting the bodily powers.

Education, then, in the sense in which we are now receiving it, may be [Definition.](#) defined, the best employment of all the means which can be made use of, by man, for rendering the human mind to the greatest possible degree the cause of human happiness. Every thing, therefore, which operates, from the first germ of existence, to the final extinction of life, in such a manner as to affect those qualities of the mind on which happiness in any degree depends, comes within the scope of the present inquiry. The grand question of education embraces nothing less than this—namely, What can be done by the human powers, by aid of all the means which are at human disposal, to render the human mind the instrument of the greatest degree of happiness? It is evident, therefore, that nothing, of any kind, which operates at any period of life, however early, or however late, ought to be left out of the account. Happiness is too precious an effect, to let any cause of it, however small, run to waste and be lost. The means of human happiness are not so numerous that any of them can be spared. Not to turn every thing to account, is here, if any where, bad economy, in the most emphatical sense of the phrase.

The field, it will easily be seen, is exceedingly comprehensive. It is [Objects of this Article.](#) everywhere, among enlightened men, a subject of the deepest complaint, that the business of education is ill performed; and that, in this, which might have been supposed the most interesting of all human concerns, the practical proceedings remain far behind the actual state of the human mind. It may be remarked, that, notwithstanding all that has been written on the subject, even the *theory* of education has not kept pace with the progress of philosophy; and it is unhappily true, that the *practice* remains to a prodigious distance behind the theory. One reason why the theory, or the combination of ideas which the present state of knowledge might afford for improving the business of education, remains so imperfect, probably is, that the writers have taken but a partial view of the subject; in other words, the greater number have mistaken a part of it for the whole. And another reason of not less importance is, that they have generally contented themselves with vague ideas of the object or end to which education is only useful as means. One grand purpose of the present inquiry will be to obviate all these mistakes; and, if not to exhibit that comprehensive view, which we think is desirable, but to which our limits are wholly inadequate; at any rate, to conduct the reader into that train of thought which will lead him to observe for himself the ultimate boundaries of the field; and, conceiving more accurately the end, to form a better

estimate of what is desirable as the means.

1. It has been remarked, that every thing, from the first germ of [Division of these objects.](#) existence to the final extinction of life, which operates in such a manner as to affect those qualities of the mind on which happiness in any degree depends, comes within the scope of the present inquiry. Those circumstances may be all, according to the hackneyed division, arranged under two heads: They are either Physical or Moral; meaning by Physical, those of a material nature, which operate more immediately upon the material part of the frame; by Moral, those of a mental nature, which operate more immediately upon the mental part of the frame. What are those physical and moral circumstances which may be made to operate upon the mind in such a manner as to render it a better instrument or cause of happiness, is, therefore, one object of the present inquiry.

2. In order to know in what manner things operate upon the mind, it is necessary to know how the mind is constructed. *Quicquid recipitur, recipitur ad modum recipientis.* This is the old aphorism, and no where more applicable than to the present case. If you attempt to act upon the mind, in ways not adapted to its nature, the least evil you incur is to lose your labour.

3. As happiness is the end, and the means ought to be nicely adapted to the end, it is necessary to inquire, What are the qualities of mind which chiefly conduce to happiness,—both the happiness of the individual himself, and the happiness of his fellow creatures?

It appears to us, that this distribution includes the whole of the subject. Each of these divisions [[IV-12](#)] branches itself out into a great number of inquiries. And, [Education.](#) it is manifest, that the complete developement of any one of them would require a greater space than we can allow for the whole. It is, therefore, necessary for us, if we aim at a comprehensive view, to confine ourselves to a skeleton; and this we think is both the most instructive course we can pursue, and the best adapted to the nature of the work for which it is designed.

The next question is, Which of these three divisions of the inquiry it [Order of inquiry.](#) will be most advantageous to the developement of the subject to begin with. The first, it is evident, is the most practical, and, therefore, likely to be the most interesting. Under the Physical Head, it includes inquiries into the mode in which the qualities of the mind are affected by the health, the aliment, the air, the labour, &c. to which the individual is subject. Under the Moral Head it includes inquiries into what may be called, 1. Domestic education, or the mode in which the mind of the individual is liable to be formed by the conduct of the individuals composing the family in which he is born and bred: 2. Technical or scholastic education, including all those exercises upon which the individual is put, as means to the acquisition of habits,—habits either conducive to intellectual and moral excellence, or even to the practice of the manual arts: 3. Social education, or the mode in which the mind of the individual is liable to be affected by the conduct of the men who form the society in which he moves: 4. Political education, or the mode in which the mind of the individual is acted upon by the nature of the political institutions under which he lives.

The two latter divisions comprehend what is more purely theoretical; and the discussion of them will, therefore, have fewer attractions to that class of readers, unhappily numerous, to whom intellectual exercises have not by habit been rendered delightful. To the inquiries, however, which are included under the first division, it appears, that those included under the two last are required as a foundation. The fact is, that good practice can, in no case, have any solid foundation but in sound theory. This is not more important, than it is demonstrable and certain. For, What is theory? It is the putting the *whole* of the knowledge, which we possess upon any subject, into that order and form in which it is most easy to draw from it good

practical rules. Let any one examine this definition, article by article, and show us that it fails in a single particular. If it does not, let us no longer hear of the separation of theory from practice.

1. The first, then, of the inquiries, embraced by the great subject of [Nature of the Mind, as connected with Education.](#) education, is that which regards the nature of the human mind: and the business is, agreeably to the foregoing definition of theory, to put the knowledge which we possess respecting the human mind, into that order and form, which is most advantageous for drawing from it the practical rules of education. The question is, How the mind, with those properties which it possesses, can, through the operation of certain means, be rendered most conducive to a certain end? To answer this question, the whole of its properties must be known. The whole science of human nature is, therefore, but a branch of the science of education. Nor can education assume its most perfect form, till the science of the human mind has reached its highest point of improvement. Even an outline, however, of the philosophy of the human mind would exceed the proportion of the present article; we must, therefore, show what ought to be done, rather than attempt, in any degree, to execute so extensive a project.

With respect to the human mind, as with respect to every thing else, all that passes with us, under the name of knowledge, is either matter of experience, or, to carry on the analogy of expression, matter of guess. The first is real knowledge: the properties of the object correspond to it. The latter is supposititious knowledge, and the properties of the object do or do not correspond to it; most likely not. The first thing desirable is, to make an exact separation of those two kinds of knowledge; and, as much as possible, to confine ourselves to the first.

What, then, is it which we experience with regard to the human mind? and what is it which we guess? We have experience of ourselves, when we *see*, when we *hear*, when we *taste*, when we *imagine*, when we *fear*, when we *love*, when we *desire*; and so on. And we give names, as above, to distinguish what we experience of ourselves, on one of those occasions, from what we experience on another. We have experience of other men exhibiting *signs* of having similar experiences of themselves, that is, of *seeing*, *hearing*, and so on. It is necessary to explain, shortly, what is here meant by a sign. When we ourselves *see*, *hear*, *imagine*, &c. certain actions of ours commonly follow. We know, accordingly, that if any one, observing those actions, were to infer that we had been *seeing*, *hearing*, &c., the inference would be just. As often then as we observe similar actions in other men, we infer that they, too, have been seeing or hearing; and we thus regard the action as the sign.

Having got names to distinguish the state or experience of ourselves, when we say, *I see*, *I hear*, *I wish*, and so on; we find occasion for a name which will distinguish the having of any (be it what it may) of those experiences, from the being altogether without them; and, for this purpose, we say, *I feel*, which will apply, generally, to any of the cases in which we say, *I see*, or *hear*, or *remember*, or *fear*; and comprehends the meaning of them all. The term *I think*, is commonly used for a purpose nearly the same. But it is not quite so comprehensive. There are several things which we should undoubtedly include under the term *our experience of our mind*, to which we should not extend the term *I think*. But there is nothing whatsoever included under it to which we should not extend the term *I feel*; this is truly, therefore, the generic term.

All our experience, then, of the human mind, is confined to the several occasions on which the term *I feel* can be applied. And, now, What does all this experience amount to? What is the knowledge which it affords? It is, first, a knowledge of the *feelings* themselves; we can remember what, [IV-13] one by one, they were. It is, next, a knowledge of the order in which they follow one another; and this is all. But this description, though a just one, is so

very general as to be little instructive. It is not easy, however, to speak about these feelings minutely and correctly; because the language which we must apply to them is ill adapted to the purpose.

Let us advert to the first branch of that knowledge, the knowledge of the feelings themselves. This, in the simple cases, may be regarded as easy; the feeling is distinct at the moment of experience, and is distinctly remembered afterwards. But the difficulty is great with the complex cases. It is found, that a great number of simple feelings are apt to become so closely united, as often to assume the appearance of only one feeling, and to render it extremely difficult to distinguish from one another the simple feelings of which it is composed. And one of the grand questions which divide the mental philosophers of the present day, is to determine which feelings are simple, and which are complex. There are two sorts which have, by all, been regarded as simple: Those which we have when we say, I hear, I see, I feel, I taste, I smell, corresponding to the five senses, and which Mr. Hume distinguished by the name of *impressions*; and the feelings corresponding to these impressions, which Mr. Hume calls *ideas* of them; the second taking place only in consequence of the first, and being, as it were, a revival of them; not the same feelings with the impressions, by any means; but feelings which bear a certain resemblance to them. Thus, when a man sees the light of noon, the feeling he has is called an *impression*,—the impression of light; when he shuts his eyes and has a feeling,—the type or relict of the impression,—he is not said to *see* the light, or to have the *impression* of light, but to *conceive* the light, or have an *idea* of it.

These two,—*impressions*, and their correspondent *ideas*,—are simple feelings, in the opinion of all philosophers. But there is one set of philosophers who think that these are the only simple feelings, and that all the rest are merely combinations of them. There is another class of philosophers who think that there are original feelings beside impressions and ideas; as those which correspond to the words *remember, believe, judge, space, time, &c.* Of the first are Hartley and his followers in England, Condillac and his followers in France; of the second description are Dr. Reid and his followers in this country, Kant and the German school of metaphysicians in general on the Continent.

It is evident, that the determination of this question with regard to the first branch of knowledge, namely, what the feelings are? is of very great importance with regard to the second branch of knowledge, namely, what is the order in which those feelings succeed one another? For how can it be known how they succeed one another, if we are ignorant which of them enter into those several groups which form the component parts of the train? It is of vast importance, then, for the business of education, that the analysis of mind should be accurately performed; in other words, that all our complex feelings should be accurately resolved into the simple ones of which they are composed. This, too, is of absolute necessity for the accurate use of language; as the greater number of words are employed to denote those groups of simple feelings which we call complex ideas.

In regard to all the events in this world, of which feelings are a class, our knowledge extends not beyond two points. The first is, a knowledge of the events themselves; the second is, a knowledge of the order of their succession. The expression in words of the first kind of knowledge is history; the expression of the second is philosophy; and to render that expression short and clear is the ultimate aim of philosophy.

The first steps in ascertaining the order of succession among events are familiar and easy. One occurs, and then another, and after that a third, and so on; but at first it is uncertain whether this order is not merely accidental, and such as may never recur. After a time it is observed, that events, similar to those which have already occurred, are occurring again and again. It is next observed, that they are always followed, too, by the same sort of events by

which those events were followed to which they are similar; that these second events are followed, in the third place, by events exactly similar to those which followed the events which they resemble; and that there is, thus, an endless round of the same sequences.

If the order in which one event follows another were always different, we would know events only one by one, and they would be infinitely too numerous to receive names. If we could observe none but very short sequences, if, for example, we could ascertain that one event was, indeed, always followed by one other of the same description, but could not trace any constancy farther, we should thus know events by sequences of twos and twos. But those sequences would also be a great deal too numerous to receive names.

The history of the human mind informs us, that the sequences which men first observe are but short ones. They are still, therefore, too numerous to receive names. But men compound the matter. They give names to those sequences which they are most interested in observing, and leave the rest unnamed. They then, when they have occasion to speak of the unnamed successions, apply to them, the best way they can, the names which they have got; endeavouring to make a partial naming answer an universal purpose, and hence almost all the confusion of language and of thought arises.

The great object is, then, to ascertain sequences more and more extensive, till, at last, the succession of all events may be reduced to a number of sequences sufficiently small for each of them to receive a name; and then, and then only, shall we be able to speak wholly free from confusion.

Language affords an instructive example of this mode of ascertaining sequences. In language, the words are the events. When an ignorant man first hears another speak an unknown language, he hears the sounds one by one, but observes no sequence. At last he gathers a knowledge of the use of a few [IV-14] words, and then he has observed a few sequences; and so he goes on till he understands whatever he hears. The sequences, however, which he has observed, are of no greater extent than is necessary to understand the meaning of the speaker; they are, by consequence, very numerous and confusing.

Next comes the grammarian; and he, by dividing the words into different kinds, observes that these kinds follow one another in a certain order, and thus ascertains more enlarged sequences, which, by consequence, reduces their number.

Nor is this all; it is afterwards observed, that words consist, some of one syllable, and some of more than one; that all language may thus be resolved into syllables, and that syllables are much less in number than words; that, therefore, the number of sequences in which they can be formed are less in number, and, by consequence, are more extensive. This is another step in tracing to the most comprehensive sequences the order of succession in that class of events wherein language consists.

It is afterwards observed, that these syllables themselves are compounded; and it is at last found, that they may all be resolved into a small number of elementary sounds corresponding to the simple letters. All language is then found to consist of a limited number of sequences, made up of the different combinations of a few letters.

It is not pretended that the example of language is exactly parallel to the case which it is brought to illustrate. It is sufficient if it aids the reader in seizing the idea meant to be conveyed. It presents, at any rate, a striking analogy between the analysing of a complex sound, namely, a word, into the simple sounds of which it is composed, to wit, letters; and the analysing of a complex feeling, such as the idea of a rose, into the simple feelings of sight, of touch, of taste, of smell, of which the complex idea or feeling is made up. It affords, also, a brilliant proof of the commanding knowledge which is attained of a train of events, by

observing the sequences which are formed of the simplest elements into which they can be resolved; and it thus illustrates the two grand operations, by successful perseverance in which the knowledge of the human mind is to be perfected.

It is upon a knowledge of the sequences which take place in the human feelings or thoughts, that the structure of education must be reared. And, though much undoubtedly remains to be cleared up, enough is already known of those sequences to disgrace the education with which our supineness, and love of things as they are, rest perfectly satisfied.

As the happiness, which is the end of education, depends upon the actions of the individual, and as all the actions of man are produced by his feelings or thoughts, the business of education is, to make certain feelings or thoughts take place instead of others. The business of education, then, is to work upon the mental successions. As the sequences among the letters or simple elements of speech, may be made to assume all the differences between nonsense and the most sublime philosophy, so the sequences, in the feelings which constitute human thought, may assume all the differences between the extremes of madness and of wickedness, and the greatest attainable heights of wisdom and virtue; and almost the whole of this is the effect of education. That, at least, all the difference which exists between classes or bodies of men is the effect of education, without entering into the dispute about individual distinctions, we suppose, will be readily granted; that it is education wholly which constitutes the remarkable difference between the Turk and the Englishman, and even the still more remarkable difference between the most cultivated European and the wildest savage. Whatever is made of any *class* of men, we may then be sure is possible to be made of the whole human race. What a field for exertion! What a prize to be won!

Mr. Hobbes, who saw so much farther into the texture of human thought than all who had gone before him, was the first man, as far as we remember, who pointed out what is peculiarly *knowledge*, in this respect (namely, the order in which our feelings succeed one another)—as a distinct object of study. He marked, with sufficient clearness, the existence and cause of the sequences; but, after a very slight attempt to trace them, he diverged to other inquiries, which had this but indirectly for their object.

“The succession,” he says (*Human Nature*, ch. iv.), “of conceptions in the mind, series or consequence (by *consequence* he means *sequence*) of one after another, may be casual and incoherent, as in dreams, for the most part; and it may be orderly, as when the former thought introduceth the latter. The cause of the coherence or consequence (*sequence*) of one conception to another, is their first coherence or consequence at that time when they are produced by sense; as, for example, from St. Andrew the mind runneth to St. Peter, because their names are read together; from St. Peter to a stone, for the same cause; from stone to foundation, because we see them together; and, according to this example, the mind may run almost from any thing to any thing. But, as in the sense, the conception of cause and effect may succeed one another, so may they, *after* sense, in the imagination.” By the succession in the *imagination* it is evident he means the succession of *ideas*, as by the succession in *sense*, he means the succession of impressions.

Having said that the conceptions of *cause* and *effect* may succeed one another in the sense, and after sense in the imagination, he adds, “And, for the most part, they do so; the cause whereof is the appetite of them who, having a conception of the *end*, have next unto it a conception of the next *means* to that end; as when a man, from a thought of honour, to which he hath an appetite, cometh to the thought of wisdom, which is the next means thereunto; and from thence to the thought of study, which is the next means to wisdom.” (Ib.) Here is a declaration with respect to three grand laws in the sequence of our thoughts. The first is, that the succession of ideas follows the same order which takes place in that of the impressions. The second is, that the order of cause and effect is the most common order in

the successions in the imagination, [IV-15] that is, in the succession of ideas. And the third is, that the appetites of individuals have a great power over the successions of ideas; as the thought of the object which the individual desires leads him to the thought of that by which he may attain it.

Mr. Locke took notice of the sequence in the train of ideas, or the order in which they follow one another, only for a particular purpose,—to explain the intellectual singularities which distinguish particular men. “Some of our ideas,” he says, “have a natural correspondence and connection one with another. It is the office and excellence of our reason to trace these, and hold them together in that union and correspondence which is founded in their peculiar beings. Besides this, there is another connection of ideas, wholly owing to chance or custom; ideas that are not at all of kin come to be so united in some men’s minds, that it is very hard to separate them; they always keep in company, and the one no sooner at any time comes into the understanding, but its associate appears with it; and, if they are more than two which are thus united, the whole gang, always inseparable, show themselves together.” There is no attempt here to trace the order of sequence, or to ascertain which antecedents are followed by which consequents; and the accidental, rather than the more general phenomena, are those which seem particularly to have struck his attention. He gave, however, a name to the matter of fact. When one idea is regularly followed by another, he called this constancy of conjunction *the association of the ideas*; and this is the name by which, since the time of Locke, it has been commonly distinguished.

Mr. Hume perceived, much more distinctly than any of the philosophers who had gone before him, that to philosophize concerning the human mind was to trace the order of succession among the elementary feelings of the man. He pointed out three great laws or comprehensive sequences, which he thought included the whole. Ideas followed one another, he said, according to *resemblance*, *contiguity* in time or place, and *cause and effect*. The last of these, the sequence according to cause and effect, was very distinctly conceived, and even the cause of it explained, by Mr. Hobbes. That of contiguity in time and place, is thus satisfactorily explained by Mr. Hume. “It is evident,” he says, “that as the senses, in changing their objects, are necessitated to change them regularly, and take them as they lie contiguous to each other, the imagination must, by long custom, acquire the same method of thinking, and run along the parts of space and time in conceiving its objects.” (*Treatise of Human Nature*, P. 1. B. 1. sect. 4.) This is a reference to one of the laws pointed out by Hobbes, namely, that the order of succession among the ideas follows the order that took place among the impressions. Mr. Hume shows that the order of sense is much governed by contiguity, and why; and assigns this as a sufficient reason of the order which takes place in the imagination. Of the next sequence, that according to resemblance, he gives no account, and only appeals to the consciousness of his reader for the existence of the fact. Mr. Hume farther remarked, that what are called our complex ideas, are only a particular class of cases belonging to the same law, the law of the succession of ideas; every complex idea being only a certain number of simple ideas, which succeed each other so rapidly, as not to be separately distinguishable without an effort of thought. This was a great discovery; but it must at the same time be owned, that it was very imperfectly developed by Mr. Hume. That philosopher proceeded, by aid of these principles, to account for the various phenomena of the human mind. But though he made some brilliant developements, it is nevertheless true, that he did not advance very far in the general object. He was misled by the pursuit of a few surprising and paradoxical results, and when he had arrived at them he stopped.

After him, and at a short interval, appeared two philosophers, who were more sober-minded, and had better aims. These were Condillac and Hartley. The first work of Condillac appeared some years before the publication of that of Hartley; but the whole of Hartley’s train of thought has so much the air of being his own, that there is abundant reason to believe

the speculations of both philosophers equally original. They both began upon the ground that all simple ideas are copies of impressions; that all complex ideas are only simple ideas united by the principle of association. They proceeded to examine all the phenomena of the human mind, and were of opinion that the principle of association, or the succession of one simple idea after another, according to certain laws, accounts for the whole; that these laws might, by meditation, be ascertained and applied; and that then the human mind would be understood, as far as man has the means of knowing it.

The merit of Condillac is very great. It may yet, perhaps, be truer to say, that he wrote admirably upon philosophy, than that he was a great philosopher. His power consists in expression; he conveys metaphysical ideas with a union of brevity and clearness which never has been surpassed. But though he professed rather to deliver the opinions of others, than to aim at invention, it cannot be denied that he left the science of the human mind in a much better state than he found it; and this is equivalent to discovery. As a teacher, in giving in this field a right turn to the speculations of his countrymen, his value is beyond all calculation; and perhaps there is no one human being, with the exception of Locke, who was his master, to whom, in this respect, the progress of the human mind is so largely indebted. It is also true, that to form the conception of tracing the sequences among our simple ideas, as the whole of the philosophy of the human mind—(even with the helps which Hume had afforded, and it is more than probable that neither Condillac nor Hartley had ever heard of a work which, according to its author, had fallen dead born from the press),—was philosophical and sagacious in the highest degree.

It must, however, be allowed, that, in expounding the various mental phenomena of man, Condillac does not display the same penetration and force of mind, nor the same comprehensiveness, as Dr. Hartley. He made great *progress* in showing how [IV-16] those phenomena might be resolved into the sequences of simple ideas; but Dr. Hartley made still greater. We do not mean to pronounce a positive opinion either for or against the grand undertaking of Dr. Hartley, to resolve the whole of the mental phenomena of man into sequences of impressions and of the simple ideas which copy them. But we have no hesitation in saying, that he philosophizes with extraordinary power and sagacity; and it is astonishing how many of the mental phenomena he has clearly resolved; how little, in truth, he has left about which any doubt can remain.

We cannot afford to pursue this subject any farther. This much is ascertained, that the character of the human mind consists in the sequences of its ideas; that the object of education, therefore, is, to provide for the constant production of certain sequences, rather than others; that we cannot be sure of adopting the best means to that end, unless we have the greatest knowledge of the sequences themselves.

In what has been already ascertained on this subject, we have seen that there are two things which have a wonderful power over those sequences. They are, custom, and pain or pleasure. Both of these powers were well remarked by Mr. Hobbes. These are the grand instruments or powers, by the use of which, the purposes of education are to be attained.

Where one idea has followed another a certain number of times, the appearance of the first in the mind is sure to be followed by that of the second, and so on. One of the grand points, then, in the study of education, is, to find the means of making, in the most perfect manner, those repetitions on which the beneficial sequences depend.

When we speak of making one idea follow another, and always that which makes part of a good train, instead of one that makes part of a bad train, there is one difficulty—in this—that each idea, taken singly by itself, is as fit to be a part of a bad train as of a good one; for bad trains and good trains are both made out of the same simple elements. Trains, however,

take place by sequences of twos, or threes, or any greater number; and the nature of these sequences, as complex parts of a still greater whole, is that which renders the train either salutary or hurtful. Custom is, therefore, to be directed to two points; first, to form those sequences which make the component parts of a good train; and secondly, to join those sequences together, so as to constitute the train.

When we speak of making one idea follow another, there must always be a starting point; there must be some one idea from which the train begins to flow; and it is pretty evident that much will depend upon this idea. One grand question, then, is—what are the ideas which most frequently operate as the commencement of trains?—that we may by custom attach to them such as are the most beneficent. It has been observed that most, if not all, of our trains, start from a sensation, or some impression upon the external or internal nerves. The question then is, which are those sensations, or aggregates of sensations, which are of the most frequent recurrence? it being obviously of importance, that those which give occasion to the greatest number of trains, should be made, if possible, to give occasion only to the best trains. Now the sensations, or aggregates of sensations, which occur in the ordinary business of life, are those of most frequent recurrence; and from which it is of the greatest importance that beneficial trains should commence. Rising up in the morning, and going to bed at night, are aggregates of this description, common to all mankind; so are the commencement and termination of meals. The practical sagacity of priests, even in the rudest ages of the world, perceived the importance, for giving religious trains an ascendancy in the mind, of uniting them, by early and steady custom, with those perpetually recurring sensations. The morning and evening prayers, the grace before and after meals, have something correspondent to them in the religion of perhaps all nations.

It may appear, even from these few reflections and illustrations, that, if the sensations, which are most apt to give commencement to trains of ideas, are skilfully selected, and the trains which lead most surely to the happiness, first of the individual himself, and next of his fellow-creatures, are by custom effectually united with them, a provision of unspeakable importance is made for the happiness of the race.

Beside custom, it was remarked by Hobbes, that appetite had a great power over the mental trains. But appetite is the feeling toward pleasure or pain in prospect; that is, future pleasure or pain. To say that appetite, therefore, has power over the mental trains, is to say, that the prospect of pleasure or pain has. That this is true, every man knows by his own experience. The best means, then, of applying the prospect of pleasure and pain to render beneficent trains perpetual in the mind, is the thing to be found out, and made familiar to mankind.

The mode in which pleasure and pain affect the trains of the mind is, as ends. That is to say; as a train commences, we have supposed, in some present sensation, so it may be conceived as terminating in the idea of some future pleasure or pain. The intermediate ideas, between the commencement and the end, may be either of the beneficent description or the hurtful. Suppose the sight of a fine equipage to be the commencement; and the riches, which afford it, the appetite, or end, of a train in the mind of two individuals at the same time. The intermediate ideas in the mind of the one are beneficent, in the other hurtful. The mind of the one immediately runs over all the honourable and useful modes of acquiring riches—the acquisition of the most rare and useful qualities—the eager watch of all the best opportunities of bringing them into action—and the steady industry with which they may be applied. That of the other recurs to none but the vicious modes of acquiring riches—by lucky accidents—the arts of the adventurer and impostor—by rapine and plunder, perhaps on the largest scale, by all the honours and glories of war. Suppose the one of these trains to be habitual among individuals, the other not. What a difference for mankind!

It is unnecessary to adduce farther instances for [IV-17] the elucidation of this part of our mental constitution. What, in this portion of the field, requires to be done for the science of education, appears to be, to ascertain, first, what are the ends of human desire, the really ultimate objects at which it points; next, to ascertain what are the most beneficent means of attaining those objects; and lastly, to accustom the mind to fill up the intermediate space between the present sensation and the ultimate object, with nothing but the ideas of those beneficent means. We are perfectly aware that these instructions are far too general. But we hope it will be carried in mind how little, beyond the most general ideas, so confined a sketch as the present can possibly embrace; and we are still not without an expectation that these expositions, general as they are, will not be wholly without their use.

II. We come now to the second branch of the science of education, or ^{Of the qualities conducive to Happiness.} the inquiry what are the qualities with which it is of most importance that the mind of the individual should be endowed. This inquiry we are in hopes the preceding exposition will enable us very materially to abridge. In one sense, it might undoubtedly be affirmed, that all the desirable qualities of the human mind are included in those beneficent sequences of which we have spoken above. But, as it would require, to make this sufficiently intelligible, a more extensive exposition than we are able to afford, we must content ourselves with the ordinary language, and with a more familiar mode of considering the subject.

As the object is happiness, that intelligence is one of the qualities in question will not be denied, and may speedily be made to appear. To attain happiness in the greatest possible degree, all the means to that end which the compass of nature affords must be employed in the most perfect possible mode. But all the means which the compass of nature, or the system in which we are placed, affords, can only be known by the most perfect knowledge of that system. The highest measure of knowledge is therefore required. But mere knowledge is not enough; a mere magazine of remembered facts is a useless treasure. Amid the vast variety of known things, there is needed a power of choosing; a power of discerning which of them are conducive, which not, to the ends we have in view. The ingredients of intelligence are two, knowledge and sagacity; the one affording the materials, upon which the other is to be exerted: the one showing what exists, the other converting it to the greatest use; the one bringing within our ken what is capable and what is not capable of being used as means, the other seizing and combining, at the proper moment, whatever is the fittest means to each particular end. This union, then, of copiousness and energy; this possession of numerous ideas, with the masterly command of them, is one of the more immediate ends to which the business of education is to be directed.

With a view to happiness as the end, another quality will easily present itself as indispensable. Conceive that a man knows the materials which can be employed as means, and is prompt and unerring in the mode of combining them; all this power is lost, if there is any thing in his nature which prevents him from using it. If he has any appetite in his nature which leads him to pursue certain things with which the most effectual pursuit of happiness is inconsistent, so far this evil is incurred. A perfect command, then, over a man's appetites and desires; the power of restraining them whenever they lead in a hurtful direction; that possession of himself which insures his judgment against the illusions of the passions, and enables him to pursue constantly what he deliberately approves, is indispensably requisite to enable him to produce the greatest possible quantity of happiness. This is what the ancient philosophers called temperance; not exactly the same with what is called the virtue or grace of temperance, in theological morality, which includes a certain portion (in the doctrines of some theological instructors, a very large portion) of abstinence, and not only of abstinence, or the gratuitous renunciation of pleasure, but of the infliction of voluntary pain. This is done with a view to please the God, or object of worship, and to provide, through his favour, for

the happiness of a second or future life. The temperance of the ancient philosophers had a view only to the happiness of the present life; and consisted in the power of resisting the immediate propensity, if yielding to it would lead to an overbalance of evil, or prevent the enjoyment of a superior good, in whatever the good or evil of the present life consists. This resisting power consists of two parts: the power of resisting the allurements of pleasure; and that of resisting the terrors of pain; the last of which has an appropriate name, and is called Fortitude.

These two qualities, the intelligence which can always choose the best possible means, and the strength which overcomes the misguiding propensities, appear to be sufficient for the happiness of the individual himself; to the pursuit of which it cannot be doubted that he has always sufficient motions. But education, we have said, should be an instrument to render the individual the best possible artificer of happiness, not to himself alone, but also to others. What, then, are the qualities with which he ought to be endowed, to make him produce the greatest possible quantity of happiness to others?

It is evident enough to see what is the first grand division. A man can effect the happiness of others either by abstaining from doing them harm, or by doing them positive good. To abstain from doing them harm, receives the name of Justice; to do positive good receives that of Generosity. Justice and generosity, then, are the two qualities by which man is fitted to promote the happiness of his fellow-creatures. And it thus appears, that the four Cardinal Virtues of the ancients do pretty completely include all the qualities, to the possession of which it is desirable that the human mind should be trained. The defect, however, of this description is, that it is far too general. It is evident that the train of mental events which conduct to the proposed results must be far more particularized to insure, in any considerable degree, the effects of instruction; and it must be confessed that the ethical instructions of the ancients failed by remaining too much in generals. What is wanting is, that the incidents of human life should be skilfully classified; both those on the occasion [IV-18] of which they who are the objects of the good acts are pointed out for the receipt of them, and those, on the occasion of which they who are to be the instruments are called upon for the performance. It thus appears that the science of ethics, as well as the science of intellectuals, must be carried to perfection, before the best foundation is obtained for the science of education.

III. We have spoken of the qualities which are subservient to human happiness, as means to an end. But, before means can be skilfully adapted to an end, the end must be accurately known. To know how the human mind is to be trained to the promotion of happiness, another inquiry, then, is necessary, Wherein does human happiness consist? This is a controverted question; and we have introduced it rather with a view to show the place which it occupies in the theory of education, than that we have it in our power to elucidate a subject about which there is so much diversity of opinion, and which some of the disputants lead into very subtle and intricate inquiries. The importance of the question is sufficiently evident from this, that it is the grand central point, to which all other questions and inquiries converge; that point, by their bearing upon which the value of all other things is determined. That it should remain itself undetermined, implies, that this branch of philosophy is yet far from its highest point of perfection.

The speculations on this subject, too, may be divided into two great classes; that of those who trace up all the elements of happiness, as they do all those of intellect, to the simple sensations which, by their transformation into ideas, and afterwards into various combinations, compose, they think, all the intellectual and moral phenomena of our nature; another, that of those who are not satisfied with this humble origin; who affirm that there is something in human happiness, and in the human intellect, which soars high above this corporeal level; that there are intellectual as well as moral forms, the resplendent objects of human desire, which can by no means be resolved into the grosser elements of sense. These

philosophers speak of eternal and immutable truths; truths which are altogether independent of our limited experience; which are truly universal; which the mind recognizes without the aid of the senses; and which are the objects of pure intellect. They affirm, also, that there is a notion of right and of wrong wholly underived from human experience, and independent of the laws which regulate, in this world, the happiness and misery of human life; a right and wrong, the distinction between which is perceived, according to some, by a peculiar sense; according to others, by the faculty which discerns pure truth; according to others by common sense; it is the same, according to some, with the notion of the fitness and unfitness of things; according to others, with the law of nature; according to others, with truth; and there is one eminent philosopher who makes it depend upon sympathy, without determining very clearly whether sympathy depends upon the senses or not.

We cannot too earnestly exhort philosophers to perfect this inquiry; that we may understand at last, not by vague abstract terms, but clearly and precisely, what are the simple ideas included under the term happiness; and what is the real object to which education is pointed; since it is utterly impossible, while there is any vagueness and uncertainty with respect to the end, that there should be the greatest precision and certainty in combining the means.

IV. We come at last to the consideration of the means which are at the disposal of man for endowing the human mind with the qualities on which the generation of happiness depends. It is under this head that the discussion of the practical expedients chiefly occurs. It embraces, also, however, some points of theory.

Of Education in
reference to the
Means of
forming the
Mind.

One of the most important of the remaining questions, of that sort, refers to the degree in which the useful qualities of human nature are, or are not, under the powers of education. This is the subject of a famous controversy, with names of the highest authority on both sides of the question. Helvetius, it is true, stands almost alone, on one side. But Helvetius, alone, is a host. No one man, perhaps, has done so much towards perfecting the *theory* of education as Mons. Helvetius; and his books are pregnant with information of the highest importance, Whoever wishes to understand the ground-work of education, can do nothing more conducive to his end, than to study profoundly the expositions of this philosophical inquirer, whether he adopts his conclusions, in all their latitude, or not. That Helvetius was not more admired, in his own country, is owing really to the value of his work. It was too solid, for the frivolous taste of the gay circles of Paris—assemblies of pampered noblesse, who wished for nothing but amusement. That he has been so little valued in this country, is, it must be confessed, owing a little to the same cause; but another has concurred. An opinion has prevailed, a false one, that Helvetius is a peculiarly dangerous enemy to religion; and this has deterred people from reading, or rather the old people, who do not read, have deterred the young who do. There is no book, the author of which does not disguise his unbelief, that can be read with more safety to religion. The author attacks nothing but priestcraft, and that in one of the worst of its forms, the popish priestcraft of the dark and middle ages, the idea of which we are well accustomed, in this country, to separate from that of religion in the abstract. When his phraseology at any time extends, and that is not often, to Christianity itself, or to religion in the abstract, there is nothing calculated to seduce. There is nothing epigrammatic, and sparkling in the expression; nothing sophistical and artfully veiled in the reasoning; a plain proposition is stated, with a plain indication of its evidence; and if your judgment is not convinced, you are not deluded through the fancy.

M. Helvetius says, that if you take men who bring into the world with them the original constituents of their nature, their mental and bodily frame, in that ordinary state of goodness which is common to the great body of mankind,—leaving out of the account the comparatively small number of individuals who come into the world imperfect, and

manifestly below [IV-19] the ordinary standard,—you may regard the whole of this great mass of mankind, as equally susceptible of mental excellence; and may trace the causes which make them to differ. If this be so, the power of education embraces every thing between the lowest stage of intellectual and moral rudeness, and the highest state, not only of actual, but of possible perfection. And if the power of education be so immense, the motive for perfecting it is great beyond expression.

The conclusions of Helvetius were controverted directly by Rousseau; and defended, against those strictures, by the author himself. We recollect few writers in this country who have embraced them. [*]But our writers have contented themselves, rather with rejecting, than disproving; and, at best, have supported their rejection only by some incidental reflection, or the indication of a discrepancy between his conclusions and theirs.

One of the causes, why people have been so much startled, by the extent to which Helvetius has carried the dominion of education, seems to us to arise, from their not including in it nearly so much as he does. They include in it little more than what is expressed by the term schooling; commencing about six or seven years of age, and ending at latest with the arrival of manhood. If this alone is meant by education, it is no doubt true, that education is far indeed from being all-powerful. But if in education is included every thing, which acts upon the being as it comes from the hands of nature, in such a manner as to modify the mind, to render the train of feelings different from what it would otherwise have been; the question is worthy of the most profound consideration. It is probable, that people in general form a very inadequate conception of all the circumstances which act during the first months, perhaps the first moments, of existence, and of the power of those circumstances in giving permanent qualities to the mind. The works of Helvetius would have been invaluable, if they had done nothing more than prove their vast importance, and call to them the concentrated attention of mankind. Rousseau began this important branch of the study of education. He remarked a variety of important facts, which, till his time, had been almost universally neglected, in the minds of infants, and how much might be done, by those who surround them, to give good or bad qualities to their minds, long before the time at which it had been supposed that education could commence. But Helvetius treated the subject much more profoundly and systematically. He traced the circumstances to the very moment of birth; and showed at how wonderfully early an age indelible characters might be impressed; nay, that of the circumstances over which man has a control (for he speaks not of others), some may be traced even beyond the birth, on which effects of the greatest importance depend.

It is evident how much it imports the science of education, that these circumstances should, by careful and continued observation, be all ascertained, and placed in the order best adapted for drawing from them the most efficient practical rules. This is of more importance than determining the question, whether the prodigious difference which exists among men, ordinarily well organized, is owing wholly to the circumstances which have operated upon them since the first moment of their sensitive existence, or is in part produced by original peculiarities. Enough is ascertained to prove, beyond a doubt, that if education does not perform every thing, there is hardly any thing which it does not perform: that nothing can be more fatal than the error of those who relax in the vigilance of education, because nature is powerful, and either renders it impossible for them to accomplish much, or accomplishes a great deal without them: that the feeling is much more conformable to experience, and much more conformable to utility, which ascribes every thing to education, and thus carries the motive for vigilance and industry, in that great concern, to its highest possible pitch. This much, at any rate, is ascertained, that all the difference which exists, or can ever be made to exist, between one body, or class of men, and another, is wholly owing to education. Those peculiarities, if any such there be, which sink a man below, or elevate him above the ordinary

state of aptitude to profit by education, have no operation in the case of large numbers or bodies. But large numbers or bodies of men are raised to a high degree of mental excellence; and might, without doubt, be raised to still higher. Other large bodies, or whole nations, have been found in so very low a mental state, as to be raised but little above the brutes. All this vast distance is undeniably the effect of education. This much, therefore, may be affirmed on the side of Helvetius, that a prodigious difference is produced by education; while, on the other hand, it is rather assumed than proved, that any difference exists, but that which difference of education creates.

The circumstances which are included under the term Education, in the comprehensive sense in which we have defined it, may be divided, we have said, into Physical and Moral. We shall now consider the two classes in the order in which we have named them; and have here again to remind the reader, that we are limited to the task of pointing out what we should wish to be done, rather than permitted to attempt the performance.

Of the *Physical* circumstances which operate in forming the Mind.

1. Three things are desirable with regard to the physical circumstances, which operate in the way of education favourably or unfavourably; to collect them fully; to appreciate them duly; and to place them in the order which is most favourable for drawing from them practical rules.

This is a service (common to the sciences of education and mind) which has been very imperfectly [IV-20] rendered. It has been chiefly reserved to medical men to observe the physical circumstances which affect the body and mind of man; but of medical men few have been much skilled in the observation of mental phenomena, or have thought themselves called upon to mark the share which physical circumstances had in producing them. There are indeed some, and those remarkable exceptions. There is Dr. Darwin in our own country, and M. Cabanis in France. They have both of them taken the mind as a part at least of their study; and we are highly indebted to them for the number and value of their observations. They are both philosophers, in the most important sense of the word; they both observed nature for themselves, observed her attentively, and with their view steadily directed to the proper end. But still it was not safe to rely upon them implicitly as guides. They were in too great a haste to establish conclusions; and were apt to let their belief run before their evidence. They were not sufficiently careful to distinguish between the different degrees of evidence, and to mark what is required to constitute proof. To do this steadily seems, indeed, to be one of the rarest of all endowments; and was much less the characteristic of the two philosophers we have named, than a wide range of knowledge from which they collected the facts, and great ingenuity in combining and applying them. Dr. Darwin was the most remarkable, both for the strength and the weakness of which we speak. The work of Darwin, to which we chiefly allude, is the *Zoonomia*; though important remarks to the same effect are scattered in his other publications. Cabanis entitled his great work, *Rapports du Physique et du Moral de l'Homme*. And there are some works recently announced by German physiologists, the titles of which promise aids in the same endeavour. But though we expect from them new facts, and ingenious hints, we have less hope of any great number of sound conclusions.

There are certain general names, already in use, including the greater number of the physical circumstances which operate in the way of education upon the mind. It will be convenient, because of their commonness, to make use of them on the present occasion, though neither the enumeration which they make is complete, nor the distribution logical.

All the physical circumstances which operate upon the mind are either, 1. inherent in the body: or, 2. external to the body. Those which are external to the body operate upon the mind, by first operating upon the body.

Of the first kind, the more remarkable seem to be healthiness or sickliness, strength or weakness, beauty or deformity, the temperament, the age, the sex.

Of the second sort, the more remarkable seem to be the aliment, the labour, the air, temperature, action, rest.

Previous to the inquiry respecting the power which physical circumstances exert in the formation of the mind, it may seem that we ought to determine the speculative question respecting the nature of the mind: that is, whether the phenomena of mind may possibly result from a certain organization of the powers of matter; or whether something of a different kind, and which we call spiritual, must not be conceived, as the source and organ of thought. We do not mean to enter into this controversy, which would detain us too long. It is not, in the least degree, necessary that we should, for the end which we have in view. Whether the one hypothesis, with respect to the mind, be adopted, or the other, the distribution of the circumstances, which operate in the formation of human character, into those commonly called Physical, and those commonly called Moral, will be as convenient a distribution, as the present state of our knowledge enables us to make. And all that inquiry can do, in regard to those circumstances, is, to trace them accurately, and to observe their effects; that is, to ascertain what they are, and what the order of the mental events by which they are followed. This is simply matter of experience; and what we experience is what it is, whatever opinion we adopt with regard to the nature of that which thinks. It is in what we experience, all ascertained, and put into the best possible shape for ease of comprehension and ready application to practice, that all useful knowledge on this, as on all other subjects, consists.

1. First we are to consider the circumstances of the body which have an effect upon the mental sequences. The object is, to ascertain which have a tendency to introduce those sequences which are favourable, which to introduce those that are unfavourable, to human happiness, and how to turn this knowledge to account.

Health and sickness, or the states of body which those names most peculiarly express, are the first of the circumstances which we have enumerated under this head. That these states have a tendency to introduce very different trains of thought is matter of vulgar experience; but very little has been done to examine such trains, and to ascertain what in each is favourable, and what is unfavourable to human happiness.

We have already seen, that the trains which are favourable to Intelligence, Temperance, Generosity, and Justice, are the trains favourable to human happiness. Now, with respect to Intelligence, it will be seen, that Health is partly favourable, and partly unfavourable; and the same is the case with sickness. Health is favourable, by allowing that time to be given to study, which many kinds of sickness withdraws; by admitting a more vigorous attention, which the pain and languor of sickness often divide. It is unfavourable, by introducing that flow of pleasurable ideas, which is called high spirits, in a degree unfavourable to the application of attention; and by leading to that passionate pursuit of pleasure, which diminishes, if it does not destroy, the time for study. The mode in which disease operates upon the mental sequences is a subject of great complexity, and in which little has yet been done to mark distinctly the events, and ascertain the order of their succession. Cabanis, in his seventh memoir, entitled, *De l'Influence des Maladies sur la Formation des Idées et des Affections Morales*, has made a useful beginning toward the elucidation of this subject; but here, as elsewhere, he is too often general and vague. Instruction may also be gleaned from Darwin; [IV-21] but the facts which bear upon this point rather drop from him incidentally, than are anywhere put together systematically for its elucidation. As they were both physicians, however, of great experience, and of unusual skill in the observation of mental phenomena, their opinions are entitled to the greatest respect. The result of the matter is, that

an improved medicine is no trifling branch of the art and science of education. Cabanis, accordingly, concludes his memoir with the two following propositions:

1mo, L'état de maladie influe d'une manière directe sur la formation des idées et des affections morales: nous avons même pu montrer dans quelques observations particulières, comment cette influence s'exerce.

2do, L'observation et l'expérience nous ayant fait découvrir les moyens de combattre assez souvent avec succès l'état de maladie, l'art qui met en usage ces moyens, peut donc modifier et perfectionner les opérations de l'intelligence et les habitudes de la volonté."

As it is chiefly through the nervous system, and the centre of that system, the brain, that the mental sequences are affected, and as all the sensitive parts have not an action equally strong, nor equally direct, upon the nerves and brain, diseases affect the mental sequences differently, according to the parts which they invade. The system of the nerves and brain is itself subject to different states of disease. Classified, with regard to the functions which that system performs, as the organ of sensibility and of action, these states are thus described by M. Cabanis: "1. Excess of sensibility to all impressions on the one part; excessive action on the organs of motion on the other. 2. Unfitness to receive impressions, in sufficient number, or with the due degree of energy; and a diminution of the activity necessary for the production of the motions. 3. A general disturbance of the functions of the system, without any remarkable appearance of either excess or defect. 4. A bad distribution of the cerebral virtue, either when it exerts itself unequally in regard to time, having fits of extraordinary activity, followed by others of considerable remission; or when it is supplied in wrong proportion to the different organs, of which some are to a great degree abandoned, while there appears in others a concentration of sensibility, and of the excitations or powers by which the movements are affected."

The effects upon the mental sequences are represented in the following general sketch, which has the advantage of being tolerably comprehensive, though it is unhappily both vague and confused: "We may lay it down as a general fact, that, in all the marked affections of the nerves, irregularities, less or greater, take place, relative both to the mode in which impressions are received, and to the mode in which the determinations, automatic or voluntary, are formed. On one part, the sensations vary incessantly and rapidly with respect to their vivacity, their energy, and even their number; on another, the strength, the readiness, the facility of action exhibit the greatest inequalities. Hence perpetual fluctuation, from great excitement to languor, from elevation to dejection; a temper and passions variable in the highest degree. In this condition, the mind is always easily pushed to extremes. Either the man has many ideas, with great mental activity and acuteness; or he is, on the contrary, almost incapable of thinking. It has been well observed, that hypochondriacal persons are by turns both courageous and cowardly; and as the impressions are habitually faulty either by excess or defect, in regard to almost all objects, it is seldom that the images correspond to the reality of things; that the desires and the will obtain the proper force and direction. If, at the same time with these irregularities, which arise from the nervous system, should be found a weakness of the muscular organs, or of some important viscus, as, for example, of the stomach,—the phenomena, though still analagous in the main, will be distinguished by remarkable peculiarities. During the interval of languor, the debility of the muscles will render the sense of weakness, the fainting and drooping, still more complete and oppressive; life will appear ready to escape at every instant. The passions are gloomy, excited by trifles, selfish; the ideas are petty, narrow, and bear only upon the objects of the slightest sensations. At the times of excitation, which arrive the more suddenly, the greater the weakness; the muscular determinations do not obey the impulses of the brain, unless by starts, which have neither energy nor duration. These impulses serve only to convince the patient more profoundly of his real imbecility; they give him only a feeling of impatience, of discontent,

and anxiety. Desires, often sufficiently keen, but commonly repressed by the habitual feeling of weakness, still more increase the discouraging impression. As the peculiar organ of thought cannot act without the concurrence of several others, and as, at that moment, it partakes in some degree of the weakness which affects the organs of movement, the ideas present themselves in crowds; they spring up, but do not arrange themselves in order; the necessary attention is not enjoyed; the consequence is, that this activity of the imagination, which we might expect to afford some compensation for the absence of other faculties, becomes a new source of dejection and despair.”

In this passage, the mental sequences which particular states of disease introduce are clearly shown to have a prodigious influence upon human happiness; but the effects which are produced in respect to intelligence, temperance, generosity, and justice, are mixed up together; and the author rather shows how much this subject deserves to be studied, than gives us information from which any considerable degree of practical utility can be derived. The connection between particular states of body, and particular mental trains, must be carefully watched and recorded. When the events, one by one, are accurately distinguished, and made easy to be recognised, and when the order in which they follow one another is known, our power over the trains of those events; power to prevent such as are unfavourable, to produce such as are favourable, to human happiness, will then be at its height; and how to [IV-22] take care of his health will be one of the leading parts of the moral and intellectual education of man.

The state of the body, with regard to health and disease, is the inherent circumstance of the greatest importance, and we must pass over the rest with a cursory notice. The next we mentioned, are, strength and weakness, meaning chiefly muscular strength and weakness; and the natural, habitual, not the accidental, or diseased, state. It is a common enough observation, that muscular strength is apt to withdraw the owner from mental pursuits, and engage him in such as are more of the animal kind; the acquisition and display of physical powers. Few men of great bodily powers have been much distinguished for mental excellence; some of the greatest ornaments of human nature have been remarkable for bodily weakness. Muscular strength is liable to operate unfavourably upon the moral, as well as the intellectual trains of thought. It diminishes that respect for other men, which is so necessary to resist the impulses of passion; it presents innumerable occasions for playing the tyrant with impunity; and fosters, therefore, all that train of ideas, in which the tyrannical vices are engendered. Cabanis remarks, and the fact is worthy of the greatest attention: — “Presque tous les grands scélérats sont des hommes d’une structure organique vigoureuse, remarquables par la fermeté et la tenacité de leurs fibres musculaires.” It is evident, therefore, how deeply it concerns the happiness of mankind, that the mental trains which this circumstance has a tendency to raise, should be accurately known, as thus alone the means can be known, how that which is hurtful can be avoided, that which is useful be introduced.

Of beauty and deformity, as inherent circumstances which have an effect upon the mental trains, much will not be necessary to be said. Illustrations will occur to every body, to prove, that their power is not inconsiderable; so little, however, has been done to ascertain the facts, and record them in the best possible order, that any thing which deserves the name of knowledge on the subject hardly exists; and the principal service we can render is to point it out for study; to exhort future inquirers, to observe diligently the trains which flow from beauty and deformity as their source, and to trace to the largest possible sequences, as above described, the connections which take place between them. Beauty and deformity, it may be observed, operate upon the mental trains in somewhat a different way from health and disease; rather mediately than immediately. It is the idea of their effect upon other people that is the more immediate cause of the trains to which they give occasion. The idea that beauty commands their favourable regards, is apt to introduce the well-known trains, denoted by the

terms, vanity, pride, contemptuousness, trains not very favourable to the virtues. The idea that deformity is apt to excite their unfavourable regards, is often observed to lead to acuteness and vigour of intellect, employed as instruments of protection, but to moroseness, and even malignity of temper. The mode, however, in which beauty and deformity operate upon the mental trains, namely, through the idea of their effect upon other people, is common to them with a great many other advantages or disadvantages, which derive their value chiefly from their influence upon other people; and materials for the illustration of this subject have been supplied by various writers upon the human mind.

To the word Temperament, no very precise idea has hitherto been annexed. It may be conceived in the following manner: The bodily structure, the composition of elements in the body of every individual, is different from that in the body of any other. It is observed, however, that the composition is more nearly resembling in some, than in others; that those who thus resemble may be arranged in groups; and that they may all be comprehended in four or five great classes. The circumstances, in which their bodily composition agrees, so as to constitute one of those large classes, have been called the Temperament; and each of those more remarkable characters of the body has been observed to be attended with a peculiar character in the train of ideas. But the illustration of the trains of ideas, and hence of the qualities of mind, which are apt to be introduced by temperament, and by the diversities of age and of sex, we are obliged, by the rapid absorption of the space allotted us, wholly to omit. The subject in itself is not very mysterious. Accurate observation, and masterly recordation alone are required. To be sure, the same may be said of every object of human inquiry. But in some cases, it is not so easy to conceive perfectly what observation and recordation mean. On these topics, also, we are happy to say, that Cabanis really affords very considerable helps.

We come now to the second sort of physical circumstances, which have the power of introducing habitually certain trains of ideas, and hence of impressing permanent tendencies on the mind,—the circumstances which are external to the body. Some of these are of very great importance. The first is Aliment.

Aliment is good or evil, by quality, and quantity. Hartley has remarked long ago, that though all the impressions from which ideas are copied, are made on the extremities of the nerves which are ramified on the surface of the body, and supply the several organs of sense, that other impressions are nevertheless made on the extremities of the nerves which are ramified on the internal parts of our bodies, and that many of those impressions are associated with trains of ideas; that the impressions made upon the extremities of the nerves which are ramified on the alimentary canal, are associated with the greatest number of those trains; and of such trains, that some are favourable to happiness, some altogether the reverse. If the quantity and quality of the aliment be the principal cause of those impressions, attended by such important effects, here is a physiological reason, of the greatest cogency, for an accurate observation and recordation of the events occurring in this part of the field; of what antecedents are attended by what consequents, and what are the largest sequences which can be traced. Cabanis confirmed this doctrine with regard to the internal impressions, and added another class. He said that not only the extremities of the nerves which terminate [IV-23] internally, but the centre of the nervous influence, the brain itself, received impressions, and that thus there were no fewer than three sources of the mental and corporeal movements of man; one external, from which almost all our distinct ideas are copied; and two internal, which exert a very great influence upon the train of ideas, and hence upon the actions of which these trains are the antecedents or cause.

On this, too, as on most of the other topics, belonging to the physical branch of education, we must note, as still uncollected, the knowledge which the subject requires. It is understood in a general way, that deep impressions are by this means made upon the mind;

but how they are made, is a knowledge which, in any such detail and accuracy as to afford useful practical rules, is nearly wanting. There is a passage in Hartley, which we esteem it important to quote: "The sense of feeling may be distinguished into that of the external surface of the body, and that of the cavities of the nose, mouth, fauces, alimentary duct, pelvis, of the kidneys, ureters, bladder of urine, gall-bladder, follicles, and ducts of the glands, &c. The sensibility is much greater in the last than in the first, because the impressions can more easily penetrate through the soft epithelium with which the internal cavities are invested. In the mouth and nose this sensibility is so great, and attended with such distinguishing circumstances, as to have the names of taste and smell assigned respectively to the sensations impressed upon the papillæ of these two organs." "The taste may also be distinguished into two kinds; viz. the general one which extends itself to the insides of the lips and cheeks, to the palate, fauces, œsophagus, stomach, and whole alimentary duct, quite down to the anus. The pleasures of the taste, considered as extending itself from the mouth through the whole alimentary duct, are very considerable, and frequently repeated; they must, therefore, be one chief means, by which pleasurable states are introduced into the brain and nervous system. These pleasurable states must, after some time, leave miniatures of themselves, sufficiently strong to be called up upon slight occasions, viz. from a variety of associations with the common visible and audible objects, and to illuminate these and their ideas. When groups of these miniatures have been long and closely connected with particular objects, they coalesce into one complex idea, appearing, however, to be a simple one; and so begin to be transferred upon other objects, and even upon tastes back again, and so on without limits. And from this way of reasoning it may now appear, that a great part of our intellectual pleasures are ultimately deducible from those of taste; and that one principal final cause of the greatness and constant recurrency of these pleasures, from our first infancy to the extremity of old age, is to introduce and keep up pleasurable states in the brain, and to connect them with foreign objects. The social pleasures seem, in a particular manner, to be derived from this source, since it has been customary in all ages and nations, and is in a manner necessary, that we should enjoy the pleasures of taste in conjunction with our relations, friends, and neighbours. In like manner, nauseous tastes, and painful impressions upon the alimentary duct, give rise and strength to mental pains. The most common of these painful impressions is that from excess, and the consequent indigestion. This excites and supports those uneasy states, which attend upon melancholy, fear, and sorrow. It appears also to me, that these states are introduced in a great degree during sleep, during the frightful dreams, agitations, and oppressions, that excess in diet occasions in the night. These dreams and disorders are often forgotten; but the uneasy states of body which then happen, leave vestiges of themselves, which increase in number and strength every day from the continuance of the cause, till at last they are ready to be called up in crowds upon slight occasions, and the unhappy person is unexpectedly, and at once, as it were, seized with a great degree of the hypochondriac distemper, the obvious cause appearing no ways proportionable to the effect. And thus it may appear that there ought to be a great reciprocal influence between the mind and alimentary duct, agreeably to common observation." Cabanis, in like manner, says, "Quoique les médecins aient dit plusieurs choses hasardées, touchant l'effet des substances alimentaires sur les organes de la pensée, ou sur les principes physiques de nos penchans, il n'en est pas moins certain que les différentes causes que nous appliquons journellement à nos corps, pour en renouveler les mouvemens, agissent avec une grande efficacité sur nos dispositions morales. On se rend plus propre aux travaux de l'esprit par certaines précautions de régime, par l'usage, ou la suppression, de certains alimens. Quelques personnes ont été guéries de violens accès de colère, auxquels elles étoient sujettes, par la seule diète pythagorique, et dans le cas même où des délires furieux troublent toutes les facultés de l'ame, l'emploi journalier de certaines nourritures ou de certaines boissons, l'impression d'une certaine température de l'air, l'aspect de certains objets; en un mot, un système diététique particulier suffit souvent pour y remener le calme, pour faire tout

rentrer dans l'ordre primitif.”

As it is impossible for us here to attempt a full account of the mode in which aliments operate to produce good or bad effects upon the train of ideas, we shall single out that case, which, as operating upon the greatest number of people, is of the greatest importance; we mean that, in which effects are produced by the *poverty* of the diet; proposing, under the term poverty, to include both badness of quality, and defect of quantity. On badness of quality, we shall not spend many words. Aliments are bad in a variety of ways, and to such a degree as to impair the health of body. Of such, the injurious effect will not be disputed. Others, which have in them no hurtful ingredient, may contain so insignificant a portion of nourishment, that to afford it in the requisite degree, they must produce a hurtful distention of the organs. The saw-dust, which some northern nations use for bread, if depended upon for the whole of their nourishment, would doubtless have this effect. The potatoe, where solely depended upon, is not, perhaps, altogether free from it. Bad [IV-24] quality, however, is but seldom resorted to, except in consequence of deficient quantity. That is, therefore, the principal point of inquiry.

It is easy to see a great number of ways in which deficient quantity of food operates unfavourably upon the *moral* temper of the mind. As people are ready to sacrifice every thing to the obtaining of a sufficient quantity of food, the want of it implies the most dreadful poverty—that state, in which there is scarcely any source of pleasure, and in which almost every moment is subject to pain. It is found by a very general experience, that a human being, almost constantly in pain, hardly visited by a single pleasure, and almost shut out from hope, loses by degrees all sympathy with his fellow creatures; contracts even a jealousy of their pleasures, and at last a hatred; and would like to see all the rest of mankind as wretched as himself. If he is habitually wretched, and rarely permitted to taste a pleasure, he snatches it, with an avidity; and indulges, with an intemperance, almost unknown to any other man. The evil of insufficient food acts with an influence not less malignant upon the intellectual, than upon the moral, part of the human mind. The physiologists account for its influence in this manner. They say, that the signs, by which the living energy is manifested, may be included generally under the term *irritability*, or the power of being put in action by stimulants. It is not necessary for us to be very particular in explaining these terms; a general conception will for the present suffice. There is a certain degree of this irritability in the frame of man, upon which the proper state, or rather the very existence, of the animal functions seems necessarily to depend. A succession of stimulants, of a certain degree of frequency and strength, is necessary to preserve that irritability. The most important by far of all the useful stimulants applied to the living organs is food. If this stimulant is applied, in less than a sufficient degree, the irritability is diminished in proportion, and all those manifestations of the living energy which depend upon it, mental as well as corporeal, are impaired; the mind loses a corresponding part of its force. We must refer to the philosophical writers on medicine for illustrations and facts, which we have not room to adduce, but which will not be difficult to collect. Dr. Crichton places *poor diet* at the head of a list of causes which “weaken attention, and consequently debilitate the whole faculties of the mind.” [*]From this fact, about which there is no dispute, the most important consequences arise. It follows, that when we deliberate about the means of introducing intellectual and moral excellence into the minds of the principal portion of the people, one of the first things which we are bound to provide for, is, a generous and animating diet; the physical causes must go along with the moral; and nature herself denies, that you shall make a wise and virtuous people, out of a starving one. Men must be happy themselves, before they can rejoice in the happiness of others; they must have a certain vigour of mind, before they can, in the midst of habitual suffering, resist a presented pleasure; their own lives, and the causes of their well-being, must be worth something, before they can value, as to respect, the life, or well-being, of any other person. This or that individual may be an extraordinary individual, and exhibit mental excellence in

the midst of wretchedness; but a wretched and excellent people never yet has been seen on the face of the earth. Though far from fond of paradoxical expressions, we are tempted to say, that a good diet is a necessary part of a good education; for in one very important sense it is emphatically true. In the great body of the people all education is impotent without it.

Labour is the next of the circumstances in our enumeration. We have distinguished labour from action, though action is the genus of which labour is one of the species; because of those species, labour is so much the most important. The muscular operations of the body, by which men generally earn their bread, are the chief part of the particulars which we include under that term. The same distinction is useful here as in the former case; labour is apt to be injurious by its *quality*, and by its *quantity*. That the quality of the labour, in which a man is employed, produces effects, favourable or unfavourable upon his mind, has long been confessed. Dr. Smith made the important remark, that the labour in which the great body of the people are employed, has a tendency to grow less and less favourable, as civilization and the arts proceed. The division and subdivision of labour is the principal cause. This confines the attention of the labourer to so small a number of objects, and so narrow a circle of ideas, that the mind receives not that varied exercise, and that portion of aliment, on which almost every degree of mental excellence depends. When the greater part of a man's life is employed in the performance of a few simple operations, in one fixed invariable course, all exercise of ingenuity, all adaptation of means to ends, is wholly excluded and lost, as far as disuse can destroy the faculties of the mind. The minds, therefore, of the great body of the people are in danger of really degenerating, while the other elements of civilization are advancing, unless care is taken, by means of the other instruments of education, to counteract those effects which the simplification of the manual processes has a tendency to produce.

The *quantity* of labour is another circumstance which deserves attention, in estimating the agents which concur in forming the mind. Labour may be to such a degree severe, as to confine the attention almost wholly to the painful ideas which it brings; and to operate upon the mind with nearly the same effects as an habitual deficiency of food. It operates perhaps still more rapidly; obliterating sympathy, inspiring cruelty and intemperance, rendering impossible the reception of ideas, and paralyzing the organs of the mind. The attentive examination, [IV-25] therefore, of the facts of this case, as a matter of first rate importance. Two things are absolutely certain:—that without the bodily labour of the great bulk of mankind, the well-being of the species cannot be obtained;—and that, with the bodily labour of the great bulk of mankind, carried beyond a certain extent, neither intellect, virtue, nor happiness can flourish upon the earth. What, then, is that precious middle point, at which the greatest quantity of good is obtained with the smallest quantity of evil, is, in this part of the subject, the problem to be solved.

The state of defective food and excessive labour, is the state in which we find the great bulk of mankind; the state in which they are either constantly existing, or into which they are every moment threatening to fall. These are two, therefore, in settling the rank among the circumstances which concur in determining the degree of intellect and morality capable of being exhibited in the societies of men, which ought to stand in a very eminent place: the mode of increasing to the utmost, the quantity of intellect, morality, and happiness, in human society, will be very imperfectly understood, till they obtain a new degree of consideration.

We named, still farther, among the physical circumstances which contribute to give permanent characters to the mind, air, temperature, action, and rest. But of these we must leave the illustration wholly to other inquirers. It is mortifying to be obliged to leave a subject, on which so much depends, and for which so little has been done, with so very imperfect an attempt for its improvement. We shall, however, have performed a service of some utility to education, if what we have said has any tendency to lead men to a juster estimate of the physical circumstances which concur in fashioning the human mind, and

hence to greater industry and care in studying and applying them.

2. The moral circumstances which determine the mental trains of the human being, and hence the character of his actions, are of so much importance, that to them the term education has been generally confined: Or rather, the term education has been generally used in so narrow a sense, that it embraces only one of the four classes into which we have thought it convenient to distribute the moral circumstances which operate to the formation of the human mind.

Of the *Moral* circumstances which operate in forming the Mind.

The first of these classes we have comprehended under the term *Domestic Education*. To this the groundwork of the character of most individuals is almost wholly to be traced. The original features are fabricated here; not, indeed, in such a manner as to be unsusceptible of alteration, but in such a manner, decidedly, as to present a good or bad subject for all future means of cultivation. The importance, therefore, of domestic education, needs no additional words to explain it; though it is difficult to restrain a sigh, when we reflect, that it has but now begun to be regarded as within the pale of education; and a few scattered remarks, rather than a full exposition of the subject, is all the information upon it, with which the world has been favoured.

By Domestic Education, we denote all that the child hears and sees, more especially all that it is made to suffer or enjoy at the hands of others, and all that it is allowed or constrained to do, in the house in which it is born and bred, which we shall consider generally as the parental.

If we consider that the mental trains, as explained above, are that upon which every thing depends, and that the mental trains depend essentially upon those sequences among our sensations which have been so frequently experienced as to create a habit of passing from the idea of the one to that of the other,—we shall perceive immediately the reasons of what we have advanced.

It seems to be a law of human nature, that the first sensations experienced produce the greatest effects; more especially, that the earliest repetitions of one sensation after another produce the deepest habit; the strongest propensity to pass immediately from the idea of the one to the idea of the other. Common language confirms this law, when it speaks of the susceptibility of the tender mind. On this depends the power of those associations which form some of the most interesting phenomena of human life. From what other cause does it arise, that the hearing of a musical air, which, after a life of absence, recalls the parental mansion, produces as it were a revolution in the whole being? That the sympathies between brothers and sisters are what they are? On what other cause originally is the love of country founded?—that passionate attachment to the soil, the people, the manners, the woods, the rivers, the hills, with which our infant eyes were familiar, which fed our youthful imaginations, and with the presence of which the pleasures of our early years were habitually conjoined!

It is, then, a fact, that the early sequences to which we are accustomed form the primary habits; and that the primary habits are the fundamental character of the man. The consequence is most important; for it follows, that, as soon as the infant, or rather the embryo, begins to feel, the character begins to be formed; and that the habits which are then contracted, are the most pervading and operative of all. Education, then, or the care of forming the habits, ought to commence, as much as possible, with the period of sensation itself; and, at no period, is its utmost vigilance of greater importance, than the first.

Very unconnected, or very general instructions, are all that can be given upon this subject, till the proper decompositions and recompositions are performed; in other terms, till the subject is first analyzed, and then systematized; or, in one word, *philosophized*, if we may

use that verb in a passive signification. We can, therefore, do little more than exhort to the prosecution of the inquiry.

The steady conception of the End must guide us to the Means. Happiness is the end; and we have circumscribed the inquiry, by naming Intelligence, Temperance, and Benevolence, of which last the two parts are Generosity and Justice, as the grand qualities of mind through which this end is to be attained. The question, then, is, how can those early sequences be made to take place on which the habits, conducive to intelligence, temperance, and benevolence, [IV-26] are founded; and how can those sequences, on which are founded the vices opposite to those virtues, be prevented?

Clearness is attained, by disentangling complexity: we ought, therefore, to trace the sequences conducive to each of those qualities in their turn. A part, however, must suffice, when we cannot accomplish the whole. Intelligent trains of ideas constitute intelligence. Now trains of ideas are intelligent, when the sequences in the ideas correspond to the sequences in nature. A man, for example, knows the order of certain words, when his idea of the one follows that of the other, in the same order in which the events themselves took place. A man is sagacious in devising means for the production of events when his ideas run easily in trains which are at once agreeable to knowledge, that is, to the trains of events, and, at the same time, new in the combination. They must be agreeable to knowledge; that is, one of the ideas must follow another in the order in which the objects of which they are the ideas follow one another in nature, otherwise the train would consist of mere chimeras, and, having no connection with things, would be utterly useless. As the event, however, is not in the ordinary course, otherwise sagacity would not be required to give it existence, the ordinary train of antecedents will not suffice; it must be a peculiar train, at once correspondent with nature, and adapted to the end. The earliest trains, produced in the minds of children, should be made to partake as much as possible of those characters. The impressions made upon them should correspond to the great and commanding sequences established among the events on which human happiness principally depends. More explicitly, children ought to be made to see, and hear, and feel, and taste, in the order of the most invariable and comprehensive sequences; in order that the ideas which correspond to their impressions, and follow the same order of succession, may be an exact transcript of nature, and always lead to just anticipations of events. Especially, the pains and pleasures of the infant, the deepest impressions which he receives, ought, from the first moment of sensation, to be made as much as possible to correspond to the real order of nature. The moral procedure of parents is directly the reverse; who strive to defeat the order of nature, in accumulating pleasures to their children, and in preventing the arrival of pains, when the children's own conduct would have had very different effects.

Not only are the impressions, from which ideas are copied, made, by the injudicious conduct of those to whom the destiny of infants is confided, to follow an order very different from the natural one, or that in which the grand sequences among events would naturally produce them; but wrong trains of ideas, trains which have no correspondence to the order of events, are often introduced immediately by words, or other signs of the ideas, of other men. As we can only give very partial examples of a general error, we may content ourselves with one of the most common. When those who are about children express by their words, or indicate by other signs, that terrific trains of ideas are passing in their minds, when they go into the dark; terrific trains, which have nothing to do with the order of events, come up also in the minds of the children in the dark, and often exercise an uncontrollable sway during the whole of their lives.—This is the grand source of wrong education; to this may be traced the greater proportion of all the wrong biases of the human mind.—If an order of ideas, correspondent to the order of events, were taught to come up in the minds of children when they go into the dark, they would think of nothing but the real dangers which are apt to attend

it, and the precautions which are proper to be taken; they would have no wrong feelings, and their conduct would be nothing but that which prudence, or a right conception of the events, would prescribe.—If the expressions, and other signs of the ideas, of those who are about children, indicate that trains, accompanied with desire and admiration, pass in their minds when the rich and powerful are named, trains accompanied with aversion and contempt when the weak and the poor; the foundation is laid of a character stained with servility to those above, and tyranny to those below.—If indication is given to children that ideas of disgust, of hatred, and detestation, are passing in the minds of those about them, when particular descriptions of men are thought of; as men of different religions, different countries, or different political parties in the same country, a similar train becomes habitual in the minds of the children, and those antipathies are generated which infuse so much of its bitterness into the cup of human life.

We can afford to say but very few words on the powers of domestic education with regard to Temperance. That virtue bears a reference to pain and pleasure. The grand object evidently is, to connect with each pain and pleasure those trains of ideas, which, according to the order established among events, tends most effectually to increase the sum of pleasures upon the whole, and diminish that of pains. If the early trains create a habit of over-valuing any pleasure or pain, too much will be sacrificed during life to obtain the one, or avoid the other, and the sum of happiness, upon the whole, will be impaired. The order in which children receive their impressions, as well as the order of the trains which they copy from others, has a tendency to create impatience under privation; in other words, to make them in prodigious haste to realize a pleasure as soon as desired, to extinguish a pain as soon as felt. A pleasure, however, can be realized in the best possible manner, or a pain removed, only by certain steps,—frequently numerous ones; and if impatience hurries a man to overlook those steps, he may sacrifice more than he gains. The desirable thing would be, that his ideas should always run over those very steps, and none but them; and the skilful use of the powers we have over the impressions and trains of his infancy would lay the strongest foundation for the future happiness of himself, and of all those over whom his actions have any sway. It is by the use of this power that almost every thing is done to create what is called the temper of the individual; to render him irascible on the one hand, or forbearing on the other; severe and unforgiving, or indulgent and placable.

[IV-27]

Intelligence and Temperance are sometimes spoken of, as virtues which have a reference to the happiness of the individual himself: Benevolence as a virtue which has a reference to the happiness of others. The truth is, that intelligence and temperance have a reference not less direct to the happiness of others than to that of the individual; and Benevolence cannot be considered as less essential than they to the happiness of the individual. In reality, as the happiness of the individual is bound up with that of his species, that which affects the happiness of the one, must also, in general, affect that of the other.

It is not difficult, from the expositions we have already given, to conceive in a general way, how sequences may take place in the mind of the infant, which are favourable to benevolence, and how sequences may take place which are unfavourable to it. The difficulty is, so to bring forward and exhibit the details, as to afford the best possible instruction for practice. We have several books now in our own language, in particular those of Miss Edgeworth, which afford many finely selected instances, and many detached observations of the greatest value, for the cultivation of benevolence in the infant mind. But the great task of the philosopher, that of *theorizing* the whole, is yet to be performed. What we mean by “theorizing the whole,” after the explanations we have already afforded, is not, we should hope, obscure. It is, to observe exactly the facts; to make a perfect collection of them, nothing omitted that is of any importance, nothing included of none; and to record them in that order

and form, in which all that is best to be done in practice (that is, in what manner the sequences established in nature may be turned most effectually to the production of a certain end) can be most immediately and certainly perceived.

The order of the impressions which are made upon the child by the spontaneous order of events, is, to a certain degree, favourable to benevolence. The pleasures of those who are about him are most commonly the cause of pleasure to himself; their pains of pain. When highly pleased, they are commonly more disposed to exert themselves to gratify him. A period of pain or grief in those about him, is a period of gloom,—a period in which little is done for pleasure,—a period in which the pleasures of the child are apt to be overlooked. Trains of pleasurable ideas are thus apt to arise in his mind, at the thought of the pleasurable condition of those around him; trains of painful ideas at the thought of the reverse; and he is thus led to have an habitual desire for the one,—aversion to the other. But if pleasures, whencesoever derived, of those about him, are apt to be the cause of good to himself, those pleasures which they derive from himself are in a greater degree the cause of good to himself. If those about him are disposed to exert themselves to please him when they are pleased themselves, they are disposed to exert themselves in a much greater degree to please *him*, in particular, when it is he who is the cause of the pleasure they enjoy. A train of ideas, in the highest degree pleasurable, may thus habitually pass through his mind at the thought of happiness to others, produced by himself; a train of ideas, in the highest degree painful, at the thought of misery to others, produced by himself: and in this manner the foundation of a life of beneficence is laid.

The business of a skilful education is, so to arrange the circumstances by which the child is surrounded, that the impressions made upon him shall be in the order most conducive to this happy result. The impressions, too, which are made originally upon the child are but one of the causes of the trains which are rendered habitual to him, and which therefore obtain a leading influence on his mind. When he is often made to conceive the trains of other men, by the words, or other signs by which their feelings are betokened, those borrowed trains become also habitual, and exert a similar influence on the mind. This, then, is another of the instruments of education. When the trains signified to the child of the ideas in the minds of those about him are trains of pleasure at the thought of the happiness of other human beings, trains of the opposite kind at the conception of their misery; and when the trains are still more pleasurable or painful at the thought of the happiness or misery produced by themselves, the association becomes in time sufficiently powerful to govern the life.

The grand object of human desire is a command over the wills of other men. This may be attained, either by qualities and acts which excite their love and admiration, or by those which excite their terror. When the education is so wisely conducted as to make the train run habitually from the conception of the good end to the conception of the good means; and as often, too, as the good means are conceived, viz. the useful and beneficial qualities, to make it run on to the conception of the great reward, the command over the wills of men; an association is formed which impels the man through life to pursue the great object of desire, by fitting himself to be, and by actually becoming the instrument of the greatest possible quantity of benefit to his fellow men.

But, unhappily, a command over the wills of men may be obtained by other means than by doing them good; and these, when a man can command them, are the shortest, the easiest, and the most effectual. These other means are all summed up in a command over the pains of other men. When a command over the wills of other men is pursued by the instrumentality of pain, it leads to all the several degrees of vexation, injustice, cruelty, oppression, and tyranny. It is, in truth, the grand source of all wickedness, of all the evil which man brings upon man. When the education is so deplorably bad as to allow an association to be formed in the mind of the child between the grand object of desire, the command over the wills of other men, and

the fears and pains of other men, as the means; the foundation is laid of bad character,—the bad son, the bad brother, the bad husband, the bad father, the bad neighbour, the bad magistrate, the bad citizen,—to sum up all in one word, the bad man. Yet, true it is, a great part of education is still so conducted as to form that association. The child, while it yet hangs at the breast, is often allowed to find out by experience, [IV-28] that crying, and the annoyance which it gives, is that by which chiefly it can command the services of its nurse, and obtain the pleasures which it desires. There is not one child in fifty who has not learned to make its cries and wailings an instrument of power, and very often an instrument of absolute tyranny. When the evil grows to excess, the vulgar say the child is spoiled. Not only is the child allowed to exert an influence over the wills of others by means of their pains, it finds, that frequently, sometimes most frequently, its own will is needlessly and unduly commanded by the same means, pain, and the fear of pain: All these sensations concur in establishing a firm association between the idea of the grand object of desire, command over the acts of other men, and those of pain and terror, as the means of acquiring it. That those who have been subject to tyranny are almost always desirous of being tyrants in their turn; that is to say, that a strong association has been formed in their minds between the ideas of pleasure and dignity, on the one hand, and those of the exercise of tyranny, on the other, is a matter of old and invariable observation. An anecdote has just been mentioned to us, so much in point, that we will repeat it, as resting on its own probability, though it is by hearsay testimony (very good, however, of its kind) by which it has reached us. At Eton, in consequence, it is probable, of the criticisms which the press has usefully made upon the system of *fagging* (as it is called) at the public schools, a proposition was lately made, among the boys themselves, for abolishing it. The idea originated with the elder boys, who were in possession of the power,—a power of a very unlimited and formidable description,—and was by them warmly supported; but it was opposed with still greater vehemence by the junior boys, the boys who were then the victims of it, so much did the expected pleasure of tyrannising in their turn outweigh the pain of their present slavery.—In this case, too, as in most others, the sources of those trains which govern our lives are two,—the impressions made upon ourselves, and the trains which we copy from others. Besides the impressions just recounted, if the trains which pass in the minds of those by whom the child is surrounded, and which he is made to conceive by means of their words, and other signs, lead constantly from the idea of command over the wills of other men, as the grand object of desire, to the ideas of pain and terror as the means, the repetition of the copied trains increases the effect of the native impressions, and establishes and confirms the maleficent character. These are the few things we can afford to adduce upon the subject of Domestic Education.

In the next place comes that which we have denominated *Technical*. To this the term Education has been commonly confined; or, rather, the word Education has been used in a sense so unhappily restricted, that it has extended only to a part of that which we call *Technical Education*. It has not extended to all the arts, but only to those which have been denominated *liberal*.

The question here occurs, What is the sort of education required for the different classes of society, and what should be the difference in the training provided for each? Before we can treat explicitly of technical education, we must endeavour to show, in what manner at least, this question ought to be resolved.

There are certain qualities, the possession of which is desirable in all classes: There are certain qualities, the possession of which is desirable in some, not in others. As far as those qualities extend which ought to be common to all, there ought to be a correspondent training for all. It is only in respect to those qualities which are not desirable in all, that a difference in the mode of training is required.

What then are the qualities, the possession of which is desirable in all? They are the qualities which we have already named as chiefly subservient to the happiness of the individual himself, and of other men,—Intelligence, Temperance, and Benevolence. It is very evident that all these qualities are desirable in all men; and if it were possible to get them all in the highest possible degree in all men, so much the more would human nature be exalted.

The chief difficulty respects Intelligence; for it will be readily allowed, that almost equal care ought to be taken, in all classes, of the trains leading to the settled dispositions which the terms Temperance and Benevolence denote. Benevolence, as we have above described it, can hardly be said to be of more importance to the happiness of man in one class than in another. If we bear in mind, also, the radical meaning of Temperance, that it is the steady habit of resisting a present desire, for the sake of a greater good, we shall readily grant, that it is not less necessary to happiness in one rank of life than in another. It is only necessary to see, that temperance, though always the same disposition, is not always exerted on the same objects, in the different conditions of life. It is no demand of temperance, in the man who can afford it, to deny himself animal food; it may be an act of temperance in the man whose harder circumstances require that he should limit himself to coarser fare. It is also true, that the trains which lead to Temperance and Benevolence may be equally cultivated in all classes. The impressions which they are made to receive, and the trains of others which they are made to copy, may, with equal certainty, be guided to the generating of those two qualities in all the different classes of society. We deem it unnecessary (here, indeed, it is impossible) to enter into the details of what may be done in the course of technical education, to generate, or to confirm, the dispositions of Temperance and Benevolence. It can be nothing more than the application of the principles which we developed, when we endeavoured to show in what manner the circumstances of domestic education might be employed for generating the trains on which these mental qualities depend.

Technical Education we shall then consider as having chiefly to do with *Intelligence*.

The first question, as we have said before, respects what is desirable for all,—the second what is desirable for each of the several classes. Till recently, [IV-29] it was denied, that intelligence was a desirable quality in the great body of the people; and as intelligence is power, such is an unavoidable opinion in the breasts of those who think that the human race ought to consist of two classes,—one that of the oppressors, another that of the oppressed. The concern which is now felt for the education of the working classes, shows that we have made a great step in knowledge, and in that genuine morality which ever attends it.

The analysis of the ideas decides the whole matter at once. If education be to communicate the art of happiness, and if intelligence consists of two parts,—a knowledge of the order of those events of nature on which our pleasures and pains depend—and the sagacity which discovers the best means for the attaining of ends,—the question, whether the people should be educated, is the same with the question, whether they should be happy or miserable. The question, whether they should have more or less of intelligence, is merely the question, whether they should have more or less of misery, when happiness might be given in its stead. This has been seized, and made use of as an objection, viz. that men are seen, by daily experience, not to be happy, not to be moral, in proportion to their knowledge. It is wonderfully shallow. Hume said long ago, that knowledge, and its accompaniments, morality and happiness, may not be strictly conjoined in every individual, but they are infallibly so in every age and in every country. The reason is plain: a natural cause may be hindered of its operation in one particular instance, though in a great variety of instances it is sure to prevail. Besides, there may be a good deal of knowledge in an individual, but not knowledge of the best things; this cannot easily happen in a whole people; neither the whole nor the greater part will miss the right objects of knowledge, when knowledge is generally diffused.

As evidence of the vast progress which we have made in right thinking upon this subject, we cannot help remarking, that even when Milton and Locke wrote upon education, though both men of so much benevolence to the larger family of mankind, and both men whose sentiments were democratical, they yet seem to have had in their view no education but that of the *gentleman*: education had not presented itself, even to their minds, as a blessing in which the indigent orders could be made to partake.

As we strive for an equal degree of justice, an equal degree of temperance, an equal degree of veracity, in the poor as in the rich, so we should strive for an equal degree of intelligence, if there were not a cause which prevents. It is absolutely necessary for the existence of the human race, that labour should be performed, that food should be raised, and other things provided which human welfare requires. A large portion of mankind is required for this labour. Now, then, in regard to all this portion of mankind that labours, only such a portion of time can by them be given to the acquisition of intelligence as can be abstracted from labour. The difference between intelligence and the other qualities desirable in the mind of man, is this,—that much of time exclusively devoted to the fixing of the associations on which they depend is not necessary; such trains may go on while other things are attended to, and amid the whole of the business of life. The case, to a certain extent, is the same with intelligence; but, to a great extent, it is not. Time must be exclusively devoted to the acquisition of it; and there are degrees of command over knowledge to which the whole period of human life is not more than sufficient. There are degrees, therefore, of intelligence, which must be reserved to those who are not obliged to labour.



The question is (and it is a question which none can exceed in magnitude), What is the degree attainable by the most numerous class? To this we have no doubt, it will, in time, very clearly appear, that a most consolatory answer may be given. We have no doubt it will appear that a very high degree is attainable by them. It is now almost universally acknowledged, that, on all conceivable accounts, it is desirable that the great body of the people should not be wretchedly poor; that when the people are wretchedly poor, all classes are vicious, all are hateful, and all are unhappy. If so far raised above wretched poverty, as to be capable of being virtuous, though it is still necessary for them to earn their bread by the sweat of their brow, they are not bound down to such incessant toil as to have no time for the acquisition of knowledge, and the exercise of intellect. Above all, a certain portion of the first years of life are admirably available to this great end. With a view to the productive powers of their very labour, it is desirable that the animal frame should not be devoted to it before a certain age, before it has approached the point of maturity. This holds in regard to the lower animals: a horse is less valuable, less, in regard to that very labour for which he is valuable at all, if he is forced upon it too soon. There is an actual loss, therefore, even in productive powers, even in good economy, and in the way of health and strength, if the young of the human species are bound close to labour before they are fifteen or sixteen years of age. But if those years are skilfully employed in the acquisition of knowledge, in rendering all those trains habitual on which intelligence depends, it may be easily shown that a very high degree of intellectual acquirements may be gained; that a firm foundation may be laid for a life of mental action, a life of wisdom, and reflection, and ingenuity, even in those by whom the most ordinary labour will fall to be performed. In proof of this, we may state, that certain individuals in London, a few years ago, some of them men of great consideration among their countrymen, devised a plan for filling up those years with useful instruction,—a plan which left the elements of hardly any branch of knowledge unprovided for, and at an expence which would exceed the means of no class of a population, raised above wretched poverty to that degree which all men profess to desire. Mr. Bentham called this plan of instruction by the Greek name *Chrestomathia*; and developed his own ideas of the objects and mode of instruction, with that depth and comprehension which belong to him, in a work [IV-30] which he published under that name. [*]Of the practicability of the scheme, no competent judge has

ever doubted; and the difficulty of collecting funds is the only reason why it has not, already, been demonstrated by experiment, how much of that intelligence which is desirable for all, may be communicated to all. [†]

Beside the knowledge or faculties which all classes [IV-31] should possess in common, there are branches of knowledge and art which they cannot all acquire; and, in respect to which, education must undergo a corresponding variety. The apprenticeships, for example, which youth are accustomed to serve to the useful arts, we regard as a branch of their education. Whether these apprenticeships, as they have hitherto been managed, have been good instruments of education, is a question of importance, about which there is now, among enlightened men, hardly any diversity of opinion. When the legislature undertakes to do for every man, what every man has abundant motives to do for himself, and better means than the legislature; the legislature takes a very unnecessary, commonly a not very innocent trouble. Into the details, however, of the best mode of teaching, to the working people, the arts by which the different commodities useful or agreeable to man are provided, we cannot possibly enter. We must content ourselves with marking it out as a distinct branch of the subject, and an important object of study.

With respect to the education of that class of society who have wealth and time for the acquisition of the highest measure of intelligence, there is one question as to which every body must be ripe for a decision. If it be asked, whether, in the constitution of any establishment for their education, call it university, call it college, school, or any thing else, there ought to be a provision made for perpetual improvement,—a provision to make it keep pace with the human mind; or if, on the other hand, it ought to be so constituted as that there shall not only be no provision for, but a strong spirit of resistance to all improvement,—a passion of adherence to whatever was established in a dark age, and a principle of hatred to those by whom improvement is proposed;—all indifferent men will declare that such institutions would be a curse rather than a blessing. That he is a *progressive* being, is the grand distinction of man; he is the only progressive being upon this globe; when he is the most rapidly progressive, then he most completely fulfills his destiny: an institution for *education* which is hostile to progression, is, therefore, the most preposterous and vicious thing, which the mind of man can conceive.

There are several causes which tend to impair the utility of old and opulent establishments for education. Their love of ease makes them love easy things, if they can derive from them as much credit, as they would from others which are more difficult. They endeavour, therefore, to give an artificial value to trifles. Old practices, which have become a hackneyed routine, are commonly easier than to make improvements: accordingly, they oppose improvements, even when it happens that they have no other interest in the preservation of abuses. Hardly is there a part of Europe in which the Universities are not recorded, in the annals of of education, as the enemies of all innovation. “A peine la compagnie de Jesus,” says d’Alembert, “commença-t-elle à se montrer en France, qu’elle essuya des difficultés sans nombre pour s’y établir. Les universités sur tout firent les plus grands efforts, pour écarter ces nouveaux venus. Les Jesuites s’annonçaient pour enseigner gratuitement, ils comptoient déjà parmieux des hommes savans et célèbres, superieurs peut-être à ceux dont les universités pouvaient se glorifier; l’interêt et la vanité pouvaient donc suffire à leurs adversaires pour chercher à les exclure. On se rapelle les contradictions semblables que les ordres mendians essayèrent de ces mêmes universités quand ils voulurent s’y introduire; contradictions fondées à peu près sur les mêmes motifs.” (*Destruction des Jesuites in France.*) The celebrated German Philosopher Wolf remarks the aversion of the universities to all improvement, as a notorious thing, founded upon adequate motives, in the following terms: “*Non adeo impune turbare licet scholarum quietem, et docentibus lucrosam, et discentibus jucundam.*” (Wolfii Logica, Dedic. p. 2.)

But though such and so great are the evil tendencies which are to be guarded against in associated seminaries of education,—evil tendencies which are apt to be indefinitely increased when they are united with an ecclesiastical establishment, because, whatever the vices of the ecclesiastical system, the universities have in that case an interest to bend the whole force of their education to the support of them all, and the human mind can only be rendered the friend of abuses in proportion as it is vitiated intellectually, or morally, or both; it must, notwithstanding, be confessed, that there are great advantages in [IV-32] putting it in the power of the youth to obtain all the branches of their education in one place; even in assembling a certain number of them together, when the principle of emulation acts with powerful effect; and in carrying on the complicated process according to a regular plan, under a certain degree of discipline, and with the powerful spur of publicity. All this ought not to be rashly sacrificed; nor does there appear to be any insuperable difficulty in devising a plan for the attainment of all these advantages, without the evils which have more or less adhered to all the collegiate establishments which Europe has yet enjoyed.

After the consideration of these questions, we ought next to describe, and prove by analysis, the exercises which would be most conducive in forming those virtues which we include under the name of intelligence. But it is very evident, that this is a matter of detail far too extensive for so limited a design as ours. And though education, in common language, means hardly any thing more than making the youth perform those exercises; and a treatise on education means little more than an account of them, we must content ourselves with marking the place which the inquiry would occupy in a complete system, and proceed to offer a few remarks on the two remaining branches of the subject, *Social Education*, and *Political Education*.

The branches of moral education, heretofore spoken of, operate upon the individual in the first period of life, and when he is not as yet his own master. The two just now mentioned operate upon the whole period of life, but more directly and powerfully after the technical education is at an end, and the youth is launched into the world under his own control.

Social Education is that in which society is the Institutor. That the society in which an individual moves, produces great effects upon his mode of thinking and acting, every body knows by indubitable experience. The object is, to ascertain the extent of this influence, the mode in which it is brought about, and hence the means of making it operate in a good, rather than an evil direction.

The force of this influence springs from two sources: the principle of imitation; and the power of the society over our happiness and misery.

We have already shown, that when, by means of words, and other signs of what is passing in the minds of other men, we are made to conceive, step by step, the trains which are governing them, those trains, by repetition, become habitual to our own minds, and exert the same influence over us as those which arise from our own impressions. It is very evident, that those trains which are most habitually passing in the minds of all those individuals by whom we are surrounded, must be made to pass with extraordinary frequency through our own minds, and must, unless where extraordinary means are used to prevent them from producing their natural effect, engross to a proportional degree the dominion of our minds. With this slight indication of this source of the power which society usurps over our minds, that is, of the share which it has in our education, we must content ourselves, and pass to the next.

Nothing is more remarkable in the proceedings of human nature, than the intense desire which we feel of the favourable regards of mankind. Few men could bear to live under an exclusion from the breast of every human being. It is astonishing how great a portion of all

the actions of men are directed to this object and to no other. The greatest princes, the most despotic masters of human destiny, when asked, What they aim at by their wars and conquests? would answer, if sincere, as Frederic of Prussia answered, *pour faire parler de soi*; to occupy a large space in the admiration of mankind? What are the ordinary pursuits of wealth and of power, which kindle to such a height the ardour of mankind? Not the mere love of eating and of drinking, or all the physical objects together, which wealth can purchase or power command. With these every man is at bottom speedily satisfied. It is the easy command, which those advantages procure over the favourable regards of society,—it is this which renders the desire of wealth unbounded, and gives it that irresistible influence which it possesses in directing the human mind.

Whatever, then, are the trains of thought, whatever is the course of action which most strongly recommends us to the favourable regards of those among whom we live, these we feel the strongest motive to cultivate and display; whatever trains of thought and course of action expose us to their unfavourable regards, these we feel the strongest motives to avoid. These inducements, operating upon us continually, have an irresistible influence in creating habits, and in moulding, that is, educating us, into a character conformable to the society in which we move. This is the general principle; it might be illustrated in detail by many of the most interesting and instructive phenomena of human life; it is an inquiry, however, in which we must not indulge.

To what extent the habits and character, which those influences tend to produce, may engross the man, will no doubt depend, to a certain degree, upon the powers of the domestic and technical education which he has undergone. We may conceive that certain trains might, by the skilful occupation of the early years, be rendered so habitual as to be uncontrollable by any habits which the subsequent period of life would induce, and that those trains might be the decisive ones on which intelligent and moral conduct depends. The influence of a vicious and ignorant society would in this case be greatly reduced; but still, the actual rewards and punishments which society has to bestow upon those who please, and those who displease it; the good and evil which it gives or withholds, are so great, that to adopt the opinions which it approves, to perform the acts which it admires, to acquire the character, in short, which it “delighteth to honour,” can seldom fail to be the leading object of those of whom it is composed. And as this potent influence operates upon those who conduct both the domestic education and the technical, it is next to impossible that the trains which are generated, even during the time of their operation; should not fall in with, instead of counteracting, the trains which the social education produces; it is next to impossible, therefore, that the whole man should not take the shape which that influence is calculated to impress upon him.

[IV-33]

The *Political Education* is the last, which we have undertaken to notice, of the agents employed in forming the character of man. The importance of this subject has not escaped observation. Some writers have treated of it in a comprehensive and systematical manner. And a still greater number have illustrated it by occasional and striking remarks, It is, nevertheless, true, that the full and perfect exposition of it yet remains to be made.

The Political Education is like the key-stone of the arch; the strength of the whole depends upon it. We have seen that the strength of the Domestic and the Technical Education depends almost entirely upon the Social. Now it is certain, that the nature of the social depends almost entirely upon the Political; and the most important part of the Physical (that which operates with greatest force upon the greatest number, the state of aliment and labour of the lower classes), is, in the long-run, determined by the action of the political machine. The play, therefore, of the political machine acts immediately upon the mind, and with extraordinary power; but this is not all; it also acts upon almost every thing else by which the

character of the mind is apt to be formed.

It is a common observation, that such as is the direction given to the desires and passions of men, such is the character of the men. The direction is given to the desires and passions of men by one thing, and one alone; the means by which the grand objects of desire may be attained. Now this is certain, that the means by which the grand objects of desire may be attained, depend almost wholly upon the political machine. When the political machine is such, that the grand objects of desire are seen to be the natural prizes of great and virtuous conduct—of high services to mankind, and of the generous and amiable sentiments from which great endeavours in the service of mankind naturally proceed—it is natural to see diffused among mankind a generous ardour in the acquisition of all those admirable qualities which prepare a man for admirable actions; great intelligence, perfect self-command, and over-ruling benevolence. When the political machine is such that the grand objects of desire are seen to be the reward, not of virtue, not of talent, but of subservience to the will, and command over the affections of the ruling few; that interest with the *man above* is the only sure means to the next step in wealth, or power, or consideration, and so on; the means of pleasing the man above become, in that case, the great object of pursuit. And as the favours of the man above are necessarily limited—as some, therefore, of the candidates for his favour can only obtain the objects of their desire by disappointing others—the arts of supplanting rise into importance; and that whole tribe of faculties which is expressed by the words intrigue, flattery, back-biting, treachery, &c., are the fruitful offspring of that political education, which a government, in which the many interests of the subject are but a secondary object, cannot fail to produce.

(F. F.)

See the article EDUCATION, in the *Encyclopædia* for the discussion of various questions connected with that subject, and UNIVERSITIES, in this *Supplement*.

GOVERNMENT.↩

THE question with respect to Government, is a question about the [Nature of the Inquiry.](#) adaptation of means to an end. Notwithstanding the portion of discourse which has been bestowed upon this subject, it is surprising to find, upon a close inspection, how few of its principles are settled. The reason is, that the ends and means have not been analyzed; and it is only a general and undistinguishing conception of them which exists in the minds of the greater number of men. So long as either remain in this situation, they give rise to interminable disputes; more especially when the deliberation is subject, as in this case, to the strongest action of personal interest.

In a discourse, limited as the present; it would be obviously vain to [Object of this Article.](#) attempt the accomplishment of such a task, as that of the analysis we have mentioned. The mode, however, in which the operation should be conducted, may perhaps be described, and evidence enough exhibited to show in what road we must travel to approach the point at which so many have vainly endeavoured to arrive.

The end of government has been described in a great variety of [End of Government.](#) expressions. By Locke it was said to be “the public good;” by others it has been described as being “the greatest happiness of the greatest number.” These, and equivalent expressions, are just; they are only defective in as much as the particular ideas which they embrace are indistinctly announced; and different combinations are by means of them raised in different minds, and even in the same mind on different occasions.

It is immediately obvious, that a wide and difficult field is opened, and that the whole science of human nature must be explored to lay a foundation for the science of government. To understand what is included in the happiness of the greatest number, we must understand what is included in the happiness of the individuals of whom it is composed.

That dissection of human nature which would be necessary to show, on proper evidence, the primary elements into which human happiness may be resolved, it is not compatible with the present design to undertake. We must content ourselves with assuming certain results.

We may allow, for example, in general terms, that the lot of every human being is determined by his pains and pleasures; and that his happiness corresponds with the degree in which his pleasures are great, and his pains are small.

Human pains and pleasures are derived from two sources. They are produced either by our fellow men, or by causes independent of other men.

We may assume it as another principle, that the concern of government is with the former of these two sources; and that its business is to increase to the utmost the pleasures, and diminish to the utmost the pains, which men derive from one another.

Of the laws of nature, on which the condition of man depends, that which is attended with the greatest number of consequences, is the necessity of labour for obtaining the means of subsistence, as well as the means of the greatest part of our pleasures. This is, no doubt, the primary cause of government; for, if nature had produced spontaneously all the objects which we desire, and in sufficient abundance for the desires of all, there would have been no source of dispute or of injury among men; nor would any man have possessed the means of ever acquiring authority over another.

The results are exceedingly different, when nature produces the objects of desire not in sufficient abundance for all. The source of dispute is then exhaustless; and every man has the means of acquiring authority over others, in proportion to the quantity of those objects which he is able to possess. In this case, the end to be obtained, through government as the means, would be, to make that distribution of the scanty materials of happiness which would insure the greatest sum of it in the members of the community taken altogether; and to prevent every individual, or combination of individuals, from interfering with that distribution, or making any man to have less than his share.

An element of great importance is taken into the calculation, when it is considered that most of the objects of desire, and even the means of subsistence, are the product of labour. The means of insuring labour must, in that case, be provided for as the foundation of all.

The means for the insuring of labour are of two sorts; the one made out of the matter of evil, the other made out of the matter of good. The first sort is commonly denominated force; and, under its application, the labourers are slaves. This mode of procuring labour we need not consider; for, if the [IV-492] end of government be to produce the greatest happiness of the greatest number, that end cannot be attained by making the greatest [Government](#). number slaves.

The other mode of obtaining labour is by allurement, or the advantage which it brings. If we would obtain all the objects of desire in the greatest possible quantity, we must obtain labour in the greatest possible quantity; and, if we would obtain labour in the greatest possible quantity, we must raise the advantage attached to labour to the greatest possible height. It is impossible to attach to labour a greater degree of advantage than the whole of the product of labour. Why so? Because, if you give more to one man than the produce of his labour, you can do so only by taking it away from the produce of some other man's labour. The greatest possible happiness of society is, therefore, attained by insuring to every man the greatest possible quantity of the produce of his labour.

How is this to be accomplished? For it is obvious that every man who has not all the objects of his desire, has inducement to take them from any other man who is weaker than himself. And how is this to be prevented? One mode is sufficiently obvious; and it does not appear that there is any other. It is the union of a certain number of men, agreeing to protect one another; and the object is best accomplished when a great number of men combine together, and delegate to a small number the power necessary for protecting them all. This is government. And it thus appears, that it is for the sake of property that government exists. [*]

With respect to the end of government, or that for the sake of which it exists, it is not conceived to be necessary, on the present occasion, that the analysis should be carried any farther. What follows is an attempt to analyze the means. [Means necessary to the Ends of Government.](#)

Two things are here to be considered; the power with which the small number are entrusted; and the use which they are to make of it.

With respect to the first, there is no difficulty. The elements, out of which the power of coercing others is fabricated, are obvious to all. Of these we shall, therefore, not lengthen this article by any explanation.

All the difficult questions of government relate to the means of restraining those, in whose hands are lodged the powers necessary for the protection of all, from making a bad use of it.

Whatever would be the temptations under which individuals would lie, if there was no government to take the objects of desire from others weaker than themselves, under the same temptations the members of government would lie, to take the objects of desire from the members of the community, if they were not prevented from doing so. Whatever, then, are the reasons for establishing government, the very same exactly are the reasons for establishing securities, that those entrusted with the powers necessary for protecting others make use of them for that purpose solely, and not for the purpose of taking from the members of the community the objects of desire.

There are three modes in which it may be supposed, that the powers of protecting the community are capable of being exercised. The community may undertake the protection of itself, and of its members. The powers of protection may be placed in the hands of a few. And, lastly, they may be placed in the hands of an individual. The Many, the Few, the One; these varieties appear to exhaust the subject. It is not possible to conceive any hands, or combination of hands, in which the powers of protection can be lodged, which will not fall under one or other of those descriptions. And these varieties correspond to the three forms of government, the Democratical, the Aristocratical, and the Monarchical.

It will be necessary to look somewhat closely at each of these forms in their order.

I. *The Democratical.* It is obviously impossible, that the community in a body can be present to afford protection to each of its members. It must employ individuals for that purpose. Employing individuals, it must choose them, it must lay down the rules under which they are to act, and it must punish them, if they act in disconformity to those rules. In these operations are included the three great operations of government, Administration, Legislation, and Judicature. The community, to perform any of these operations, must be assembled. This circumstance alone seems to form a conclusive objection against the democratical form. To assemble the whole of a community as often as the business of government requires performance would almost preclude the existence of labour; hence the existence of property; and hence the existence of the community itself.

There is also another objection not less conclusive. A whole community would form a numerous assembly. But all numerous assemblies are essentially incapable of business. It is unnecessary to be tedious in the proof of this proposition. In an assembly, every thing must be done by speaking and assenting. But where the assembly is numerous, so many persons desire to speak, and feelings, by mutual inflammation, become so violent, that calm and effectual deliberation is altogether impossible.

It may be taken, therefore, as a proposition, from which there will be no dissent, that a community in mass is ill adapted for the business of government. There is no principle more in conformity with the sentiments and the practice of the people than this. The management of the joint affairs of any considerable body of the people they never undertake for [IV-493] themselves. What they uniformly do is, to choose a certain number of persons to be the actors in their stead. Even in the case of a common benefit club, the members choose a committee of management, and content themselves with a general control.

2. *The Aristocratical.* This term applies to all those cases, in which the powers of government are held by any number of persons intermediate between a single person and the majority. When the number is small, it is common to call the government an Oligarchy; when it is considerable, to call it an Aristocracy. The cases are essentially the same; because the motives which operate in both are the same. This is a proposition which carries, we think, its own evidence along with it. We, therefore, assume it as a point which will not be disputed.

The source of evil is radically different in the case of aristocracy, and that of democracy. The community cannot have an interest opposite to its interest. To affirm this would be a contradiction in terms. The community within itself, and with respect to itself, can have no sinister interest. One community may intend the evil of another: never its own. This is an indubitable proposition, and one of great importance. It may act wrong from mistake. To suppose that it could from design, would be to suppose this absurdity, that human beings can wish their own misery.

The circumstances from which the inaptitude of the community as a body for the business of government arose, namely, the inconvenience of assembling them, and the inconvenience of their numbers when assembled, do not necessarily exist in the case of aristocracy. If the number of those who hold among them the powers of government is so great, as to make it inconsistent to assemble them, or impossible for them to deliberate calmly when assembled, this is only an objection to so extended an aristocracy, and has no application to an aristocracy not too numerous, when assembled for the best exercise of deliberation.

The question is, whether such an aristocracy may be trusted to make that use of the powers of government which is most conducive to the end for which government exists?

There may be a strong presumption, that an aristocracy, monopolizing the powers of government, would not possess intellectual powers in any very high perfection. Intellectual powers are the offspring of labour. But an hereditary aristocracy are deprived of the strongest motives to labour. The greater part of them will, therefore, be defective in those powers. This is one objection, and an important one, though not the greatest.

We have already observed, that the reason for which government exists is, that one man, if stronger than another, will take from him whatever that other possesses and he desires. But if one man will do this, so will several. And if powers are put into the hands of a comparatively small number, called an aristocracy, powers which make them stronger than the rest of the community, they will take from the rest of the community as much as they please of the objects of desire. They will, therefore, defeat the very end for which government was instituted. The unfitness, therefore, of an aristocracy to be entrusted with the powers of government rests on the basis of demonstration.

3. *The Monarchical.* It will be seen, and therefore words to make it manifest are unnecessary, that, in most respects, the monarchical form of government agrees with the aristocratical, and is liable to the same objections. Of the Monarchical Form.

If government is founded upon this, as a law of human nature, that a man, if able, will take from others any thing which they have, and which he desires, it is sufficiently evident that, when a man is called a king, it does not change his nature; so that, when he has got power to enable him to take from every man what he pleases, he will take whatever he pleases. To suppose that he will not, is to affirm that government is unnecessary; and that human beings will abstain from injuring one another of their own accord.

It is very evident that this reasoning extends to every modification of the smaller number. Whenever the powers of government are placed in any hands other than those of the community, whether those of one man, of a few, or of several, those principles of human nature which imply that government is at all necessary, imply that these persons will make use of them to defeat the very end for which government exists.

One observation, however, suggests itself. Allowing, it may be said, that this deduction is perfect, and the inference founded upon it indisputable, it is yet true, that, if there were no government, every man would be exposed to depredation from every man; but, under

government, if an aristocracy, he is exposed to it only from a few; if a monarchy, only from one.

This is a highly important observation, and deserves to be minutely investigated.

It is sufficiently obvious, that, if every man is liable to be deprived of what he possesses at the will of every man stronger than himself, the existence of property is impossible; and, if the existence of property is impossible, so also is that of labour, of the means of subsistence for an enlarged community, and hence of the community itself. If the members of such a community are liable to be deprived only by a few hundred men, the members of an aristocracy, it may not be impossible to satiate that limited number with a limited portion of the objects belonging to all. Allowing this view of the subject to be correct, it follows that the smaller the number of hands into which the powers of government are permitted to pass, the happier it will be for the community. That an oligarchy, therefore, is better than an aristocracy, and a monarchy better than either.

This view of the subject deserves to be the more carefully considered, that the conclusion to which it leads is the same with that which has been adopted and promulgated by some of the most profound and most benevolent investigators of human affairs. That government by one man, altogether unlimited and uncontrolled, is better than government by any modification of aristocracy, is the celebrated opinion of Mr Hobbes, and of the French *Economists*, supported on reasonings which it is not easy to controvert. [IV-494] Government, by the many, they with reason considered an impossibility. They inferred, therefore, that, of all the possible forms of government, absolute monarchy is the best.

Experience, if we look only at the outside of the facts, appears to be divided on this subject. Absolute monarchy, under Neros and Caligulas, under such men as Emperors of Morocco and Sultans of Turkey, is the scourge of human nature. On the other side, the people of Denmark, tired out with the oppressions of an aristocracy, resolved that their king should be absolute; and, under their absolute monarch, are as well governed as any people in Europe. In Greece, notwithstanding the defects of democracy, human nature ran a more brilliant career than it has ever done in any other age or country. As the surface of history, therefore, affords no certain principle of decision, we must go beyond the surface, and penetrate to the springs within.

Where it is said that one man, or a limited number of men, will soon be satiated with the objects of desire, and when they have taken from the community what suffices to satiate them, will protect its members in the enjoyment of the remainder, it appears that an important element of the calculation is left out. Human beings are not a passive substance. If human beings, in respect to their rulers, were the same as sheep in respect to their shepherd; and if the king, or the aristocracy, were as totally exempt from all fear of resistance from the people, and all chance of obtaining more obedience from severity, as the shepherd from the sheep, it does appear that there would be a limit to the desire of taking to one's self the objects of desire. The case will be found to be very much altered when the idea is taken into the account of the resistance to their wills which one human being may expect from another, and of that perfection in obedience which fear alone can produce.

That one human being will desire to render the person and property of another subservient to his pleasures, notwithstanding the pain or loss of pleasure which it may occasion to that other individual, is the foundation of government. The desire of the object implies the desire of the power necessary to accomplish the object. The desire, therefore, of that power which is necessary to render the persons and properties of human beings subservient to our pleasures, is a grand governing law of human nature.

What is implied in that desire of power? and what is the extent to which it carries the actions of men? are the questions which it is necessary to resolve, in order to discover the limit which nature has set to the desire of a king, or an aristocracy, to inflict evil upon the community for their own advantage.

Power is a means to an end. The end is every thing, without exception, which the human being calls pleasure, and the removal of pain. The grand instrument for attaining what a man likes, is the actions of other men. Power, in its most appropriate signification, therefore, means security for the conformity between the will of one man and the acts of other men. This, we presume, is not a proposition which will be disputed. The master has power over his servant, because when he wills him to do so and so, in other words, expresses a desire that he would do so and so, he possesses a kind of security that the actions of the man will correspond to his desire. The general commands his soldiers to perform certain operations, the king commands his subjects to act in a certain manner, and their power is complete or not complete, in proportion as the conformity is complete or not complete between the actions willed and the actions performed. The actions of other men, considered as means for the attainment of the objects of our desire, are perfect or imperfect, in proportion as they are or are not certainly and invariably correspondent to our will.—There is no limit, therefore, to the demand of security for the perfection of that correspondence. A man is never satisfied with a smaller degree if he can obtain a greater. And as there is no man whatsoever, whose acts, in some degree or another, in some way or another, more immediately or more remotely, may not have some influence as means to our ends, there is no man, the conformity of whose acts to our will we would not give something to secure. The demand, therefore, of power over the acts of other men is really boundless. It is boundless in two ways; boundless in the number of persons to whom we would extend it, and boundless in its degree over the actions of each.

It would be nugatory to say, with a view to explain away this important principle, that some human beings may be so remotely connected with our interests, as to make the desire of a conformity between our will and their actions evanescent. It is quite enough to assume, what nobody will deny, that our desire of that conformity is unlimited, in respect to all those men whose actions can be supposed to have any influence on our pains and pleasures. With respect to the rulers of a community, this at least is certain, that they have a desire for the uniformity between their will and the actions of every man in the community. And for our present purpose this is as wide a field as we need to embrace.

With respect to the community, then, we deem it an established truth, that the rulers, one, or a few, desire an exact uniformity between their will and the acts of every member of the community. It remains for us to inquire to what description of acts it is the nature of this desire to give existence.

There are two classes of means, by which the conformity between the will of one man and the acts of other men may be accomplished. The one is pleasure, the other pain.

With regard to securities of the pleasurable sort for obtaining a conformity between one man's will and the acts of other men, it is evident, from experience, that when a man possesses a command over the objects of desire, he may, by imparting those objects to other men, insure to a great extent the conformity between his will and their actions. It follows, and is also matter of experience, that the greater the quantity of the objects of desire, which he may thus impart to other men, the greater is the number of men between whose actions and his own [IV-495] will he can insure a conformity. As it has been demonstrated that there is no limit to the number of men whose actions we desire to have conformable to our will, it follows, with equal evidence, that there is no limit to the command which there are motives for endeavouring to possess over the objects of desire.

It is, therefore, not true, that there is in the mind of a king, or in the minds of an aristocracy, any point of saturation with the objects of desire. The opinion, in examination of which we have gone through the preceding analysis, that a king or an aristocracy may be satiated with the objects of desire, and, after being satiated, leave to the members of the community the greater part of what belongs to them, is an opinion founded upon a partial and incomplete view of the laws of human nature.

We have next to consider the securities of the painful sort which may be employed for attaining conformity between the acts of one man and the will of another. We are of opinion, that the importance of this part of the subject has not been duly considered; and that the business of government will be ill understood, till its numerous consequences have been fully developed.

Pleasure appears to be a feeble instrument of obedience in comparison with pain. It is much more easy to despise pleasure than pain. Above all it is important to consider, that in this class of instruments is included the power of taking away life, and with it of taking away not only all the pleasures of reality, but, what goes so far beyond them, all the pleasures of hope. This class of securities is, therefore, incomparably the strongest. He who desires obedience to a high degree of exactness, cannot be satisfied with the power of giving pleasure, he must have the power of inflicting pain. He who desires it to the highest possible degree of exactness, must desire power of inflicting pain sufficient at least to insure that degree of exactness; that is, an unlimited power of inflicting pain; for, as there is no possible mark by which to distinguish what is sufficient and what is not, and as the human mind sets no bounds to its avidity for the securities of what it deems eminently good, it is sure to extend, beyond almost any limits, its desire of the power of giving pain to others.

So much with respect to the motive for having and holding power of inflicting pain upon others. It may, however, be said, that how inseparable a part soever of human nature it may appear to be to desire to possess unlimited power of inflicting pain upon others, it does not follow, that those who possess it will have a desire to make use of it.

This is the next part of the inquiry upon which we have to enter; and we need not add that it merits all the attention of those who would possess correct ideas upon a subject which involves the greatest interests of mankind.

The chain of inference, in this case, is close and strong, to a most unusual degree. A man desires that the actions of other men shall be instantly and accurately correspondent to his will. He desires that the actions of the greatest possible number shall be so. Terror is the grand instrument. Terror can work only through assurance that evil will follow any want of conformity between the will and the actions willed. Every failure must, therefore, be punished. As there are no bounds to the mind's desire of its pleasure, there are of course no bounds to its desire of perfection in the instruments of that pleasure. There are, therefore, no bounds to its desire of exactness in the conformity between its will and the actions willed; and by consequence to the strength of that terror which is its procuring cause. Every, the most minute, failure, must be visited with the heaviest infliction; and, as failure in extreme exactness must frequently happen, the occasions of cruelty must be incessant.

We have thus arrived at several conclusions of the highest possible importance. We have seen, that the very principle of human nature upon which the necessity of government is founded, the propensity of one man to possess himself of the objects of desire at the cost of another, leads on, by infallible sequence, where power over a community is attained, and nothing checks, not only to that degree of plunder which leaves the members (excepting always the recipients and instruments of the plunder) the bare means of subsistence, but to that degree of cruelty which is necessary to keep in existence the most intense terror.

The world affords some decisive experiments upon human nature, in exact conformity with these conclusions. An English gentleman may be taken as a favourable specimen of civilization, of knowledge, of humanity, of all the qualities, in short, that make human nature estimable. The degree in which he desires to possess power over his fellow-creatures, and the degree of oppression to which he finds motives for carrying the exercise of that power, will afford a standard from which, assuredly, there can be no appeal. Wherever the same motives exist, the same conduct, as is displayed by the English gentleman, may be expected to follow in all men not farther advanced in human excellence than him. In the West Indies, before that vigilant attention of the English nation, which now, for thirty years, has imposed so great a check upon the masters of slaves, there was not a perfect absence of all check upon the dreadful propensities of power. But yet it is true, that these propensities led English gentlemen, not only to deprive their slaves of property, and to make property of their fellow-creatures, but to treat them with a degree of cruelty, the very description of which froze the blood of their countrymen, who were placed in less unfavourable circumstances. The motives to this deplorable conduct are exactly those which we have described above, as arising out of the universal desire to render the actions of other men exactly conformable to our will. It is of great importance to remark, that not one item in the motives which had lead English gentlemen to make slaves of their fellow-creatures, and to reduce them to the very worst condition in which the negroes have been found in the West Indies, can be shown to be wanting, or to be less strong in the set of motives which universally operate [IV-496] upon the men who have power over their fellow-creatures. It is proved, therefore, by the closest deduction from the acknowledged laws of human nature, and by direct and decisive experiments, that the ruling one, or the ruling few, would, if checks did not operate in the way of prevention, reduce the great mass of the people subject to their power, at least to the condition of negroes in the West Indies. [*]

We have thus seen, that of the forms of government, which have been called the three simple forms, not one is adequate to the ends which government is appointed to secure; that the community itself, which alone is free from motives opposite to those ends, is incapacitated by its numbers from performing the business of government; and that whether government is entrusted to one or a few, they have not only motives opposite to these ends, but motives which will carry them, if unchecked, to inflict the greatest evils.

These conclusions are so conformable to ordinary conceptions, that it would hardly have been necessary, if the development had not been of importance for some of our subsequent investigations, to have taken any pains with the proof of them. In this country, at least, it will be remarked, in conformity with so many writers, that the imperfection of the three simple forms of government is apparent; that the ends of government can be attained in perfection, only as under the British constitution, by an union of all the three.

The doctrine of the union of the three simple forms of government is, then, the next part of this important subject, which we are called upon to examine. [Union of the three simple Forms of Government.](#)

The first thing which it is obvious to remark upon it is, that it has been customary, in regard to this part of the inquiry, to beg the question. The good effects which have been ascribed to the union of the three simple forms of government, have been *supposed*; and the supposition has commonly been allowed. No proof has been adduced; or if any thing having the appearance of proof, it has only been a reference to the British constitution. The British constitution, it has been said, is an union of the three simple forms of government, and the British government is excellent. To render the instance of the British government in any degree a proof of the doctrine in question, it is evident that three points must be established; 1st, That the British government is not in show but in substance an union of the three simple forms; 2^{dly}, That it has any peculiar excellence; and, 3^{dly}, That its excellence arises from the

union so supposed, and not from any other cause. As these points have always been taken for granted without examination, the question with respect to the effects of an union of the three simple forms of government may be considered as yet unsolved.

The positions which we have already established with regard to human nature, and which we assume as foundations, are these; that the actions of men are governed by their wills, and their wills by their desires; that their desires are directed to pleasure and relief from pain as *ends*, and to wealth and power as the principal means; that to the desire of these means there is no limit; and that the actions which flow from that desire are the constituents whereof bad government is made. Reasoning correctly from these acknowledged laws of human nature, we shall presently discover what opinion, with respect to the mixture of the different species of government, it will be incumbent upon us to adopt.

The theory in question implies, that of the powers of government, one portion is held by the king, one by the aristocracy, and one by the people. It also implies, that there is on the part of each of them a certain unity of will, otherwise they would not act as three separate powers. This being allowed, we proceed to the inquiry.

From the principles which we have already laid down, it follows, that of the objects of human desire, and (speaking more definitely) of the means to the ends of human desire, namely, wealth and power, each of the three parties will endeavour to obtain as much as possible. After what has been said, it is not suspected that any reader will deny this proposition; but it is of importance that he retain a very clear conception of it.

If any expedient presents itself to any of the supposed parties, any expedient effectual to that end, and not opposed to any preferred object of pursuit, we may infer, with certainty, that it will be adopted. One effectual expedient is not more effectual than obvious. Any two of them by combining may swallow up the third. That such combination will take place appears to be as certain as any thing which depends upon human will; because there are strong motives in favour of it, and none that can be conceived in opposition to it. Whether the portions of power, as originally distributed to the parties, be supposed to be equal or unequal, the mixture of three of the kinds of government, it is thus evident, cannot possibly exist.

This proposition appears to be so perfectly proved, that we do not think it necessary to dwell here upon the subject. As a part, however, of this doctrine of the mixture of the simple forms of government, it may be proper to inquire whether an union may not be possible of two of them.

Three varieties of this union may be conceived; the union of monarchy with aristocracy, or the union of either with democracy.

Let us first suppose that monarchy is united with aristocracy. The power of each is equal or not equal. If it is not equal, it follows, as a necessary consequence, from the principles which we have already established, that the stronger will take from [IV-497] the weaker, till it engrosses the whole. The only question, therefore, is, What will happen when the power is equal?

In the first place, however, it seems impossible that such equality should ever exist. How is it to be established? Or by what criterion is it to be ascertained? If there is no such criterion, it must, in all cases, be the result of chance. If so, the chances against it are as infinite to one. The idea, therefore, is wholly chimerical and absurd.

Besides an overweening propensity, a disposition to overrate one's own advantages, and underrate those of other men, is a well known law of human nature. Suppose, what would be little less than miraculous, that equality were established, this propensity would lead each of

the parties to conceive itself the strongest. The consequence would be that they would go to war, and contend till one or other was subdued. Either those laws of human nature, upon which all reasoning with respect to government proceeds, must be denied, and then the utility of government itself may be disputed, or this conclusion is demonstrated. Again, if this equality were established, is there any human being who can suppose that it would last? If any thing be known about human affairs, it is this, that they are in perpetual change. If nothing else interfered, the difference of men, in respect of talents, would abundantly produce the effect. Suppose your equality to be established when your king is a man of talents, and suppose his successor to be the reverse, your equality no longer exists. The moment one of the parties is superior, it begins to profit by its superiority, and the inequality is daily increased. It is unnecessary to extend the investigation to the remaining cases—the union of democracy with either of the other two kinds of government: It is very evident that the same reasoning would lead to the same results.

In this doctrine of the mixture of the simple forms of government is included the celebrated theory of the balance in the component parts of a government. By this, it is supposed, that when a government is composed of monarchy, aristocracy, and democracy, they balance one another, and by mutual checks produce good government. A few words will suffice to show, that, if any theory deserves the epithets of “wild, visionary, chimerical,” it is that of the balance. If there are three powers, how is it possible to prevent two of them from combining to swallow up the third?

[Hypothesis of a Balance in mixed Governments.](#)

The analysis which we have already performed, will enable us to trace rapidly the concatenation of causes and effects in this imagined case. We have already seen that the interest of the community, considered in the aggregate or democratical point of view, is, that each individual should receive protection; and that the powers which are constituted for that purpose should be employed exclusively for that purpose. As this is a proposition wholly indisputable, it is also one to which all correct reasoning upon matters of government must have a perpetual reference.

We have also seen that the interest of the king, and of the governing aristocracy, is directly the reverse; it is to have unlimited power over the rest of the community, and to use it for their own advantage. In the supposed case of the balance of the monarchical, aristocratical, and democratical powers, it cannot be for the interest of either the monarchy or the aristocracy to combine with the democracy; because it is the interest of the democracy or community at large, that neither the king nor the aristocracy should have one particle of power, or one particle of the wealth of the community, for their own advantage. The democracy or community have all possible motives to endeavour to prevent the monarchy and aristocracy from exercising power, or obtaining the wealth of the community, for their own advantage. The monarchy and aristocracy have all possible motives for endeavouring to obtain unlimited power over the persons and property of the community. The consequence is inevitable; they have all possible motives for combining to obtain that power, and unless the people have power enough to be a match for both, they have no protection. The balance, therefore, is a thing, the existence of which, upon the best possible evidence, is to be regarded as impossible. The appearances which have given colour to the supposition are altogether delusive.

What then is to be done? For, according to this reasoning, we may be told that good government appears to be impossible. The people, as a body, cannot perform the business of government for themselves. If the powers of government are entrusted to one man, or a few men, and a monarchy, or governing aristocracy, is formed, the results are fatal. And it appears that a combination of the simple forms is impossible.

Notwithstanding the certainty of these propositions, it is not yet proved that good government is impossible. For though it is perfectly true that, as the people cannot exercise the powers of government themselves, they must entrust them to some one individual, or set of individuals, and these individuals will, infallibly, have the strongest motives to make a bad use of them; it is nevertheless possible that checks may be found sufficient to prevent the bad use of them. The next subject of inquiry, then, is the doctrine of checks. It is sufficiently conformable to the established and new-fashioned opinions to say, that, upon the right constitution of checks, all goodness of government depends. To this proposition we fully subscribe. Nothing, therefore, can exceed the importance of correct conclusions upon this subject. After the developments which we have already made, it is hoped that the inquiry will be neither intricate nor unsatisfactory.

In the grand discovery of modern times, the system of representation, [Representative System, and Doctrine of Checks.](#) the solution of all the difficulties, both speculative and practical, will perhaps be found. If it cannot, we seem to be forced upon the extraordinary conclusion, that good government is impossible. For as there is no individual, or combination of individuals, except the community itself, who have not an interest in bad government, if entrusted with its powers; and as the community itself is incapable of exercising those powers, and must entrust them to some individual or combination of individuals, the conclusion is obvious. The community itself must check these individuals, or [IV-498] they will follow their interest, and produce bad government. But how is it the community can check? The community can act only when assembled. And then it is incapable of acting. The community, however, can chuse representatives; and the question is, whether the representatives of the community can operate as a check?

We may begin by laying down two propositions, which appear to involve a great portion of the inquiry; and about which it is unlikely that there will be any dispute. The checking body must have a degree of power sufficient for the business of checking. It must also have an identity of interest with the community; otherwise it will make a mischievous use of its power.

The first question relates to the degree of power which is necessary to perform the business of checking. We need hardly excite the reader's attention to the importance of this inquiry; for upon this, it is evident that every thing depends.

To measure the degree of power which is requisite upon any occasion, we must consider the degree of power which is necessary to be overcome. Just as much as suffices for that purpose is requisite, and no more. We have then to inquire what power it is which the representatives of the community, acting as a check, need power to overcome. The answer here is easily given. It is all that power, wheresoever lodged, which they, in whose hands it is lodged, have an interest in misusing. We have already seen, that to whomsoever the community entrusts the powers of government, whether one, or a few, they have an interest in misusing it. All the power, therefore, which the one or the few, or which the one and the few combined, can apply to insure the accomplishment of their sinister ends, the checking body must have power to overcome, otherwise its check will be unavailing. In other words, there will be no check.

This is so exceedingly evident, that we hardly think it necessary to say a single word in illustration of it. If a king is prompted by the inherent principles of human nature to seek the gratification of his will; and if he finds an obstacle in that pursuit, he removes it, of course, if he can. If any man, or any set of men, oppose him, he overcomes them, if he is able; and to prevent him, they must, at the least, have equal power with himself.

The same is the case with an aristocracy. To oppose them with success in pursuing their interest at the expence of the community, the checking body must have power successfully to resist whatever power they possess. If there is both a king and an aristocracy, and if they would combine to put down the checking force, and to pursue their mutual interest at the expence of the community, the checking body must have sufficient power successfully to resist the united power of both king and aristocracy.

These conclusions are not only indisputable, but the very theory of the British constitution is erected upon them. The House of Commons, according to that theory, is the checking body. It is also an admitted doctrine, that if the king had the power of bearing down any opposition to his will that could be opposed by the House of Commons; or if the King and the House of Lords combined had the power of bearing down its opposition to their joint will, it would cease to have the power of checking them; that it must, therefore, have a power sufficient to overcome the united power of both.

All the questions which relate to the degree of power necessary to be given to that checking body, on the perfection of whose operations all the goodness of government depends, are thus pretty easily solved. The grand difficulty consists in finding the means of constituting a checking body, whose powers shall not be turned against the community for whose protection it is created. There can be no doubt, that, if power is granted to a body of men, called representatives, they, like any other men, will use their power, not for the advantage of the community, but for their own advantage, if they can. The only question is, therefore, how they can be prevented? in other words, how are the interests of the representatives to be identified with those of the community?

Each representative may be considered in two capacities; in his capacity of representative, in which he has the exercise of power over others, and in his capacity of member of the community, in which others have the exercise of power over him.

If things were so arranged, that, in his capacity of representative, it would be impossible for him to do himself so much good by misgovernment, as he would do himself harm in his capacity of member of the community, the object would be accomplished. We have already seen, that the amount of power assigned to the checking body cannot be diminished beyond a certain amount. It must be sufficient to overcome all resistance on the part of all those in whose hands the powers of government are lodged. But if the power assigned to the representative cannot be diminished in amount, there is only one other way in which it can be diminished, and that is, in duration.

This, then, is the instrument; lessening of duration is the instrument, by which, if by any thing, the object is to be accomplished. It is very evident, that the smaller the period of time during which any man retains his capacity of representative, as compared with the time in which he is simply a member of the community, the more difficult it will be to compensate the sacrifice of the interests of the longer period, by the profits of misgovernment during the shorter.

This is an old and approved method of identifying, as nearly as possible, the interests of those who rule, and the interests of those who are ruled. It is in pursuance of this advantage, that the members of the British House of Commons have always been chosen for a limited period. If the members were hereditary, or even if they were chosen for life, every inquirer would immediately pronounce that they would employ the powers entrusted to them for their own advantage, and that they would go just as far in abusing the persons and properties of the people, as their estimate of the powers and spirit of the people to resist them would let them regard it as safe.

As it thus appears, by the consent of all men, from the time when the Romans made their Consuls annual, down to the present day, that the end is to [IV-499] be attained by limiting the duration, either of the principal, or (what is better) of the checking power—the next question is, to what degree should the limitation proceed?

The general answer is plain. It should proceed, till met by overbalancing inconveniences on the other side. What then are the inconveniences which are likely to flow from a too limited duration?

They are of two sorts; those which affect the performance of the service, for which the individuals are chosen, and those which arise from the trouble of election. It is sufficiently obvious, that the business of government requires time to perform it. The matter must be proposed, deliberated upon, resolved, and executed. If the powers of government were to be shifted from one set of hands to another every day, the business of government could not proceed. Two conclusions, then, we may adopt with perfect certainty; that whatsoever time is necessary to perform the periodical round of the stated operations of government, this should be allotted to those who are invested with the checking powers; and, secondly, that no time, which is not necessary for that purpose, should by any means be allotted to them. With respect to the inconvenience arising from frequency of election, though, it is evident, that the trouble of election, which is always something, should not be repeated oftener than is necessary, no great allowance will need to be made for it, because it may easily be reduced to an inconsiderable amount.

As it thus appears, that limiting the duration of their power is a security against the sinister interest of the people's representatives, so it appears that it is the only security of which the nature of the case admits. The only other means which could be employed to that end, would be punishment on account of abuse. It is easy, however, to see, that punishment could not be effectually applied. For punishment, definition is required of the punishable acts, and proof must be established of the commission. But abuses of power may be carried to a great extent, without allowing the means of proving a determinate offence. No part of political experience is more perfect than this. If the limiting of duration be the only security, it is unnecessary to speak of the importance which ought to be attached to it.

It is necessary just to bring to notice, that, in the principle of limiting the duration of the power delegated to the representatives of the people, is not included the idea of changing them. The same individual may be chosen any number of times. The check of the short period for which he is chosen, and during which he can promote his sinister interest, is the same upon the man who has been chosen, and rechosen twenty times, as upon the man who has been chosen for the first time. And there is a good reason for always re-electing the man who has done his duty, because, the longer he serves, the better acquainted he becomes with the business of the service. Upon this principle of rechoosing, or of the permanency of the individual, united with the power of change, has been recommended the plan of permanent service with perpetual power of removal. This, it has been said, reduces the period within which the representative can promote his sinister interest to the narrowest possible limits; because the moment when his constituents begin to suspect him, that moment they may turn him out. On the other hand, if he continues faithful, the trouble of election is performed once for all, and the man serves as long as he lives. Some disadvantages, on the other hand, would accompany this plan. The present, however, is not the occasion on which the balance of different plans is capable of being compared.

Having considered the means which are capable of being employed for identifying the interest of the representatives, when chosen, with that of the persons who choose them, it remains that we endeavour to bring to view the principles which ought to guide in determining who the persons are by whom the choice

Proper
Constitution of a
Representative
Body.

ought to be performed.

It is most evident that every thing depends upon this question. It can be of no consequence to insure, by shortness of duration, a conformity between the conduct of the representatives and the will of those who appoint them, if those who appoint them have an interest opposite to that of the community; because those who choose will, according to the principles of human nature, make choice of such persons as will act according to their wishes. As this is a direct inference from the very principle on which government itself is founded, we assume it as indisputable.

We have seen already, that if one man has power over others placed in his hands, he will make use of it for an evil purpose; for the purpose of rendering those other men the abject instruments of his will. If we, then, suppose that one man has the power of choosing representatives for the people, it follows, that he will choose men who will use their power as representatives for the promotion of this his sinister interest.

We have likewise seen, that when a few men have power given them over others, they will make use of it exactly for the same ends, and to the same extent, as the one man. It equally follows, that, if a small number of men have the choice of the representatives, such representatives will be chosen as will promote the interests of that small number, by reducing, if possible, the rest of the community to be the abject and helpless slaves of their will.

In all these cases, it is obvious and indisputable, that all the benefits of the representative system are lost. The representative system is, in that case, only an operose and clumsy machinery, for doing that which might as well be done without it; namely, reducing the community to subjection under the One or the Few.

When we say the Few, it is seen that, in this case, it is of no importance whether we mean a few hundreds or a few thousands; or even *many* thousands. The operation of the sinister interest is the same; and the fate is the same of all that part of the community over whom the power is exercised. A numerous aristocracy has never been found to be less oppressive than an aristocracy confined to a few.

[IV-500]

The general conclusion, therefore, which is evidently established is this; that the benefits of the representative system are lost, in all cases in which the interests of the choosing body are not the same with those of the community.

It is very evident, that if the community itself were the choosing body, the interest of the community and that of the choosing body would be the same. The question is, if that of any portion of the community, if erected into the choosing body, would remain the same?

One thing is pretty clear, that all those individuals whose interests are indisputably included in those of other individuals, may be struck off without inconvenience. In this light may be viewed all children, up to a certain age, whose interests are involved in those of their parents. In this light, also, women may be regarded, the interests of almost all of whom are involved either in that of their fathers or in that of their husbands.

Having ascertained that an interest identical with that of the whole community is to be found in the aggregate males, of an age to be regarded as *sui juris*, persons who may be regarded as the natural representatives of the whole population, we have to go on, and inquire, whether this requisite quality may not be found in some less number, some aliquot part of that body.

As degrees of mental qualities are not easily ascertained, they must be outward and visible signs which are taken to distinguish, for this purpose, one part of these males from another. The applicable signs of this description appear to be three: years; property; profession or mode of life.

According to the first of these means of distinction, a portion of the males, to any degree limited, may be taken, by prescribing an advanced period of life at which the power of voting for a representative should commence. According to the second, the elective body may be limited, by allowing a vote to those only who possess a certain amount of property or of income. According to the third, they may be limited, by allowing a vote only to such persons as belong to certain professions, or certain connections and interests. What we have to inquire is, if the interest of the limited number, set apart upon any of those principles as the organ of choice for a body of representatives, will be the same with the interest of the community?

With respect to the first principle of selection, that of age, it would appear that a considerable latitude may be taken without inconvenience. Suppose the age of forty were prescribed as that at which the right of suffrage should commence, scarcely any laws could be made for the benefit of all the men of forty which would not be laws for the benefit of all the rest of the community.

[Plan of Limiting the Right of Voting to Persons of a certain Age.](#)

The great principle of security here is, that the men of forty have a deep interest in the welfare of the younger men; for otherwise it might be objected with perfect truth, that if decisive power were placed in the hands of men of forty years of age, they would have an interest, just as any other detached portion of the community, in pursuing that career, which we have already described, for reducing the rest of the community into the state of abject slaves of their will. But it so happens (and it is a fully established law of human nature), that the great majority of old men have sons, whose interest they regard as an essential part of their own. There is, therefore, no great danger that, in such an arrangement as this, the interests of the young would be greatly sacrificed to those of the old.

We come next to the inquiry, whether the interest of a body of electors, constituted by the possession of a certain amount of property or income, would be the same with the interest of the community?

[Plan of making Property a qualification.](#)

It will not be disputed, that, if the qualification were raised so high that only a few hundreds possessed it, the case would be exactly the same with that of the consignment of the electoral suffrage to an aristocracy. This we have already considered, and have seen that it differs in form rather than substance from a simple aristocracy. We have likewise seen, that it alters not the case in regard to the community, whether the aristocracy be some hundreds or many thousands. One thing is, therefore, completely ascertained, that, unless the qualification be very low, it would only create an aristocratical government on a broad basis, and be accompanied with all the evils which we have shown to belong to an aristocratical government.

This question, however, deserves to be a little more minutely considered. Let us next take the opposite extreme. Let us suppose that the qualification is very low, so low as to include the great majority of the people. It would not be easy for the people who have very little property, to separate their interests from those of the people who have none. It is not the interest of those who have little property to give undue advantages to the possession of property, which those who have the great portions of it would turn against themselves. It may, therefore, be said, that there would be no evil in a low qualification. It can hardly be said, however, on the other hand, that there would be any good; for if the whole mass of the people who have some property would make a good choice, it will hardly be pretended that,

added to them, the comparatively small number of those who have none, and whose minds are naturally and almost necessarily governed by the minds of those who have, would have any chance of making the choice a bad one.

We have ascertained, therefore, two points. We have ascertained that a very low qualification is of no use, as affording no security for a good choice beyond that which would exist if no pecuniary qualification was required. We have likewise ascertained, that a qualification so high as to constitute an aristocracy of wealth, though it were a very numerous one, would leave the community without protection, and exposed to all the evils of unbridled power. The only question, therefore, is, whether, between these extremes, there is any qualification which would remove the right of suffrage from the [IV-501] people of small, or of no property, and yet constitute an elective body, the interest of which would be identical with that of the community?

It is not easy to find any satisfactory principle to guide us in our researches, and to tell us where we should fix. The qualification must either be such as to embrace the majority of the population, or something less than the majority. Suppose, in the first place, that it embraces the majority, the question is, whether the majority would have an interest in oppressing those who, upon this supposition, would be deprived of political power? If we reduce the calculation to its elements, we shall see that the interest which they would have, of this deplorable kind, though it would be something, would not be very great. Each man of the majority, if constituted the governing body, would have something less than the benefit of oppressing a single man. If the majority were twice as great as the minority, each man of the majority would only have one-half the benefit of oppressing a single man. In that case, the benefits of good government, accruing to all, might be expected to overbalance to the several members of such an elective body the benefits of misrule peculiar to themselves. Good government would, therefore, have a tolerable security. Suppose, in the second place, that the qualification did not admit a body of electors so large as the majority, in that case, taking again the calculation in its elements, we shall see that each man would have a benefit equal to that derived from the oppression of more than one man; and that, in proportion as the elective body constituted a smaller and smaller minority, the benefit of misrule to the elective body would be increased, and bad government would be insured.

It seems hardly necessary to carry the analysis of the pecuniary qualification, as the principle for choosing an elective body, any farther.

We have only remaining the third plan for constituting an elective body. According to the scheme in question, the best elective body is that which consists of certain classes, professions, or fraternities. The notion is, that when these fraternities or bodies are represented, the community itself is represented. The way in which, according to the patrons of this theory, the effect is brought about, is this. Though it is perfectly true, that each of these fraternities would profit by misrule, and has the strongest interest in promoting it; yet, if three or four of them are appointed to act in conjunction, they will not profit by misrule, and will have an interest in nothing but good government.

Plan of
Limitation to
certain
Professions or
Interests.

This theory of representation we shall not attempt to trace farther back than the year 1793. In the debate on the motion of Mr (now Earl) Grey, for a reform in the system of representation, on the 6th of May, of that year, Mr Jenkinson, the present Earl of Liverpool, brought forward this theory of representation, and urged it in opposition to all idea of reform in the British House of Commons, in terms as clear and distinct as those in which it has recently been clothed by leading men on both sides of that House. We shall transcribe the passage from the speech of Mr Jenkinson, omitting, for the sake of abbreviation, all those expressions which are unnecessary for conveying a knowledge of the plan, and of the reasons

upon which it was founded.

“Supposing it agreed,” he said, “that the House of Commons is meant to be a legislative body, representing all descriptions of men in the country, he supposed every person would agree, that the landed interest ought to have the preponderant weight. The landed interest was, in fact, the *stamina* of the country. In the second place, in a commercial country like this, the manufacturing and commercial interest ought to have a considerable weight, secondary to the landed interest, but secondary to the landed interest only. But was this all that was necessary? There were other descriptions of people, which, to distinguish them from those already mentioned, he should style professional people, and whom he considered as absolutely necessary to the composition of a House of Commons. By professional people, he meant those members of the House of Commons who wished to raise themselves to the great offices of the State; those that were in the army, those that were in the navy, those that were in the law.” He then, as a reason for desiring to have those whom he calls “professional people” in the composition of the House of Commons, gives it as a fact, that country gentlemen and merchants seldom desire, and seldom have motives for desiring, to be ministers and other great officers of State. These ministers and officers, however, ought to be made out of the House of Commons. Therefore, you ought to have “professional people” of whom to make them. Nor was this all. “There was another reason why these persons were absolutely necessary. We were constantly in the habit of discussing in that House all the important concerns of the State. It was necessary, therefore, that there should be persons in the practice of debating such questions.” “There was a third reason, which, to his mind, was stronger than all the rest. Suppose that in that House there were only country gentlemen, they would not then be the representatives of the nation, but of the landholders. Suppose there were in that House only commercial persons, they would not be the representatives of the nation, but of the commercial interest of the nation. Suppose the landed and commercial interest could both find their way into the House. The landed interest would be able, if it had nothing but the commercial interest to combat with, to prevent that interest from having its due weight in the constitution. All descriptions of persons in the country would thus, in fact, be at the mercy of the landholders.” He adds, “the professional persons are, then, what makes this House the representatives of the people. They have collectively no *esprit de corps*, and prevent any *esprit de corps* from affecting the proceedings of the House. Neither the landed nor commercial interest can materially affect each other, and the interests of the different professions of the country are fairly considered. The honourable gentleman (Mr Grey), and the petition on this table, rather proposed uniformity of election. His ideas were the reverse—that the modes of election ought to be as varied as possible, because, if there was but one mode of election, there would, generally speaking, be but one [IV-502] description of persons in that House, and by a varied mode of election only could that variety be secured.”

There is great vagueness undoubtedly in the language here employed, and abundant proof of wavering and uncertainty in the ideas. The ideas, however, of this theory, appear in the same half-formed state in every speech and writing in which we have seen it adduced. It is this mist by which it has been kept surrounded which creates the only difficulty; because it cannot be precisely known how any thing is good or bad, till it is precisely known what it is.

According to the ideas of Lord Liverpool, the landholders ought to be represented; the merchants and manufacturers ought to be represented; the officers of the army and navy ought to be represented; and the practitioners of the law ought to be represented. Other patrons of the scheme have added, that literary men ought to be represented. And these, we believe, are almost all the fraternities which have been named for this purpose by any of the patrons of the scheme. To insure the choice of representatives of the landholders, landholders must be the choosers; to insure the choice of representatives of the merchants and manufacturers, merchants and manufacturers must be the choosers; and so with respect to the

other fraternities, whether few or many. Thus, at least, it must be in *substance*, whatever the *form*, under which the visible acts may be performed. According to the scheme in question, these several fraternities are represented *directly*, the rest of the community is *not* represented directly; but it will be said by the patrons of that scheme, that it is represented *virtually*, which, in this case, answers the same purpose.

From what has already been ascertained, it will appear certain, that each of these fraternities has its sinister interest, and will be led to seek the benefit of misrule, if it is able to obtain it. This is frankly and distinctly avowed by Lord Liverpool. And by those by whom it is not avowed, it seems impossible to suppose that it should be disputed.

Let us now, then, observe the very principle upon which this theory must be supported. Three, or four, or five, or more clubs of men, have unlimited power over the whole community put into their hands. These clubs have, each, and all of them, an interest, an interest the same with that which governs all other rulers in misgovernment, in converting the persons and properties of the rest of the community wholly to their own benefit. Having this interest, says the theory, they will not make use of it, but will use all their powers for the benefit of the community. Unless this proposition can be supported, the theory is one of the shallowest which the pretenders to political wisdom have ever espoused.

Let us resume the proposition. Three, or four, or five fraternities of men, composing a small part of the community, have all the powers of government placed in their hands. If they oppose and contend with one another, they will be unable to convert these powers to their own benefit. If they agree they will be able to convert them wholly to their own benefit, and to do with the rest of the community just what they please. The patrons of this system of representation assume, that these fraternities will be sure to take that course which is *contrary* to their interest. That course which is *according* to their interest, they leave as if it had never presented itself to their imaginations!

There being two courses which the clubs may pursue, one contrary to their interest, the other agreeable to it, the patrons of the club system must prove, they must place it beyond all doubt, that the clubs will follow the first course, and not follow the second; otherwise the world will laugh at a theory which is founded upon a direct contradiction of one of the fundamental principles of human nature.

In supposing that clubs or societies of men are governed, like men individually, by their interests, we are surely following a pretty complete experience. In the idea that a certain number of those clubs can unite to pursue a common interest, there is surely nothing more extraordinary, than that as many individuals should unite to pursue a common interest. Lord Liverpool talks of an *esprit de corps* belonging to a class of landholders, made up of the different bodies of landholders in every county in the kingdom. He talks of an *esprit de corps* in a class of merchants and manufacturers, made up of the different bodies of merchants and manufacturers in the several great towns and manufacturing districts in the kingdom. What, then, is meant by an *esprit de corps*? Nothing else but a union for the pursuit of a common interest. To the several clubs supposed in the present theory, a common interest is created by the very circumstance of their composing the representing and represented bodies. Unless the patrons of this theory can prove to us, contrary to all experience, that a common interest cannot create an *esprit de corps* in men in combinations, as well as in men individually, we are under the necessity of believing, that an *esprit de corps* would be formed in the classes separated from the rest of the community for the purposes of representation; that they would pursue their common interest, and inflict all the evils upon the rest of the community to which the pursuit of that interest would lead.

It is not included in the idea of this union for the pursuit of a common interest, that the clubs or sets of persons appropriated to the business of representation should totally harmonize. There would, no doubt, be a great mixture of agreement and disagreement among them. But there would, if experience is any guide, or if the general laws of human nature have any power, be sufficient agreement to prevent their losing sight of the common interest; in other words, for insuring all that abuse of power which is useful to the parties by whom it is exercised.

The real effect of this motley representation, therefore, would only be to create a motley aristocracy; and, of course, to insure that kind of misgovernment which it is the nature of aristocracy to produce, and to produce equally, whether it is a uniform or a variegated aristocracy; whether an aristocracy all of landowners; or even aristocracy in part landowners, in part merchants and manufacturers, in part officers of the army and navy, and in part lawyers.

We have now, therefore, examined the principles [IV-503] of the representative system, and have found in it all that is necessary to constitute a security for good government. We have seen in what manner it is possible to prevent in the representatives the rise of an interest different from that of the parties who choose them, namely, by giving them little time, not dependent upon the will of the parties. We have likewise seen in what manner identity of interest may be insured between the electoral body and the rest of the community. We have, therefore, discovered the means by which identity of interest may be insured between the representatives and the community at large. We have, by consequence, obtained an organ of government which possesses that quality, without which there can be no good government.

The question remains, whether this organ is competent to performance of the whole of the business of government? And it may be certainly answered, that it is not. It may be competent to the making of laws, and it may watch over their execution. But to the executive functions themselves, operations in detail, to be performed by individuals, it is manifestly not competent. The executive functions of government consist of two parts, the administrative and the judicial. The administrative, in this country, belong to the king; and it will appear indubitable, that, if the best mode of disposing of the administrative powers of government be to place them in the hands of one great functionary, not elective, but hereditary, a king, such as ours, instead of being inconsistent with the representative system in its highest state of perfection, would be an indispensable branch of a good government; and even if it did not previously exist, would be established by a representative body whose interests were identified, as above, with those of the nation.

The same reasoning will apply exactly to our House of Lords. Suppose it true, that, for the perfect performance of the business of legislation, and of watching over the execution of the laws, a second deliberative assembly is necessary, and that the end can best be attained by such an assembly as the British House of Lords, the proprietors of the greatest landed estates, with certain dignities and privileges annexed. It follows, that a body of representatives, whose interests were identified with those of the nation, would establish such an assembly, if it did not previously exist. For what reason? The most certain of all possible reasons; that they would have motives for, and none at all against it.

Those parties, therefore, who reason against any measures necessary for identifying the interests of the representative body with those of the nation, under the plea that such a representative body would abolish the King and the House of Lords are wholly inconsistent with themselves. They maintain that a King and a House of Lords, such as ours, are important and necessary branches of a good government. It is demonstratively certain that a representative body, the interests of which were identified with those of the nation, would have no motive to abolish them, if they

Examination of
Objections to
the extension of
the
Representative
System.

were not causes of bad government. Those persons, therefore, who affirm that it would certainly abolish them, affirm implicitly that they are causes of bad, and not necessary to good government. This oversight of theirs is truly surprising.

The whole of this chain of deduction is dependent, as we stated at the beginning, upon the principles that the acts of men will be conformable to their interests. Upon this principle, we conceive that the chain is complete and irrefragable. The principle, also, appears to stand upon a strong foundation. It is undisputable that the acts of men follow their will; that their will follows their desires; and that their desires are generated by their apprehensions of good or evil; in other words, by their interests.

These apprehensions, however, may be just, or they may be erroneous. If just, the man's actions will be agreeable to his real interests. If erroneous, they will not be agreeable to his real interests, but to a false supposition of interest. This it is which creates the difficulty.

We have seen, that, unless the representative body are chosen by a portion of the community, the interest of which cannot be made to differ from that of the community, the interest of the community will infallibly be sacrificed to the interest of the rulers. The whole of that party of reasoners who support aristocratical power affirm, that a portion of the community, the interest of whom cannot be made to differ from that of the community, will not act according to their interest, but contrary to their interest. All their pleas are grounded upon this assumption; because, if such a portion of the community would act agreeably to their interest, which is the same with that of the community, they would act agreeably to the interest of the community, and the end of government would be obtained.

If this assumption of theirs is true, the prospect of mankind is deplorable. To the evils of misgovernment they are subject by inexorable destiny. If the powers of government are placed in the hands of persons whose interests are not identified with those of the community, the interests of the community are wholly sacrificed to those of the rulers. If so much as a checking power is held by the community, or by any part of the community, where the interests are the same as those of the community, the holders of that checking power will not, according to the assumption in question, make use of it in a way agreeable, but in a way contrary, to their own interest. According to this theory, the choice is placed between the evils which will be produced by design, the design of those who have the power of oppressing the rest of the community, and an interest in doing it; and the evils which may be produced by mistake, the mistake of those who, if they acted agreeably to their own interest, would act well.

Supposing that this theory were true, it would still be a question, between those two sets of evils, whether the evils arising from the design of those who have motives to employ the powers of government for the purpose of reducing the community to the state of abject slaves of their will, or the evils [IV-504] arising from the misconduct of those who never produce evil but when they mistake their own interest, are the greatest evils.

Upon the most general and summary view of this question, it appears that the proper answer cannot be doubtful. They who have a fixed, invariable interest in acting ill, will act ill invariably. They who act ill from mistake, will often act well, sometimes even by accident, and in every case in which they are enabled to understand their interest, they will act well by design.

There is another and a still more important ground of preference. The evils which are the produce of interest and power united, the evils on the one side, are altogether incurable: the effects are certain, while that conjunction which is the cause of them remains. The evils which arise from mistake are not incurable; for, if the parties who act contrary to their interest had a proper knowledge of that interest, they would act well. What is necessary, then,

is knowledge. Knowledge on the part of those whose interests are the same as those of the community would be an adequate remedy. But knowledge is a thing which is capable of being increased; and the more it is increased, the more the evils on this side of the case would be reduced.

Supposing, then, the theory of will opposed to interest to be correct, the practical conclusion would be, as there is something of a remedy to the evils arising from this source, none whatever to the evils arising from the conjunction of power and sinister interest, to adopt the side which has the remedy, and to do whatever is necessary for obtaining the remedy in its greatest possible strength, and applying it with the greatest possible efficacy.

It is no longer deniable that a great portion of knowledge is capable of being conveyed to a portion of the community, whose interests would be the same with those of the community. This being the only resource for good government, those who say that it is not yet attained stand in this dilemma: Either they do not desire good government, which is the case with all those who derive advantage from bad; or they will be seen employing their utmost exertions to increase the quantity of knowledge in the body of the community.

The practical conclusion, then, is actually the same, whether we embrace or reject the assumption that the community are little capable of acting according to their own interest.

That assumption, however, deserves to be considered. And it would need a more minute consideration than the space to which we are confined will enable us to bestow upon it.

One caution, first of all, we should take along with us; and it is this, that all those persons who hold the powers of government, without having an identity of interests with the community, and all those persons who share in the profits which are made by the abuse of those powers, and all those persons whom the example and representations of the two first classes, who, from the very supposition of their having the powers of government, must have the power of setting the fashion, and of influencing, to a large extent, the public mind,—all those persons will be sure to represent the community, or a part of the community having an identity of interest with the community, as incapable, in the highest degree, of acting according to their own interest; because this is the only resource of those who hold the powers of government without having that identity of interest; it being clear that they ought to hold them no longer, if those who have that identity of interest could be expected to act in any tolerable conformity with their interest. All representations from that quarter, therefore, of their incapability so to act, are to be received with suspicion. They come from interested parties; they come from parties who have the strongest possible interest to deceive themselves, and to endeavour to deceive others.

It is impossible that the interested endeavours of all those parties should not propagate, and for a long time successfully uphold, such an opinion, to whatever degree it might be found, upon accurate inquiry, to be without foundation. A parallel case may be given. It was the interest of the priesthood, when the people of Europe were all of one religion, that the laity should take their opinions exclusively from them; because, in that case, the laity might be rendered subservient to the will of the clergy, to any possible extent; and as all opinions were to be derived professedly from the Bible, they withdrew from the laity the privilege of reading it. When the opinions which produced the Reformation, and all the blessings which may be traced to it, began to ferment, the privilege of the Bible was demanded. The demand was resisted by the clergy, upon the very same assumption which we have now under contemplation. “The people did not understand their own interest. They would be sure to make a bad use of the Bible. They would derive from it not right opinions, but all sorts of wrong opinions.” [*]

There can be no doubt, that the assumption in the religious case was borne out by still stronger appearance of evidence than it is in the political. The majority of the people may be supposed less capable of deriving correct opinions from the Bible, than of judging who is the best man to act as a representative.

Experience has fully displayed the nature of the assumption in regard to religion. The power bestowed upon the people, of judging for themselves, has been productive of good effects, to a degree which has totally altered the condition of human nature, and exalted man to what may be called a different stage of existence.

For what reason is it, then, we are called upon to [IV-505] believe, that, if a portion of the community, having an identity of interests with the whole community, have the power of choosing representatives, they will act wholly contrary to their interests, and make a bad choice?

Experience, it will be said, establishes this conclusion. We see that the people do not act according to their interests, but very often in opposition to them. The question is between a portion of the community, which, if entrusted with power, would have an interest in making a bad use of it, and a portion which, though entrusted with power, would not have an interest in making a bad use of it. The former are any small number whatsoever; who, by the circumstance of being entrusted with power, are constituted an aristocracy.

From the frequency, however great, with which those who compose the mass of the community act in opposition to their interests, no conclusion can, in this case, be drawn, without a comparison of the frequency with which those, who are placed in contrast with them, act in opposition to theirs. Now, it may with great confidence be affirmed, that as great a proportion of those who compose the aristocratical body of any country, as of those who compose the rest of the community, are distinguished for a conduct unfavourable to their interests. Prudence is a more general characteristic of the people, without the advantages of fortune, than of the people who have been thoroughly subject to their corruptive operation. It may surely be said, that if the powers of government must be entrusted to persons incapable of good conduct, they were better entrusted to incapables who have an interest in good government, than to incapables who have an interest in bad.

It will be said, that a conclusion ought not to be drawn from the unthinking conduct of the great majority of an aristocratical body, against the capability of such a body for acting wisely in the management of public affairs; because the body will always contain a certain proportion of wise men, and the rest will be governed by them. Nothing but this can be said with pertinency. And, under certain modifications, this may be said with truth. The wise and good in any class of men do, to all general purposes, govern the rest. The comparison, however, must go on. Of that body, whose interests are identified with those of the community, it may also be said, that if one portion of them are unthinking, there is another portion wise; and that, in matters of state, the less wise would be governed by the more wise, not less certainly than in that body, whose interests, if they were entrusted with power, could not be identified with those of the community.

If we compare in each of these two contrasted bodies the two descriptions of persons, we shall not find that the foolish part of the democratical body are more foolish than that of the aristocratical, nor the wise part less wise. Though, according to the opinions which fashion has propagated, it may appear a little paradoxical, we shall probably find the very reverse.

That there is not only as great a proportion of wise men in that part of the community which is not the aristocracy, as in that which is; but that, under the present state of education, and the diffusion of knowledge, there is a much greater, we presume, there are few persons who will be disposed to dispute. It is to be observed, that the class which is universally

described, as both the most wise, and the most virtuous part of every community, the middle rank, are wholly included in that part of the community which is not the aristocratical. It is also not disputed, that in Great Britain the middle rank are numerous, and form a large proportion of the whole body of the people. Another proposition may be stated, with a perfect confidence of the concurrence of all those men who have attentively considered the formation of opinions in the great body of society, or, indeed, the principles of human nature in general. It is, that the opinions of that class of the people, who are below the middle rank, are formed, and their minds are directed by that intelligent and virtuous rank, who come the most immediately in contact with them, who are in the constant habit of intimate communication with them, to whom they fly for advice and assistance in all their numerous difficulties, upon whom they feel an immediate and daily dependence, in health and in sickness, in infancy and in old age; to whom their children look up as models for their imitation, whose opinions they have daily repeated, and account it their honour to adopt. There can be no doubt whatever that the middle rank, which gives their most distinguished ornaments to science, to art, and to legislation itself, to every thing which exalts and refines human nature, is that part of the community of which, if the basis of representation were now so far extended, the opinion would ultimately decide. Of the people beneath them, a vast majority would be sure to be guided by their advice and example.

The incidents which have been urged as exceptions to this general rule, and even as reasons for rejecting it, may be considered as contributing to its proof. What signify the irregularities of a mob, more than half composed, in the greater number of instances, of boys and idlers, and disturbing, for a few hours or days, a particular town? What signifies the occasional turbulence of a manufacturing district, peculiarly unhappy from a very great deficiency of a middle rank, as there the population almost wholly consists of rich manufacturers and poor workmen; with whose minds no pains are taken by any body; with whose afflictions there is no virtuous family of the middle rank to sympathize; whose children have no good example of such a family to see and to admire; and who are placed in the highly unfavourable situation of fluctuating between very high wages in one year, and very low wages in another? It is altogether futile with regard to the foundation of good government, to say that this, or the other portion of the people, may at this, or the other time, depart from the wisdom of the middle rank. It is enough that the great majority of the people never cease to be guided by that rank; and we may, with some confidence, challenge the adversaries of the people to produce a single instance to the contrary in the history of the world.

(F. F.)

JURISPRUDENCE.↩

THE object and end of the science, which is distinguished by the name of Jurisprudence, is the protection of rights.

The business of the present discourse is, therefore, to ascertain the means which are best calculated for the attainment of that end. What we desire to accomplish is,—the protection of rights: What we have to inquire is,—the means by which protection may be afforded.

The end of Jurisprudence, viz. the Protection of Rights.

That rights have hitherto been very ill protected, even in the most enlightened countries, is matter of universal acknowledgment and complaint. That men are susceptible of happiness, only in proportion as rights are protected, is a proposition, which, taken generally, it is unnecessary to prove. The importance of the inquiry, therefore, is evident.

Importance of the Inquiry, as involving Human Happiness.

It is requisite, as a preliminary, to fix, with some precision, what we denote by the expression *rights*. There is much confusion in the use of this term. That disorderly mass, the Roman law, changes the meaning of the word in the two members into which it divides the subject, *Jura Personarum* and *Jura Rerum*. In the first of these phrases, the word *Jura* means a title to enjoy; in the second, it must of necessity mean something else, because things cannot enjoy. Lawyers, whose nature it is to trudge, one after another, in the track which has been made for them; and to whose eyes that which is, and that which ought to be, have, often, no mark of distinction, have translated the jargon into English, as well as into other modern languages.

Confusion in the vulgar uses of the word Right.

This is not all the confusion which has been incurred in the use of the word *right*. It is sometimes employed in a very general way, to denote whatever ought to be; and in that sense is opposed to wrong. There are also persons, but these are philosophers, pushing on their abstractions, who go beyond the sense in which it is made to denote generally whatever ought to be, and who make it stand for the *foundation* of whatever ought to be. These philosophers say, that there is a right and a wrong, original, fundamental; and that things ought to be, or ought not to be, according as they do, or do not, conform to that standard. If asked whence we derive a knowledge of this right and wrong in the abstract, which is the foundation and standard of what we call right and wrong in the concrete, they speak dogmatically, and convey no clear ideas. [*]In short, writers of this stamp give us to understand, that we must take this standard, like many other things which they have occasion for, upon their word. After all their explanations given, this, we find, is what alone we are required, or rather commanded, to trust to. The standard exists,—Why? Because they say it exists; and it is at our peril if we refuse to admit the assertion. They assume a right, like other despots, to inflict punishment, for contumacy, or contempt of court. To be sure, hard words are the only instrument of tyranny which they have it in their power to employ. They employ them, accordingly; and there is scarcely an epithet, calculated to denote a vicious state of the intellectual, or moral part, of the human mind, which they do not employ to excite an unfavourable opinion of those who refuse subscription to their articles of faith.

With right, however, in this acceptance, we have at present no farther concern than to distinguish it clearly from that sense in which the word is employed in the science of jurisprudence. To conceive more exactly the sense in which it is employed in that science, it is necessary to revert to what we established, in the article GOVERNMENT, with regard to the end or object of the social union, for to that, [V-

Use of the term Right, in the science of Jurisprudence.

144] every thing which is done in subservience to the social union, must of course bear a reference.

In that article it appeared, that, as every man desires to have for himself [Jurisprudence](#). as many good things as possible, and there is not a sufficiency of good things for all, the strong, if left to themselves, would take from the weak every thing, or at least as much as they pleased; that the weak, therefore, who are the greater number, have an interest in conspiring to protect themselves against the strong. It also appeared, that almost all the things, which man denominates good, are the fruit of human labour; and that the natural motive to labour is the enjoyment of its fruits.

That the object, then, of the social union, may be obtained; in other words, that the weak may not be deprived of their share of good things, it is necessary to fix, by some determination, what shall belong to each, and to make choice of certain marks by which the share of each may be distinguished. This is the origin of right. It is created by this sort of determination, which determination is either the act of the whole society, or of some part of the society which possesses the power of determining for the whole. Right, therefore, is factitious, and the creature of will. It exists, only because the society, or those who wield the powers of the society, will that it should exist; and before it was so willed, it had no existence.

It is easy to see what is the standard, in conformity with which the rights in question *ought* to be constituted; meaning by *ought*, that which perfect benevolence would desire. It is the greatest happiness of the greatest number. But whether rights are constituted, that is, whether the shares of good things are allotted to each, according to this standard, or not according to this standard, the allotment is still the act of the ruling power of the community; and the rights, about which the science of jurisprudence treats, have this alone for the cause of their existence.

In this complicated term, it is obvious that there is involved, on the one hand, the idea of the person to whom a share is allotted, and on the other hand, an idea of the things which are allotted. The one is the owner of the right, the person to whom it belongs; the other is the object of the right, namely, the person or thing over which the right gives certain powers.

The principal ideas involved in the Jurisprudential sense of the word Right.

All rights of course are to objects of human desire,—of nothing else need shares be allotted. All objects which men desire, are desired, either as the end, or as means. The pleasurable state of the mind is the end; consisting of the feelings of the mind. It would be absurd, however, to speak of giving a man a right to the feelings of his own mind. The objects of desire, therefore, which are the objects of right, are not the pleasurable feelings themselves, which are desired as the end, but the objects which are desired as the means to that end.

All Objects of Rights are things desired; and desired as means to an end.

Objects of desire, as means to that end, may be divided into the class of persons and the class of things. Both may be the object of rights. In framing our language, therefore, we may say, that all rights are the rights *of* persons; but rights may be *to* either persons or things.

The Objects of Rights are twofold, viz. either Persons or Things.

All that men desire, either with persons or things, is to render them subservient to the end, for which they are desired as means. They are so rendered by certain powers over them. All rights, then, when the term is closely investigated, are found to mean powers; powers with respect to persons, and powers with respect to things. What any one means when he says that a thing is his property, is, that he has the power of using it in a certain way.

Rights, when closely investigated, mean Powers—legalized Powers—Powers with respect to Persons, and Powers with respect to

It is no part of the present inquiry to ascertain what rights *ought* to be constituted, or what rights perfect benevolence would choose to see constituted. That belongs to the question how government should be constituted; in other words, how the powers which are necessary for the general protection ought to be distributed, and the advantages of the union to be shared. At present our sole endeavour is to ascertain the most effectual means which the governing power of the state can employ for protecting the rights, whatever they are, which it has seen meet to create.

Rights, it must be remembered, always import obligations. This is a point of view, which, in the consideration of rights, has not, in general, attracted sufficient attention. If one man obtains a right to the services of another man, an obligation is, at the same time, laid upon that man to render those services. If a right is conferred upon one man to use and dispose of a horse, an obligation is laid upon other men to abstain from using him. It thus appears, that it is wholly impossible to create a right, without at the same time creating an obligation.

The consequences of this law of nature are in the highest degree important. Every right is a benefit; a command to a certain extent over the objects of desire. Every obligation is a burthen; an interdiction from the objects of desire. The one is in itself a good; the other is in itself an evil. It would be desirable to increase the good as much as possible. But, by increasing the good, it necessarily happens that we increase the evil. And, if there be a certain point at which the evil begins to increase faster than the good, beyond that point all creation of rights is hostile to human welfare.

The end in view is a command over the objects of desire. If no rights are established, there is a general scramble, and every man seizes what he can. A man gets so much, and he is interdicted by the scramble from all the rest. If rights are established, he also gets so much, and is interdicted by his obligations from the rest. If what he obtains by his rights exceeds what he would have obtained by the scramble, he is a gainer by the obligations which he sustains.

If it is proposed to create rights in favour of all the members of a community, the limits are strict. You cannot give all your advantages to every one; you must share them out. If you do not give equal rights to all, you can only give more than an equal share to some, by diminishing the share of others, of whom, while you diminish the rights, you increase the obligations. This is the course which bad governments pursue; they increase the rights of the few, and diminish the rights of the many, till, in the case of governments virtually despotic, it is all right on the one side, all obligation on the other.

[V-145]

It may be necessary to say a word, to prevent misconstruction of the term “equal rights.” Rights may truly be considered as equal, if all the sorts of obligation under which a man lies with respect to other men, they are placed under with respect to him; if all the abstinence which he is obliged to practise with respect to their property, they are obliged to practise with respect to his; if all the rules by which he is bound not to interfere with their actions bind them equally not to interfere with his. It is evident, that inequality of fortune is not excluded by equality of rights. It is also evident, that, from equality of rights must always be excepted those who are entrusted with the powers of the community for the purposes of government. They have peculiar rights, and the rest of the community are under corresponding obligations. It is equally evident that those must be excepted who are not *sui juris*, as children in non-age, who must be under the guidance of others. Of two such classes of persons the relation to one another, that is, their reciprocal rights and obligations, need to be regulated by

particular rules.

It is presumed that these illustrations will suffice to fix, in the minds of our readers, the exact meaning which is intended, in the present discourse, to be attached to the word *rights*. The sequel is to be occupied in discovering the means which are most proper to be employed for affording *protection* to those rights.

In the term protection, it is hardly necessary to give notice, that we do not here mean protection against foreign enemies; that protection which is to be yielded by employing armies against invaders. The protection, of which it is the business of jurisprudence to find out, and to describe the means, is that which is required by one member of the community against the other members. The members of the community, each of whom endeavours to have as much as possible of the objects of desire, will be disposed to take those objects one from another; to take them, either by force, or by fraud. The means of preservation are, therefore, to be found. Certain members of the community, as organs of government, are furnished with powers for that purpose. The question is, what powers are required; and in what manner are they to be employed?

Meaning of the Word Protection, in the Jurisprudential Phrase, Protection of Rights.

In proceeding to present what may be called a sort of skeleton map of the ill-explored country of Jurisprudence, it is necessary to warn the peruser, that he must supply, by his own attention, what the limits of the work did not permit to be done for him. The several topics are rather indicated, than expounded. It is hoped they are indicated so clearly, that there will be no difficulty in spreading out the ideas in detail. It is necessary, however, that the reader should do this for himself. As the writer has not been able to dwell upon the several topics, though of the utmost importance, long enough to stamp the due impression of them upon the mind; unless the reader takes time to do this, by reflection on each topic, as it arrives, he will pass to the succeeding ones without due preparation, and the whole will be perused without interest and without profit.

That a man's rights may be effectually secured, it is obviously necessary, in the first place, that they should be capable of being accurately known. This seems to be so undeniable, that it would answer little purpose to enlarge in its illustration. It is, however, exceedingly necessary that the importance of this requisite should be clearly and adequately conceived. How can a man's rights be protected from encroachment, if what are his rights be uncertain or unknown? If the boundary by which his rights are distinguished is clear and conspicuous, it is in itself a protection. It warns off invaders; it serves to strike them with awe; for it directs the eyes and indignation of mankind immediately and certainly to the offender. Where the boundary, on the other hand, is obscure and uncertain, so far scope is allowed for encroachment and invasion. When the question, to which of two men an article of property belongs, comes for decision to the judge, the question is easy, if accurate marks are fixed, to point out and determine the rights of each. If no marks are attached, or such only as are obscure and variable, the decision must be arbitrary and uncertain. To that extent the benefit derived from the creation and existence of rights is diminished.

The first Requisite to the Protection of Rights is to make them capable of being known.

It is, therefore, demonstrable, and we may say demonstrated (the demonstration not being difficult), that, in the inquiry respecting the means of protecting rights, the *Definition of Rights* may be entered at the head of the list. Without this, as the groundwork, all other means are ineffectual. In proportion as rights can be ascertained, are the judicial functions, and judicial apparatus, capable of being employed to any beneficial purpose. In proportion to the facility with which they can be ascertained, is the extent of the benefit which the judicial functions are enabled to secure.

Definition of Rights, the first Instrument of Protection.

Such, then, is the first of the means necessary for the protection of rights. That they may receive the most perfect possible protection, they must be as accurately as possible defined.

In supposing that rights have need of protection, we suppose that there are acts by which rights are violated. With regard to those acts, the object is twofold; to redress the evil of the act when it has taken place; and to prevent the performance of such acts in future. To prevent the performance, two classes of means present themselves; to watch till the act is about to be committed, and then to interpose; or, to create motives which shall prevent the will to commit. It is but a small number of cases in which the first can be done; the latter is, therefore, the grand desideratum. From the view of these circumstances, we discover two other articles in the catalogue of means. Those acts by which rights are violated require to be made accurately known; in other words, to be defined; and the motives which are fitted to prevent them must be duly applied. Motives sufficient to that end can only be found in the painful class; and the act by which they are applied is denominated punishment. The definition, therefore, of offences, or of the acts by which rights are violated, and which it is expedient to punish; and the definition of the penalties by which they are [V-146] opposed, are not less necessary than the definition of rights themselves. The reasons which demonstrate this necessity are so nearly the same with those which demonstrate the necessity of the definition of rights, that we deem it unnecessary to repeat them.

Definition of the Acts by which Rights are Violated, and the Application of Preventive Motives, another Instrument of Protection.

The definition of rights constitutes that part of law which has been generally denominated the *civil code*. The definition of offences and punishments constitutes that other part of law which has been generally denominated the criminal or *penal code*.

Civil and Penal Codes,—What.

When rights are distributed, and the acts by which they may be violated are forbidden, an agency is required, by which that distribution may be maintained, and the violators of it punished. That agency is denominated judicature. The powers, by which that agency is constituted, require to be accurately defined; and the mode in which the agency itself is to be carried on must be fixed and pointed out by clear and determinate rules. These rules and definitions prescribe the form and practice of the courts, or mode in which the judicial functions are performed; and constitute that branch of law which has been called the *code of procedure*.

Code of Procedure,—What.

These three codes, the civil code, the penal code, and code of procedure, form together the whole subject of jurisprudence. Of the three, it sufficiently appears, that the last exists only for the sake of the preceding. Courts and their operations are provided that the provisions of the civil and penal codes may not be without their effect. It is to be considered, therefore, as subordinate, and merely instrumental, in respect to the other two. They form the main body of the law; this is an accessory to the main body, though an accessory of indispensable use. It would be of great advantage to affix characteristic names to distinguish from one another the main and accessory parts of law. Unexceptionable names, however, it is not easy to find. Mr Bentham, the great improver of this branch of knowledge, has called the civil and penal codes together, by the name of “substantive law;” the code of procedure by that of “adjective law;” not, we may be satisfied, because he approved of these names, but because the language hardly afforded others to which equal objections would not apply. In the very sense in which either the term accessory, or the term adjective can be applied to the code of procedure, both may be applied to the penal code, as it respects the civil. The penal code exists purely for the sake of the civil; that the rights, which are ordained by the legislature, and marked out by the terms of the code, may be saved from infringement. The civil code is therefore the end and object of all the rest. The code of procedure, however, is auxiliary to each of the other two; the penal code to no more than one.

Corpus Juris, or Body of Law,—What.

Having now explained the nature of the three codes which constitute the body of law necessary for the protection of rights, it remains that we illustrate, as much in detail as our limits will permit, what is required for the perfection of each.

The grand object of the civil code is the definition of rights. Rights are sometimes more sometimes less extensive. Thus the right of a man to a horse may solely extend to use him in riding from one stage to another; or it may extend to the power of doing with him as he pleases. In like manner, the rights of a man with respect to a person may extend only to some momentary service, or they may go the length of slavery. Even slavery itself does not imply rights always equally extensive. In some cases, however, it implies rights as extensive over the slave as over the inferior animals.

What is required for the perfection of the Civil Code.

All rights, when the essence of them is spoken of, are powers; powers to an individual which the governing members of the community guarantee; powers more or less extensive, of making either a person or a thing subservient to the gratification of a desire. To be made to gratify the desire of an individual, is to be made to render him a *service*. And this term may, fortunately, be applied to both persons and things. A man receives a service from the field when it produces a crop, as well as from the servant and the horse who ploughed it. In one meaning of the word service, it implies only active service, or that rendered by the voluntary operations of sentient beings. In the present case, however, it is employed to denote both active and passive services. It is evident, that in every case in which a being inanimate is rendered subservient to the gratification of a desire, the service is, properly speaking, a passive service. It is also evident, that even animate beings are rendered subservient to the gratification of desires in a way which may equally be called passive.

It is necessary to request attention to the explanation which is here given of the meaning in which the term *service* is to be employed; as both the English and the Roman lawyers use it in a very restricted sense. Here it is employed to denote the whole of that ministration to the gratification of our desires, which we are entitled, in consequence of rights, to derive either from persons or from things. Rights are powers, and the powers are means for the obtaining of services. We have now, therefore, a language, by the help of which we may speak with tolerable clearness.

Our object is to define rights, and rights are powers. But these powers can be defined, only by a reference to the services which they are the means of obtaining.

The first thing, therefore, to be done for the definition of rights is, to make out a list of all the kinds of services, which the legislature permits an individual to derive, first, from persons, and secondly, from things. This would not be a matter of very great difficulty. It would be right to begin with the most simple cases, and go on to the more complex. Thus, in the services derivable from a person, some are limited to a single species of act, and that within a limited time, and at a particular place. Others are services, consisting of various acts, limited or not limited in space and time. And lastly, are the whole services which a man is capable of rendering; without limitation as to either space or time. Considerable pains would be necessary to make the list complete; and not only considerable pains, but considerable logic would be necessary, to classify the services, in other words, make them up into lots, the most convenient for the purpose in [V-147] question; and to fix the extent of each by an exact definition. It is obvious, that as soon as all the possible gradations, in the services which one human being can render to another, are exhibited by such enumeration and assortment, it is easy for the legislature to point out exactly whatever portion of these services it is its will to give any individual a right to.

Operations preliminary to the Definition of Rights.

The same considerations apply to the class of things. In being made subservient to the gratification of our desires, they also render services. In proportion as a man has the right to derive those services from them, they are said to be his property. The whole of the services, which are capable of being derived from them, may, without much difficulty, be enumerated and classified; and when they are so, those which it may be the pleasure of the legislature to make any one's property, may be very easily and distinctly pointed out.

We may take land for an example. All the different services which are capable of being derived from the land may be enumerated, and, being classed under convenient heads, may be referred to with perfect certainty; and any portion of them, which is made the property of any individual, may thus be accurately described. A man may have a right simply to pasture a field; to pasture it for a day, or a year, or a hundred years. He may have a right to crop it; and that either in a particular manner, or in any manner he pleases; for a year, or for any other time. He may have a right to use it for any purpose, and that during a limited time, or an unlimited time. The services which it is capable of rendering may belong to him only in common with a number of other persons, or they may all belong to himself.

In illustration of this subject we may notice a classification of the services derivable from the land, made, though very rudely, by the English law. Blackstone, who, like other English lawyers, has on this, as on all other occasions, no idea of any other classification, than that which is made by the technical terms of the English law, has distinguished certain lots of the services derivable from the land, under the name of "Estates therein; Estates with respect to, 1st, Quantity of interest; 2dly, Time of enjoyment; 3dly, Number and connection of the tenants." These accordingly are, estates in fee simple, comprehending the whole of the services which are capable of being derived from the land, unlimited in point of time; estates in fee tail, implying always limitation in point of time, and often a limitation in respect to some of the services; estates for years; estates at will; estates at sufferance; estates on condition; estates in remainder; estates in reversion; estates in jointenancy; estates in coparcenary; estates in common. The Roman law has made no enumeration or classification of the services derivable from any thing, not even from the land. It speaks of property in the abstract, and in two states; property in possession, and property in action. The English law does the same thing in regard to all other property but the land. "Property, in chattels personal, is either in possession or in action," says Blackstone. He does, indeed, add, "The property of chattels personal is liable to remainders, if created by will, to jointenancy, and to tenancy in common."

Of articles of property, different from land, the services derivable from a great number need not be divided under many heads. A piece of plate, for example, may render certain services without alteration of its form; others it may be incapable of rendering without alteration of its form. It is chiefly, therefore, by limitation of time, that the various quantities of interest in such articles need to be determined. A man's right may extend to the use of a silver cup, for a day, or a year, or for his life. During this time the different services which it is capable of rendering have no occasion to be divided. They go naturally altogether. An unlimited right to its services implies the power of using it, either with or without alteration of its form, and without limitation of time. In most of the instances the limited right would be called loan, though, in the case of heirlooms and some others, there is a limited use to which the term loan is not customarily applied.

In speaking of the rights which a man may have to persons; as master, as father, as husband, and so on; there is one case so remarkable, that it requires a few words to be added in its explanation. It is that of one's own person. In this case the rights of the individual have no proper limitation beyond the obligations under which he is laid, in consequence, either of the rights conferred upon others, or of the means which are thought necessary for the protection of those rights.

If we have enabled our readers to form a tolerable conception of what we desire to be accomplished, under the title of an enumeration, and commodious classification of the services derivable from persons and things, we have performed what we proposed. The enumeration and classification, themselves, are evidently incommensurate with the design of an article in the present work. That they are practicable may be confidently taken for granted. In fact, they amount to nothing more than a description of the different degrees in which the property of a thing may be possessed; a point which is decided upon in every legal dispute. If this be done, from time to time, for one article after another, it may be done once for all.

We have already said, that rights are powers, powers for the obtaining of certain services. We have also said, that those powers can be defined only by a reference to the services which they are the means of obtaining. When those services are enumerated and classified, what remains is easy. A right to these services must begin; and it must end. The legislature has only to determine what fact shall be considered as giving a beginning to each right, and what shall be considered as putting an end to it, and then the whole business is accomplished.

It is evident that, for the definition of rights, two things are necessary. The first is, an exact description of the extent of the right; the second is, the description of the fact which gives birth to it. The extent of the right is described by reference to the lots of services, in the title to which services, all rights consist. The facts, which the convenient [V-148] enjoyment of rights has pointed out as the fittest for giving commencement to rights, have been pretty well ascertained from the earliest period of society; and there has, in fact, been a very great conformity with respect to them in the laws of all nations.

Two Things necessary for the Definition of a Right:—First, a Description of its Extent, Secondly, a Description of the Facts which give it a Beginning and an End.

The following is an imperfect enumeration of them:—*An expression of the will of the legislature*, when it makes any disposition with regard to property; *Occupancy*, when a man takes what belongs to nobody; *Labour*; *Donation*; *Contract*; *Succession*. Of these six causes of the commencement of a right there is a remarkable distinction between the first three and the last three. The first three give commencement to a right in favour of one individual, without necessarily putting an end to a right enjoyed by any other individual. The last three give commencement to a right in favour of one individual, only by making the same right to cease in favour of another individual. When a man, by donation, gives a horse to another man, the horse ceases to be the property of the one man, by the very same act by which he becomes the property of the other; so in the case of sale, or any other contract.

It is necessary for the legislature, in order that each man may know what are the objects of desire which he may enjoy, to fix, not only what are the facts which shall give commencement to a right, but what are the facts which shall put an end to it. In respect to these facts, also, there is a great harmony in the laws of all nations.

There is first the will of the legislature. When it confers a right, it may confer it, either for a limited, or for an unlimited time. In the term unlimited time, we include the power of tradition, or transfer, in all its shapes. If the time is limited, by the declaration of the legislature, either to a certain number of years, or the life of the party, the fact which terminates the right is obvious. If a man possesses a right, unlimited in point of time, the events are three by which it has been commonly fixed that it may be terminated; some expression of his own will, in the way of gift or contract; some act of delinquency; or his death.

The possessor of a right, unlimited in point of time, may, in the way of gift or contract, transfer his right either for a limited or for an unlimited time. Thus the owner of a piece of land may lease it for a term of years. He may also, in this way, convey the whole of the services which it is capable of rendering, or only a part of them. In this transaction, one event

gives birth to a right in favour of the man who receives the lease, and terminates a right which was possessed by the man who gives it; and another event, namely, the arrival of the period assigned for the termination of the lease, terminates the right of the man who had received the lease, and revives his former right to the man who gave it.

Acts of delinquency have been made to terminate rights, by the laws of most nations, in the various modes of forfeiture and pecuniary penalty.

The mode in which the event of death should terminate rights has been variously regulated. Sometimes it has been allowed to terminate them simply; and what a man left at his death was open to the first occupant. All but rude nations, however, have determined the persons to whom the rights which a man possessed without limitation of time shall pass at his death. The will of the former owner, when expressed, is commonly allowed to settle the matter. When that is not expressed, it has by most legislators been regulated, that his rights shall pass to his next of kin.

What is the extent of each right; by what event it shall receive its commencement; and by what event it shall be terminated;—this is all which is necessary to be pre-determined with respect to it. To do this is the duty of the legislature. When it is done, the inquiry of the judge is clear and simple. Does such a right belong to such a man? This question always resolves itself into two others. Did any of the events, which give commencement to a right, happen in this case? And did any of those events which terminate a right not happen in this case? These are questions of fact, as distinguished from law; and are to be determined by the production of evidence. If a man proves that an event which gives commencement to a right happened in his case, and if another man cannot prove that an event which terminates a right happened subsequently in that case, the right of the first man is established.

If we have now ascertained the importance and practicability of a civil code, and have shown what is to be done in order to obtain the benefit of it, we shall conclude, with some confidence, that we have rendered a great service to mankind. We proceed to the consideration of the penal code. The object of that code is, the acts by which rights may be violated.

In the term violation, we include all those acts by which the powers, conveyed by a right, are prevented from operating according to the will of the owner. What is necessary to the Perfection of the Penal Code.

With respect to a part of such acts, all that it is found convenient to do, through the instrumentality of judicature, is, to remove the obstruction, which prevents the enjoyment of the right, without inflicting any penalty for creating it. Thus, if a debt is not paid when due, the right is violated of the man who ought to receive it. Enough, however, is in this case supposed to be done, if the man, by whom the debt is due, is constrained to make payment. The act of secretly abstracting, with a view to appropriate a property, perhaps, of less value, would be an act which the laws of all nations would punish as theft.

Of injurious acts, those alone, to the commission of which it has been deemed expedient that penalties should be annexed, are considered as the object of the penal code. Of injurious acts so perfect an analysis has been performed by Mr Bentham; so perfectly, too, have the grounds been laid down upon which those acts which are destined for punishment should be selected from the rest; and so accurately have the principles, according to which punishment should be meted out, been displayed by that great philosopher, that, on this part of the subject, the philosophy of law is not far from complete.

As acts are declared to be offences, and are made subject to [Acts meet for Punishment.](#) punishment, solely for the protection of rights, it is evident, that all acts which enter into the consideration of the penal code, are acts which infringe [V-149] upon rights, either directly, or indirectly. Those which infringe upon rights *directly*, are those by which injury is done to some individual or individuals; a blow, for example, an act of theft, and so on. We include also, under this division, all acts the *effects* of which infringe immediately upon rights; destroying a mound, for example, to innndate the lands of another man; importation of infection, by which the health or lives of others may be destroyed. Those acts by means of which rights are affected *indirectly*, are those which bear immediately upon the means which the state has provided for the protection of rights. The means which the state has provided for the protection of rights, are the operations of government generally. All acts, therefore, meet for punishment, are acts which disturb either individuals in the enjoyment of their rights, or the operations required for the protection of those rights. The latter, though mediately, and not immediately hurtful, are apt to be more extensively mischievous than the former. An act which infringes upon a right immediately, is commonly injurious only to one individual, or a small number of individuals; an act which prevents any of the operations of government from proceeding in its natural course is injurious to all those individuals to whose protection the due course of that operation is useful. Permit acts which interrupt all the operations of government, and all rights are practically destroyed.

If, as it thus appears, acts are meet for punishment, only because they infringe upon a right, or because they interrupt the operations provided for the protection of rights, it is evident, that, in the definition of one part of those acts, must be included the specification of the right which is infringed; and, in the definition of the other, must be included the specification of the operation disturbed. Before, therefore, an accurate penal code can exist, there must exist an accurate civil code, and also what we may call a constitutional or political code; the latter consisting of an accurate definition of the powers created for the purposes of government, and of the limitations applied to their exercise.

From what has been said, it may appear, that the definition of offences, [What is required to the Definition of an Offence.](#) by which name we shall hereafter distinguish punishable acts, consists necessarily of two parts. The first part is the specification of the right infringed, or the operation of government disturbed; and the second part is the definition of the mode. Thus, for the definition of an act of theft, the right which the act has violated must be distinctly marked, and also the mode in which the violation has been made. In the same class of offences; as those against property, for example; the mode in which the violation is performed is that chiefly which constitutes the difference between one offence and another. In a theft and a robbery, for example, the right violated may be exactly the same; the mode in which the violation was effected constitutes the difference.

For several purposes of the penal code, it is useful, that, in the specification of the right violated, the value of what has been violated, in other words, the amount of the evil sustained, should sometimes be included. It is evident, that the value of rights can be judged of ultimately, only by a reference to human feelings. Of these feelings, however, certain outward marks must be taken as the standard. In offences which concern property the modes of valuation are familiarly known. In injuries to the person, those marks which denote injuries, regarded by mankind in general, as differing in magnitude; the size, for example, or position, of a wound; in injuries to reputation, the words used, and the occasion when, and so forth, are the only means of distinction which can be employed.

It may be necessary also to remark, that, in that part of the definition which relates to the mode, are to be distinguished the parties, when more than one, who engage in the same offence with different degrees of criminality; meaning, by different degrees of criminality, nothing more than demand for different degrees of punishment. The chief classes of such

persons are those of principals and accessaries; and of accessaries both those before and those after the fact.

In the definition of the mode, the act is to be described in its ordinary shape. The act, however, may be attended with aggravating circumstances on the one hand, or extenuating circumstances on the other; presenting a demand for increased punishment in the first case, and diminished punishment in the second. Mr Bentham has logically remarked, that the circumstances which are to be regarded as aggravating, and the circumstances which are to be regarded as extenuating, being pretty nearly the same in all cases, they may be defined, in a separate chapter, once for all. This being done, the code proceeds in the following manner:—The definition is given of the offence in its ordinary shape, and the appropriate punishment is annexed; then immediately follows the same offence with aggravating circumstances; punishment so much the more severe: the same offence with extenuating circumstances; punishment so much the less.

Thus far we have spoken of the definition of offences, into which we have entered the less in detail, because we do not think there is much of controversy on the subject. Many persons, who doubt the possibility of framing a civil code, though, after the preceding exposition of the subject, it is a doubt which could not, we should imagine, very easily maintain itself, allow, that offences may all be defined; and that it is possible to prevent the monstrous iniquity of punishing men for acts or offences which they have not the means of knowing to be so.

After offences comes the consideration of the punishment to be [The Doctrine of Punishment](#). annexed to them. This is a subject of considerable detail; it has been, however, so fully and admirably treated by Mr Bentham, that only some of the more general considerations, necessary to mark out the place and importance of the topic, need here to be introduced.

When a right has been infringed, there are two things, it is evident, which ought to be done: The injury which has been sustained by the individual ought to be repaired: And means ought to be taken to prevent the occurrence of a like evil in future.

The doctrine of Satisfaction is not at all difficult, as far as regards the [Satisfaction](#). regulating principles; the complication [V-150] is all in the detail. The greater number of injuries are those which concern property. A pecuniary value can generally be set upon injuries of this sort; though it is not very easy to determine the *pretium affectionis*, a matter of considerable importance, which the English law, so much made up of clumsiness in one part, and false refinement in another, wholly overlooks. For injuries to the person, also, it is most frequently in the pecuniary shape alone that any compensation can be made. In making these estimates, some general marks are all that can be conveniently defined by the law, and a considerable discretion must be left to the judge. Indeed, the question of damages is always a question of fact, which must be determined by the evidence adduced to the individual instance.

It accords with the feelings of every man to say, that he who has committed an injury, should be made to repair it. One part of punishment, therefore, ought, wherever special reason does not forbid, to consist in making satisfaction to the party injured. Pecuniary satisfaction, where the delinquent is rich, may be a small part of the due punishment; still, however, there is an obvious propriety, in making it a part so far as it can go. In the cases in which the delinquent has no property, there is the same propriety in making his labour subservient to that end. Hard labour, with the most economical fare, till the produce of the labour equals the amount of the satisfaction required, is, therefore, a species of punishment recommended by the strongest considerations. It is not said that labour so limited would

always be sufficient punishment, and there are many cases in which it would be too much; but even then it should go as far as it can in the one case, and as far as it ought in the other.

When the injury is done to reputation, there is a manifest propriety in making the injurer contribute to the reparation, wherever it can be done. In many of the cases, too, the proper mode is abundantly obvious; all those, for example, where the publication of falsehood is the injurious act. The author of the injury may, in a way as public as that of the offence, and as well calculated as possible for the reparation of the injury, be obliged to declare that he has been solemnly adjudged to have propagated a falsehood, and is condemned to publish his own shame.

In the case of those offences which affect rights indirectly, namely, by affecting the securities provided for them, satisfaction seldom can have any place, because not any determinate individual or individuals have sustained an injury.

Thus much may suffice, in exposition of the first thing which is desirable, where an injury has been committed; namely, that reparation should be made. The second is, that measures should be adopted for preventing the future occurrence of similar events.

Acts are performed, only because there are motives to the performance [Punishment](#). of them. Of course injurious acts are performed, only because there are motives to the performance of them.

Corporal restraint being out of the question with regard to all the members of the community, it is evident that only two means remain for preventing injurious acts; either, first, to take away the motives which provoke to them; or, secondly, to apply motives sufficient for the prevention of them.

From the very nature of many of the acts it is impossible to take away the motives which provoke to them. From property stolen it is impossible to detach the value of the property; from vengeance it is impossible to detach the hope of that relief which is sought by the blow that is aimed.

What is wanted, then, is a sufficiency of motive in each instance to counteract the motives which lead to the crime. Whatever the motives, of the alluring kind, which lead to an act, if you give stronger motives of the same kind to abstain from the act, the act will, of course, be prevented. The man who would steal from you L. 5 will assuredly not do so, if he knows that he shall receive L. 6 for abstaining.

The question may then be started, Why should not all crimes be prevented in this way, since reward is much more desirable and humane than punishment? The answer is most satisfactory, and is built upon a ground which ought to receive profound attention on many occasions on which it is treated with the most perfect disregard. No reward can be given to one man, or set of men, but at the expence of some other man or set of men. What is reward to one is therefore punishment to others. If L. 6 be given to the man who would steal L. 5, it must be taken from some one or more individuals of the community. If one man is elevated by any title or distinction, all the rest are with regard to him degraded and depressed. This is utterly unavoidable. The one event is necessarily included in the other. The giving of rewards, therefore, is a matter of serious consideration. It is not that simple act, that pure effusion of humanity, which it is often so fraudulently given out to be, and so credulously and foolishly admitted to be.

Other reasons, which prove the insufficiency of rewards for preventing injurious acts, are too obvious to require to be mentioned. We shall not therefore dwell upon this topic. This at least is sufficiently evident, that, to counteract the motives which lead to the commission of

an act, we have but two methods. If we cannot apply motives, of the pleasurable sort, to induce the party to abstain from committing the act, we must apply such motives, of the painful sort, as will outweigh those which prompt to the performance. To prevent, by such means, a theft of L. 5, it is absolutely necessary to affix to that act a degree of punishment which shall outweigh the advantage of possessing L. 5.

We have now, it is evident, obtained the principle by which punishment ought to be regulated. We desire to prevent certain acts. That is our end, and the whole of our end. We shall assuredly prevent any acts, if we attach to them motives of the painful kind, sufficient to outweigh the motives of the opposite kind which lead to the performance. If we apply a less quantity of evil than is sufficient for outweighing those motives, the act will still be performed, and the evil will be inflicted to no purpose; it will be so much suffering in waste. If we apply a greater quantity of evil than is necessary, we incur a similar [V-151] inconvenience; we create a quantity of evil which is absolutely useless; the act, which it is the tendency of the motives of the pleasurable kind to produce, will be prevented, if the motives of the painful kind outweigh them in the smallest degree, as certainly as if it outweigh them to any degree whatsoever. As soon, therefore, as the legislator has reached that point, he ought immediately to stop. Every atom of punishment which goes beyond is so much uncompensated evil, so much human misery created without any corresponding good. It is pure unmingled mischief.

As no exact measure, indeed, can be taken of the quantity of pain which will outweigh a supposed quantity of pleasure, it is always necessary to risk going somewhat beyond the mark, in order to make sure of not falling short of it. And, in the case of acts of which the evil is very great; of the higher order of crimes, in short; it may be expedient to risk a considerable degree of excess in order to make sure of reaching the point of efficiency.

In estimating the quantity of evil which it may be necessary to create, in order to compensate the motive which leads to a mischievous act, two circumstances should be taken into the account. These are, certainty and proximity. It is of the less importance here to enter far into the illustration of these topics, that they are now pretty generally understood. It is well known that the prospect of an evil which is to happen within an hour, or two hours, produces a much greater uneasiness than the prospect of the very same evil removed to the distance of years. Every man knows that he will die within a certain number of years; many are aware that they cannot live beyond a few years; and this knowledge produces no uneasiness. The effort, on the other hand, which enables a man to behave with tranquillity, on the prospect of immediate death, is supposed to be so difficult, that it is this which makes the hero. It is, therefore, of the greatest importance, that punishment should be immediate; because, in that case, a much smaller quantity of evil suffices. It is imperatively required, by the laws of benevolence, that, if evil is a necessary means to our end, every expedient should be used to reduce it to the smallest quantity possible. It is cruelty; it belongs only to a malignant nature; to apply evil in a way which demands a quantity of it greater than would otherwise have been required. Suppose a law, that no act of theft should be punished or challenged till twenty years after the commission, or till the life of the thief was supposed to be near its end. It is evident that all punishment, in this case; that death, in the greatest torture, would be nearly destitute of power. This is partly the ground of the complaint, of the little efficacy of religious punishment, though dreadful beyond expression in the degree.

The want of certainty is a defect of equal importance. If it is a matter of doubt, whether a threatened evil will take place, the imagination is prone to magnify the chance of its not happening; and, by indulgence, magnifies it to such a degree, that the opposite chance at last excites a comparatively feeble influence. This is a remarkable law of human nature, from the influence of which even the most wise and prudent of men are not exempt; and of which the influence is predominant in those inconsiderate minds which are the most apt to give way to

the allurements of vice. To illustrate this law, the influence of the religious punishments affords the most instructive of all examples. The punishments themselves go far beyond what the imagination can conceive. It is the complaint of divines, and the observation of all the world, that, with the great body of men, the efficacy of them is exceedingly small. The reason is, that to the want of proximity is added the greatest uncertainty. If a man puts his finger in the candle, he knows that he will be punished, and immediately, by being burned. If a man commits even a heinous sin, he has no fear of receiving the religious punishment immediately, and he conceives that, in the mercy of his Judge, in repentance and faith, he has a chance of escaping it altogether. This chance his imagination exaggerates, and most men can, in this way, go on sinning with tranquillity, to the end of their days. If all punishments were as certain and immediate as that of putting a finger in the candle, the smallest quantity, it is evident, beyond what would form a counterbalance to the advantage of the forbidden act, would suffice for its prevention. If uncertainty is admitted, to any considerable degree, no quantity of evil will suffice. It is a fact, which experience has most fully established, and which is now recognized in the most vulgar legislation, that undue severity of punishment runs counter to its end. This it does by increasing uncertainty; because men are indisposed to be the instruments of inflicting evil by which their feelings are lacerated. That legislation, therefore, is bad, which does not take measures for the greatest possible degree of proximity and certainty in the punishments which it applies.

The sources are three, from which motives of the painful sort, applicable to the purposes of the legislator, are capable of being drawn:—1. The physical; 2dly, The moral; and, 3dly, The religious.

I. Pains from the physical source may be communicated to a man through,

1. His person,
2. His connections,
3. His property.

Through his person, they may be communicated in four principal ways,—by death, disablement, restraint and constraint, simple pain.

A man's connections are either public or private; private, as spouse, parent, servant, master, &c.; public, as ruler, subject, teacher, scholar, and so on.

The modes in which a man is punished through his property need no explanation.

II. Pains, from the moral source, are the pains which are derived from the unfavourable sentiments of mankind. For the strength of the pains, derived from this source, we must refer to the writers who have treated of this part of human nature. It is sufficient here to advert to what is universally recognized, that these pains are capable of rising to a height, with which hardly any other pains, incident to our nature, can be compared; that there is a certain [**V-152**] degree of the unfavourable sentiments of his fellow creatures, under which hardly any man, not below the standard of humanity, can endure to live.

The importance of this powerful agency for the prevention of injurious acts, is too obvious to need to be illustrated. If sufficiently at command, it would almost supersede the use of other means. It is, therefore, one of the first objects to the legislator to know, in what manner he can employ the pains of the popular sanction with the greatest possible effect.

To know how to direct the unfavourable sentiments of mankind, it is necessary to know in as complete, that is, in as comprehensive a way, as possible, what it is which gives them birth. Without entering into the metaphysics of the question, it is a sufficient practical answer, for the present purpose, to say, that the unfavourable sentiments of men are excited by every

thing which hurts them. They love that which gives them pleasure; hate that which gives them pain. Those acts of other men which give them pleasure or save them from pain, acts of beneficence, acts of veracity, and so on, they love. Acts, on the other hand, which give them pain, mendacity, and so on, they hate. These sentiments, when the state of mind is contemplated out of which the acts are supposed to arise, are transformed into approbation and disapprobation, in all their stages and degrees; up to that of the highest veneration, down to that of the deepest abhorrence and contempt.

The unfavourable sentiments, which the legislator would excite as towards forbidden acts, must, therefore, in each man, arise from his conception of the mischievousness of those acts. That conception depends upon three circumstances; *1st*, The view which he himself takes of the act; *2dly*, The view which appears to be taken by other people; *3dly*, Every thing which operates to render more or less permanently present to his mind his own and other men's conception of its mischievousness. From these circumstances, the practical rules for applying this great power as an instrument of the legislator for the prevention of mischievous acts are easily deduced. 1. Let the best measures be taken for giving the people a correct view of the mischievousness of the act; and then their unfavourable sentiments will be duly excited. 2. Let proper pains be taken that the people shall know every mischievous act that is committed, and know its author; that, so, no evil act may, by concealment, escape the punishment which their unfavourable sentiments imply. 3. Let the legislature, as the leading section of the public, make publication of its own unfavourable sentiments; brand the act with infamy. 4. Let the same publication of his own unfavourable sentiments be made by the judge in the shape of reprimand and other declarations. 5. The legislature may increase the effect of these declarations, where the case requires it, by symbolical marks; or, 6, by personal exposure. 7. The legislature may so order matters in certain cases, that the mischievous act can be done only through another act already infamous; as when it is more infamous to break a vow to God than to make false declarations to men, a witness may be made to swear that he will tell the truth. 8. As the favourable sentiments of mankind are so powerfully excited towards wealth, a man suffers in this respect when his property is so diminished as to lessen his rank.

III. In pointing and proportioning the apprehension of divine punishment, the legislator can do three things:

1. He can declare his own apprehension, and the measure of it, which should be as exactly proportioned as possible to the mischievousness of the acts:

2dly, He can hire other people to declare similar apprehensions, and to make the most of the means which are available for their propagation:

3dly, He may discountenance the pointing of religious apprehensions to any acts which are not mischievous; or the pointing of them to acts which are slightly, in a greater degree, than to acts which are deeply mischievous. Whatever power of restraining from mischievous acts may be lodged in religious apprehensions, is commonly misapplied and wasted. It would be worth the cost, therefore, of pretty forcible means to prevent such a misapplication and waste of religious fears. [*]

In drawing from one, or more, of all these sources, a lot of punishment adapted to each particular case, the following properties, desirable in a lot of punishment, ought to be steadily borne in view. Every lot of punishment ought, as much as possible, to be,

1. Susceptible of graduation, so as to be applicable in different degrees.
2. Measurable, that the difference of degrees may be duly ascertained.
3. Equable, that is, calculated to operate not with different intensity upon different persons.

4. Such, that the thought of the punishment may naturally excite the thought of the crime.
5. Such, that the conception of it may be naturally vivid and intense.
6. Public, addressed to the senses.
7. Reformative.
8. Disabling; viz. from crime. [V-153]
9. Remediable; viz. if afterwards found to be undeserved.
10. Compensative; viz. to the party injured.
11. Productive; viz. to the community, as labour.

Of all the instruments of punishment which have yet occurred to the ingenuity of man, there is none which unites these desirable qualities in any thing like an equal degree with the *Panopticon Penitentiary*, as devised and described by Mr Bentham.

One general rule applies in the case of all the lots of punishment. It is this: That the private good which has operated as the motive to the injurious action, should, in all possible cases, be cut off, and the expected enjoyment prevented. Where this can be done completely, all the additional punishment necessary is only that which would suffice to compensate the want of certainty and proximity in the act of deprivation; for no man would commit a crime which he was sure he could not profit by; no man would steal, if he knew that the property stolen would that minute be taken from him. The interests which are capable of being promoted by a criminal act, may be summed up under the following titles:

1. Money, or money's worth.
2. Power.
3. Revenge.
4. Vanity, emulation.
5. Sensual pleasure, chiefly venereal.
6. Safety in respect to legal punishment.

With respect to four of these interests, viz. money, power, vanity, and safety in respect to legal punishment, the contemplated benefit is capable, in many cases, of being completely intercepted. In the case in which revenge has operated through the degradation of the party suffering, the evil doer may be disappointed by re-exaltation of the degraded party. Sensual pleasure, having been enjoyed, is beyond the reach of this operation. It is highly worthy of observation, that, among the advantages constituting the motives to crime, those which can be cut off, and from the enjoyment of which the offender can be prevented, constitute by far the most frequent incentives to crime.

This must suffice as a summary of what should be said on the mode of applying pain most usefully for the prevention of certain acts. It only remains to add, that the following are the cases in which it may be pronounced unfit that pain should be employed for that purpose:

1. Where the evil to the community does not overbalance the good to the individual.
2. Where the evil necessary for the punishment would outweigh the evil of the act.
3. Where the evil created is not calculated to prevent the act.
4. Where the end could be obtained by other means.

We have now, therefore, stated what the limits of this discourse enable [The Code of Procedure](#). us to adduce, on the subject of the main body of the law; the enactments of the legislature with respect to rights, and with respect to those acts by which rights are violated. It remains that we consider that subsidiary branch of law, by which an agency is constituted for the purpose of carrying those enactments into effect. The inquiry here is, what are the operations essential to that agency; by what agents are they most likely to be well performed; and what are the best securities that can be taken for the good conduct of these agents.

It most significantly illustrates the manner in which ignorance gropes its way in the dark, to observe, that the agency, the sole end of which is to carry into execution the civil and penal laws, was created first, and was in operation for ages, before even the idea of the other branches of law was even tolerably framed. It is also worthy of remark, that the men, whose wisdom rules our affairs, are in the habit of calling the mode in which ignorance gropes its way in the dark, by the name of experience; the mode of acting upon a plan, and with foresight, by the names of theory and speculation.

There is instruction in observing the mode in which this inverted course of law-making was pursued. Men disputed; and their disputes were attended with the most destructive consequences. Originally, the king, at the head of the military force, and his subordinates, each at the head of a section of that force, interfered in those disputes. After a time, the king appointed functionaries, under the name of judges, for that particular service. These judges decided, without any rule, by their own discretion. The feelings of the community, grounded upon their experience of what tended to good and evil upon the whole, pointed vaguely to certain things as right, to other things as wrong; and to these the judge, as often as he was in *bona fides*, conformed his decision. The mode was similar both in arbitrating and in punishing.

As punishing, especially in the severer cases, was an act which made a vivid impression upon the mind, the mode in which that act had been performed in previous cases was apt to be remembered; of the several modes, that which was most approved by the public would naturally be followed the most frequently, and at last there would be a species of scandal, if it was unnecessarily departed from. In this way a uniformity, more or less perfect, was established, in punishing the more heinous offences; and in regard to them custom first established what had some feeble portion of the attributes of a law.

In those cases in which, without a call for punishment, the authoritative termination of a dispute was all that was required, the experience of what was necessary, not only for any degree of mutual comfort, but even for the means of subsistence, soon established a few leading points of uniformity. Thus, when a man had cultivated a piece of ground, which belonged to nobody more peculiarly than to himself, it was evidently necessary that the crop should be considered as belonging to him; otherwise, no crops would be raised, and the community would be deprived of the means of subsistence.

These general feelings, with the remembrance, more or less perfect, of what had been done in similar cases, were the only guide; and it is surprising to what an extent, over the surface of the whole [V-154] globe, law has, in all ages, remained in that state of imperfect existence, if, indeed, with any propriety, it can be called a state of existence. In every part of Asia, and in all ages, law has remained in that state of existence, or non-existence. In Europe, where, at a pretty early period, it became the practice to record in writing the proceedings of the judges, the natural propensity of referring to the past as a rule for the present, begat in time a species of obligation of being directed by the examples which had already been set. This created a uniformity and certainty, which, however imperfect, were greatly superior to those which attended the arbitrary proceedings of Asiatic judges. Yet this was a benefit which had a dreadful alloy. A body, not of law, but of decisions, out of which, on each particular occasion, a law for that particular occasion, as out of the crude ore, was to be smelted, hammered, and wire-drawn, was the natural material out of which to manufacture a system of chicane. How accurately the system of law, in the several nations of Europe, has conformed to the character of a system of chicane, is matter of present and lamentable experience. The uncertainty, the delay, the vexation and expence, and that immorality of the worst species with which they inundate the community, are not the only evils, great as they are, of laws constructed upon such a plan. A system of laws, so constructed, becomes an instrument of conservation for the barbarous customs and ideas of the times in which they were

engendered; and infests society with evils of another age.

To conceive the operations which are necessary to give effect to the enactments of the legislature, it is necessary to conceive the occasions which call for them.

When the legislature has established rights, so long as there is no dispute about those rights, and so long as there is no complaint of any violation of them, so long there is no occasion for any agency to give to the enactments of the legislature their effect. The moment, however, one person says, the right to that object is mine, and another person says no, but the right to that object is mine; or the moment any man complains that such or such a right belonging to him another man has violated, that moment occasion for the agency in question begins.

It is evident, also, that the operations necessary to give effect to the enactments of the legislature are confined to those two occasions, namely, that on which a right is disputed, and that on which it has been violated. On the occasions on which a right is disputed, it is requisite to determine to whom it belongs. On the occasions on which a right has been violated, it is sometimes only required to compel reparation to the injured party; sometimes it is necessary, besides, to inflict punishment upon the offender. The question is, What are the operations required for these several results?

Where a right is disputed, all possible cases may be resolved into that of A who affirms, and B who denies. That right is mine, says A, it is not yours, says B.

The first question to be asked of A is, which, among those facts, which the legislature has determined shall give commencement to rights, happened in such a manner as to give commencement to that which is claimed as a right by him.

If no such fact is affirmed, the right does not exist. If some such fact is affirmed, it may be met by the opponent in one of two ways. B either may deny the fact, and affirm that the right never had a commencement; or he may allow the fact, and admit that the right had a commencement, but affirm that there had subsequently happened one of those facts which put an end to rights; admitting that A bought the horse, and had a right to him in the month of July, he might affirm that A sold him again in August, and by that transaction put an end to his right.

When B meets the affirmation of A in the first way, that is, by denying the commencement of the right, he may do it in either of two ways. He may deny the investitive fact which A affirms, or not denying the fact, he may affirm some antecedent fact which deprived it of its investitive power. Thus, if A affirmed that he got the property by occupancy, B may affirm that it was not open to occupancy, but the property of another person. If A affirmed that he got the property by succession to his father, B may allow the fact of the succession, but affirm that the property did not belong to the father of A at the time of his death.

Whenever the legislature has accurately determined what are the facts which shall give commencement, and what those which shall give termination to a right, the whole confused and intricate mass of what in English law is called *Pleading*, reduces itself to these clear and simple elements. A begins, by affirming some one of the facts which gives commencement to a right. B may deny this fact directly; A affirms contract for example, B denies it; and then, of course, comes the evidence: Or, instead of denying it, B may affirm an antecedent fact which deprived the fact affirmed by A of its investitive force; or he may affirm a subsequent fact, which put an end to the right. In those two cases, in which B affirms a new fact, A must be called upon for a reply, in other words, asked whether he admits or denies it. If he admits, there is an end, of course, to the claim of A. If he denies, then again we have affirmation and

denial upon a matter of fact, which is to be determined by the production of evidence.

This is the first part of the proceeding, neither intricate nor obscure. The next is, the adduction of evidence. A fact is disputed; affirmed on the one side, denied on the other. A produces evidence to prove the fact, B produces evidence to disprove it. The decision is on the one side or the other, and the dispute is at an end.

If both parties obey the decision, there is no occasion for another act. If the losing party disobeys, force is necessary to compel obedience. This is called execution, and terminates the agency required.

It is needless to particularize a penal proceeding; all the possible varieties of which fall under one or other of the cases illustrated.

Thus, when a man is charged with a crime, the prosecutor affirms one of the acts violating rights, to which punishment is annexed by the legislator. The [V-155] defendant can meet this affirmation in one of only two ways. First, he may deny the act, and then the second stage of proceeding, the adduction of evidence, immediately takes place. Or, not denying the act, he may affirm some previous act, which prevented it from having the effect of violating a right. Not denying the fact of taking the horse out of the field with a view to appropriate him, he may affirm a previous purchase, gift, &c. The adduction of evidence has nothing peculiar in the case of a penal proceeding at law. In the last stage, that of execution, the peculiar act of inflicting punishment is required.

Having thus a view, though very summary, of the operations required, we shall be the better able to judge of the agents necessary for the performance.

The stages, we have observed, are three. The *first* is that in which the plaintiff adduces the investitive fact on which he relies, and is met by the defendant either with a denial of the fact, or the affirmation of another fact, which, to maintain the suit, the plaintiff must deny. The *second* is that in which evidence, to prove or disprove the fact on which the affirmation and denial of the parties ultimately rests, is adduced and decided upon. The *third* is that in which the operations are performed necessary for giving effect to the sentence of the judge.

What is desirable in the operations of the first stage is, 1st, That the affirmations and negations with respect to the facts should be true; and, 2^{dly}, That the facts themselves should be such as really to have the investitive or divestitive quality ascribed to them. For the first of these purposes, all the securities, which the nature of the case admits of, should be taken, for the veracity of the parties. There is the same sort of reason that the parties should speak truly, as that the witnesses should speak truly. They should speak, therefore, under all the sanctions and penalties of a witness. They cannot, indeed, in many cases swear to the existence or non-existence of the fact; which may not have been within their cognisance. But they can always swear to the state of their belief with respect to it. For the second of the above purposes, namely, that it may be known whether the facts affirmed and denied are such as to possess the investitive or divestitive quality ascribed to them, two things are necessary; the first is, that all investitive and divestitive facts should have been clearly predetermined by the legislature, in other words, that there should be a well made civil code; the second is, that the affirmations and denials with respect to them should be made in the presence of somebody capable of telling exactly whether they have the quality ascribed to them or not. The judge is a person with this knowledge, and to him alone can the power of deciding on matters so essential to the result of the inquiry be entrusted.

To have this important part of the business, then, done in the best possible way, it is necessary that the parties should meet in the very first instance in the presence of the judge. A is asked, upon his oath, to mention the fact which he believes confers upon him his right. If it

is not a fact capable of having that effect, he is told so, and his claim is at an end. If it is a fact capable of having that effect, B is asked whether he denies it; or whether he affirms another fact, either one of those, which, happening previously, would prevent it from having its investitive effect, or one of those which, happening subsequently, would put an end to the right to which it gave commencement. If he affirmed only a fact which could have neither of these effects, the pretension of B would be without foundation.

Done in this manner, the clearness, the quickness, and the certainty of the whole proceeding are demonstrated. Remarkable it is, that every one of the rules for doing it in the best possible manner, is departed from by the English law, and that to the greatest possible extent. No security whatsoever is taken that the parties shall speak the truth; they are left with perfect impunity, aptly by Mr Bentham denominated the *mendacity-licence*, to tell as many lies as they please. The legislature has never enumerated and defined the facts which shall give commencement, or put a period to rights; the subject, therefore, remains in a state of confusion, obscurity, and uncertainty. And, lastly, the parties do not make their affirmations and negations before the judge, who would tell them whether the facts which they allege could or could not have the virtue ascribed to them; they make them in secret, and in writing, each along with his attorney, who has an interest in making them not in the way most conducive to the interests of his client, but in the way most conducive to his own interests, and those of his confederates, from the bottom to the top of the profession. First, A, the plaintiff, writes what is called the declaration, an instrument for the most part full of irrelevant absurdity and lies; and this he deposits in an office, where the attorney of B, the defendant, obtains a copy of it, on paying a fee. Next B, the defendant, meets the declaration of A, by what is called a plea, the form of which is not less absurd than that of the declaration. The plea is written and put into the same office, out of which the attorney of the opposite party obtains a copy of it on similar terms. The plea may be of two sorts; either, 1st, a dilatory plea, as it is called; or, 2^{dly}, a plea to the action. To this plea the plaintiff may make a *replication*, proceeding through the same process. To the replication the defendant may put in a *rejoinder*. The plaintiff may answer the rejoinder by a *sur-rejoinder*. This, again, the defendant may oppose by a *rebutter*, and the plaintiff may answer him by a *sur-rebutter*.

All this takes place without being once seen or heard of by the judge; and no sooner has it come before him, than some flaw is perhaps discovered in it, whereupon he quashes the whole, and sends it to be performed again from the beginning.

This mischievous mess, which exists in defiance and mockery of reason, English lawyers inform us, is a strict, and pure, and beautiful exemplification of the rules of logic. This is a common language of theirs. It is a language which clearly demonstrates the state of their minds. All that they see in the system of pleading is the mode of performing it. What they know of logic is little more than the name.

The agency necessary for the performance of this [V-156] stage of the business, is some person, who, when he hears a fact affirmed or denied, can tell whether it is one of those facts to which the legislature has attached the power of giving commencement or of putting a period to rights. It is evident, that on such occasion, any one person, with the requisite knowledge, attention, and probity, is as competent to the task as a hundred. If he is single, the attention and probity is likely to be the greatest, as responsibility is not weakened merely, it is almost annihilated by being shared. There should be one judge, therefore, and not more, to superintend that branch of procedure which consists of pleading.

The agency best adapted to the business of the second stage of [judicature](#), is that which next demands our attention. The business of that [Second stage of the Judicial Business.](#) stage is, the taking of evidence; in other words, the doing all that is necessary to ascertain whether the disputed fact happened or did not happen.

The subject of evidence is a matter of complexity in the detail. And where any thing complex is to be stated in words, there is always difficulty in the expression, how plain soever the ideas. Such general considerations, however, as we can even here adduce, will, we hope, throw sufficient light upon the subject, to leave no doubt with respect to the conclusions which we have it in view to establish. This is one of the topics, connected with law, which Mr Bentham has exhausted, though a small part only of what he has written upon it has yet seen the light. [*]

With respect to all facts, legally operative, that is, which give or take away rights, it is desirable that evidence, amounting to proof, should, if possible, always exist. With respect to a great proportion of them, it is in the power of the legislature to take measures, that evidence of them shall be collected at the moment of their happening, and shall be preserved. This is the case with all those of which an evidentiary writing can be made and preserved by registration; all contracts, births, deaths, marriages, and so on. The proportion is really very great of the whole number of facts, legally operative, in regard to which a legislature, by proper means, might secure the existence of evidence, and to that extent might either prevent disputes, or render the decision of them easy. That so little of this most important and obvious work has any where been done, only shows how ill the legislatures of the world have hitherto performed the task. It is in the power of the legislature, by a proper classification, to have an accurate formulary, for the different species of *contracts*, *wills*, and other *evidentiary writings*. Those formularies, properly made and printed with blanks to fill up, would render the business of *Conveyancing*, which, in England, is a boundless, trackless, and almost impenetrable jungle, abounding with expence, with delay and vexation to parties, with wealth and almost boundless power over the fortunes of other men to lawyers, a thing of the greatest simplicity, certainty, and ease.

Into the question of what might be, and ought to be done by the legislature, for making and preserving evidence of the principal facts by which rights are made to begin or to end, we cannot enter at length, on the present occasion. The great importance which belongs to the subject, is evident from what we have thus shortly advanced.

The business of him who is only called upon to determine whether a disputed fact did or did not happen, is, to make the best use of all the evidence which exists; whether it were, or were not desirable, that more had been made to exist. For the best use of that which exists, three things are necessary:

1st, That the whole of it should be made to bear, that is, should be taken and applied.

2dly, That it should be taken in those circumstances which are most conducive to trustworthiness.

3dly, That the proper value should be set upon each article, and upon the whole.

1. That the evidence may be taken as completely as possible, two things are necessary. The first is, that the judge should have power to send for, and to compel the attendance of, all persons and things which may be capable of affording evidence. The second is, that the evidence should all be taken, and nothing be omitted or lost.

It is not necessary here to enter into any details with respect to the first of those requisites. The necessity of the powers is obvious, and the end to be attained is so precise and perspicuous, that there can be no difficulty in conceiving the mode of putting together and applying the means. There is no limit, it is obvious, to the physical power which should be placed at the disposal of the judge. He ought to have the right of calling upon every man, upon the whole community, to aid him in any act which is necessary to the performance of any part of his judicial duty; because any force, opposed to the performance of that duty,

there ought to be a force sufficient promptly to overcome. It is convenient, however, to the community, instead of being liable to be called upon, individually, for the performance of the ordinary services auxiliary to the business of the judge, to provide him with a proper number of officers, paid for attending to execute his commands. Their principal business, as regards this stage of the judicial proceedings, is, to serve notice upon any persons whose own presence, or that of any writing or other thing which they may possess, is required by the judge. Persons or things, subjected immediately to the operations of judicature, have a particular name in English. They are said to be *forthcoming*, a word which has an exact equivalent in few other languages, and is exceedingly appropriate and useful. It is of the greatest convenience, when a concrete term, the use of which is very frequent, has an abstract term corresponding to it; as good, has goodness; hard, hardness, and so [V-157] on. There was not any word in the language corresponding in this way to *forthcoming*. Mr Bentham, perceiving the great need of it, made the term *forthcomingness*; not exceptionable on the score either of harshness or obscurity. The small wits thought proper to laugh at him. We shall, nevertheless, sorry at the same time that we cannot supply a defect in the language without offending them, make use of the word, in which we find great appropriateness and great convenience. This particular branch, therefore, of the judicial agency is that which relates to *forthcomingness*; and *forthcomingness* is required for two purposes, both for evidence and for justiciability; for evidence, that a true decision may be passed; for justiciability, that the sentence of the judge may not fail of its intended effect.

So much with respect to the *forthcomingness* of evidence. The second condition, required to give the decision the benefit of all the existing evidence, is, that the whole should be taken, and that not any part of it which can be taken without preponderant inconvenience should be excluded and lost.

Of the several articles of evidence, some will always be of more importance; some of less; and some may be of very little importance; but whether of little or of much, it is always desirable that all should be taken, and every the smallest portion counted for what it is worth. The discovery of truth is promoted by taking advantage of every thing which tends to throw light upon the subject of dispute.

These propositions, it may appear to be useless, indeed impertinent, formally to state. They are too evident, it may be said, to be disputed, and too important to be overlooked. Important as they are, and undisputed by all the rest of the world, they are not only disputed, but trampled upon by lawyers, especially English lawyers. They have unhappily established a set of rules in direct opposition to them. These rules they applaud in all forms of expression, and celebrate as guards and fences of all that is dear to mankind.

In all causes, they have determined, that persons so and so situated, things so and so situated, though apt to be pregnant with information beyond all other persons and things, shall not be admitted as sources of evidence. Thus, in English law, we have incompetency of witnesses, that is, exclusion of them, *1st*, From want of understanding; *2dly*, From defect of religious principle; *3dly*, From infamy of character; *4thly*, From interest. These are undisguised modes of exclusion; besides which, there is an extensive assortment of disguised modes. Under this title comes the rule, that only the best evidence be given which the nature of the case admits of; according to which, it often happens that the only evidence which can be had is excluded. Under this title also falls the rule, making certain kinds of evidence conclusive, by which proceeding, all other evidence is excluded. To the same list belongs the rule, that hearsay evidence is not admissible. The rules, so extensive in their application, by which writings are wholly rejected, only because they want certain formularies, are rules of exclusion; and so are the limitations with respect to time, and to number of witnesses. Into the very extensive subject, however, of the absurdity and mischievousness of the rules of evidence in English law, we cannot pretend so much as to enter. A remarkable

exemplification of them was afforded on the trial of Warren Hastings, to which, for this purpose, the reader may be referred. (See Mill's *History of British India*, Book VI. Chap. ii.)

The only conceivable reasons for the exclusion of evidence are three:

1. Irrelevancy.
2. Inconvenience in obtaining and producing.
3. Danger of deception.

With regard to irrelevancy, the decision is clear. What has no tendency either to prove or disprove the point in question, it would be loss of time to receive.

With regard to inconvenience, it is no doubt liable to happen, that when all the good which can be expected from the obtaining of a lot of evidence is compared with the evil of the delay, cost, and vexation, inseparable from the obtaining of it, the evil may be more than an overmatch for the good. In all such cases, it is expedient that the lot of evidence should be foregone.

As a guard against the danger of deception, it is equally certain that no evidence ought ever to be excluded. An account of all the reasons by which the absurdity is demonstrated of exclusion on this ground, and of the wide and deplorable mischief which, in the vulgar systems, is produced by it, would be far too extensive for the contracted limits of the present discourse. Reasons, however, decisive of the question, present themselves so obviously, that hardly any man, with an ordinary understanding, not fettered by prejudice, can look at the subject without perceiving them.

If evidence is to be received from no source from which evidence, liable to produce deception, is capable of coming, evidence must not be received at all. Evidence must be received from sources whence false evidence, as well as true, is liable to flow. To refuse all information from such sources, is not the way by which a knowledge of the truth can be obtained. This is the way to make sure of not having that knowledge. The means of obtaining it are, to receive information from every possible source, and to separate the bad from the good, under all those securities, and by the guidance of all those marks, of which understanding and attention know how to avail themselves.

It is not enough to say, we will receive information from those sources only which are least likely to yield deceptive evidence, refuse to receive it from those which are most likely. You are obliged to receive it from sources differing in almost all possible degrees of likelihood. Where are you to draw the line of separation? Is not the same discernment which guards you against the danger of false information from the sources which you deem the least likely to yield it sufficient to guard you against it from those sources which you deem the most likely to do so? In fact it will be still more sufficient because in this case you will be much more apt to be upon your guard. The very best information is, in truth, liable to be derived from the very worst of [V-158] sources,—from a man who, you know, would not tell you one word of truth, if he could help it.

The securities that a man will give true information, independently of those artificial securities which the legislature can apply equally to all, are, *1st*, Intelligence. *2d*, Probity. *3d*, Freedom from interest. Suppose that one, or two, or all of these securities are wanting; it only follows, that what he states should be heard with a proportional distrust. It may still be of the utmost importance to the discovery of the truth that he should be heard. It never can be less than unfavourable to that great end that, with the proper allowances, he should not be heard at all. His testimony may appear, when heard, to be utterly unworthy of credence. But that could not be known till it was heard and examined. It might so have been, that it was not only worthy of credence, but completed the proof of a fact of the greatest possible importance.

That a man should not be heard as a witness, on account of his religious creed, is an absurdity which we cannot descend to notice.

2. The second of the three things which we found necessary, as above, for making the best use judicially of whatever evidence, to the fact in question, exists, was, that it should be taken under those circumstances, which are most conducive to trust-worthiness. Those circumstances are constituted by the artificial securities, which arrangements can be made to apply. The following enumeration of them has been made by Mr Bentham (*Introduction to the Rationale of Evidence*, p. 54), and appears to be complete.

1. Punishment.
2. Shame.
3. Interrogation, including counter-interrogation.
4. Counter evidence,—admission of.
5. Writing,—use made of it for giving permanence, &c. to evidence.
6. Publicity,—to most purposes and on most occasions.
7. Privacy,—to some purposes, and on some occasions.

For developing the import of these several securities, we can afford to say nothing. The principal operation of the judicial functionary in this part of the business is, to preside over the interrogation; to see that it is properly and completely performed. The question, then, what is the sort of agency best adapted for the performance of this part of the task of taking evidence is not difficult to answer. There is nothing in it which one man, with the proper intellectual and moral qualifications, is not as capable of performing, as any number of men.

3. All the existing evidence being collected and received, it only remains that the proper value should be attached to the several portions, and a corresponding decision pronounced.

It is sufficiently evident that, for the performance of this duty, no very precise instructions can be laid down. The value which belongs to an article of evidence often depends on minute and almost indescribable circumstances; and the result must be left to the sagacity and conscience of the judge.

At the same time, however, service to this end, and of the greatest importance, may be, and, of course, ought to be, rendered by the legislature. The different marks of trust-worthiness may, to a certain extent of particularity, be very correctly described. This being done, the difference between the value of any two lots of evidence, to which those marks attach, may be very exactly ascertained. One has a certain number of the marks of trust-worthiness, as laid down by the legislature; another has all these and so many more; the result is clear. It is evident, that as far, in this respect, as experience and foresight can go, nothing should be left undone by the legislature.

Another important service can be rendered by the legislature; and that is, to provide an accurate language for the judge; a language in which he can express precisely the degree of value which he allots to each article of evidence, and to the whole. Various expedients may be adopted for this purpose. A very obvious one is, to fix upon some particular, well known article of evidence, the value of which all men appreciate equally; the clear testimony, for example, of a man of the ordinary degree of intelligence and probity; as a standard. Is the value to be expressed, which the judge attaches to any other article of evidence? If inferior to the standard, it falls below it by so many degrees, one, two, three, four: If superior, it rises above it by so many.

Having provided an accurate language, the legislature should take security that it be used; and admit of no vague and general expressions in the account of the value which the judge attaches to each article of the evidence on which he grounds his decision.

At the same time that the legislature insists upon the use of precise language in stating the value of evidence, it should insist upon reasons; upon receiving from the judge a precise statement of the grounds upon which he attaches such a value, and no other, to each and every article of evidence; that is, upon receiving a reference, as exact as language can give, to each of the circumstances which contributed to suggest to him that particular estimate which he says he has formed.

Of the importance of all these expedients we presume that no illustration is required.

We come now to the third and last stage of the business of judicature; when all that remains is to carry into effect the sentence of the judge.

[Third stage of the Judicial Business.](#)

When they, upon whom the sentence operates, are willing to obey, all that is necessary is to afford them notice of what it requires them to perform. In well ordered countries, all but a very insignificant number will be found to be cases of this description. When opposition is to be overcome, a physical force must be provided, sufficient for the purpose. As there seems nothing mysterious in determining how this should be formed, and under what rules it should act, to secure the ends for which it is provided, with the smallest possible amount of collateral evil; we shall here take leave of the subject.

We have now seen the whole of the operations to be performed. The parties are received to state before the judge the investitive or divestitive facts on [V-159] which they rely. If they state, for this purpose, a fact which is not possessed of those qualities, they are immediately told that it is not possessed of them, and not calculated to support their claim. They come, by two or three steps, at the longest, to a fact upon which the question ultimately turns; and which is either contested, or not contested. In a great many cases it would not be contested. When the subject was stript of disguise, the party who had no right, would generally see that he had no hope, and would acquiesce. The suit would thus be terminated without the adduction of evidence. When it was not, the cases would be frequent in which it might be terminated by the evidence which the parties brought along with them. In these cases, also, the first hearing would suffice. A vast majority of the whole number of suits would be included in these two sets of cases. For the decision of a vast majority, therefore, of the whole number of suits, a few minutes would suffice. When all the evidence could not be forthcoming at the first hearing, and only then, would a second hearing be required. In this mode of proceeding, justice would be, that without which it is not justice, expeditious and cheap.

In all this there is nothing which one man, with the appropriate intellectual and moral qualities, is not as competent to perform as any number of men. As one man is cheaper than any greater number, that is one reason why no more than one judge should be allowed to one tribunal.

[The Judicial Establishment; or inquiry what is the best form of the Agency required for giving effect to the Laws.](#)

The next object of inquiry is, to ascertain what securities can be provided that those who are entrusted with the business of judicature shall possess the requisite intellectual and moral endowments.

The intellectual endowments depend upon those who have the power of choosing and of dismissing the judges; and who do or do not appoint men whose knowledge and capacity are ascertained. The moral behaviour of the judges depends upon the interests which act upon them in the situation in which they are placed.

[Securities for the intellectual endowments of the Judge.](#)

Into the question, who should have the appointment of the judges, we do not intend to enter. The answer would be different under different forms of government; and this is not the place to compare the different forms of government, either for this or any other of the ends of

its institution. One thing only we shall state, because it carries its evidence along with it. Those who appoint the judges ought to have no interest contrary to the best administration of justice.

As the uprightness of the judge is assailed by interests inseparable from his situation; viz. the profit which he may derive from misdecision, it is necessary to counterbalance them by opposite interests, assuming the character of securities. Several of the securities, which we have already seen applying to the situation of witness, apply also to the situation of judge: Some are peculiar to each. The following is the list of those which apply to the situation of judge.

Securities for
the moral
Qualities of the
Judge.

1. Punishment.
2. Shame.
3. Publicity.
4. Writing, for the sake of accuracy and permanence.
5. Singleness of the functionary.
6. Appeal.

For the *Punishment* of the several kinds of judicial offences, provision ought to be made in the penal code.

In the case of the judge there is particular occasion to point accurately, and to strengthen to the utmost, the operation of *Shame*; for in the situation of judge it is possible to be guilty of offences very numerous and very serious, without permitting so much of evidence to attach to any definite act, as would suffice to form a ground for punishment.

The great instrument for the application of shame is *Publicity*. The importance of publicity, therefore, is paramount. It is not only the great instrument for creating and applying the moral sanction, the approbation and disapprobation of mankind; but it is of essential service towards the application of punishment, by making known the occasions on which it is deserved. It is not only a great security in itself, but it is the principle of life and strength to all other securities.

All other publicity is feeble and of little worth compared with that of the *Press*. Not only, therefore, ought this to be allowed to operate with its utmost force upon the judge, but effectual provision ought to be made to cause it to operate upon him with its utmost force. Not only ought the judgment hall to be rendered as convenient as possible for the reception of the public; not only ought the greatest freedom to be enjoyed in publishing the proceedings of the judge; and in publishing all manner of observations upon them, favourable or unfavourable; but measures ought to be taken to make a public, and to produce publication, where there is any chance that a voluntary public, and voluntary publication, would be wanting. For this purpose, unless other very important considerations intervene, the judgment seat should always be in that place, within the district to which it belongs, where the most numerous and intelligent public, and the best means of publication, are to be had.

In England, where there is no definition of libel, and where the judges, therefore, are allowed to punish, under the name of libel, whatever writing they do not like, the publishing of unfavourable observations on the conduct of a judge; nay, in some instances, and these the highest in importance, the simple report of his proceedings—is treated as one of the most heinous of all possible offences. No wonder! Allow judges, or allow any men, to frame laws, and they will frame them, if they can, to answer their own purposes. Who would not, if he could, make a law to protect himself from censure? More especially if he were a man disposed to act in such a way as to deserve censure?

Would you allow falsehood to be published against the judge! The word falsehood is here ambiguous. It means both erroneous opinions, and false statements with regard to fact. Erroneous opinions we would undoubtedly permit, because we know no standard for ascertaining them, other than that which is afforded by public discussion; and because [V-160] this is an adequate remedy for all the evil which erroneous opinions have any tendency to produce. Affirmation of facts injurious to the judge, if false, and made without reasonable grounds for having been believed to be true, we would prevent.

Allow facts, injurious to the judge, to be published, even when true; allow comments, unfavourable to the judge, to be made upon his actions, you discredit the administration of justice. Discredit the administration of justice, to which the people are resorting every day for the greatest of all possible benefits, protection from injury! As well talk of discrediting the business of a bread-baker, a meat-seller, if the fraudulent dealer is exposed to the censures of the public! Discredit the administration of justice, indeed, by taking measures of security against the vices of judges; indispensable for its perfection!

The importance of *recording, in permanent characters*, what takes place before the judge, we must content ourselves with assuming. We may do so, it is presumed, with propriety, on account of the facility with which the reasons present themselves. We must also leave it to our readers to draw the line of distinction between the occasions on which it is requisite, and the occasions on which it may be dispensed with; the occasions, for example, where every thing is simple and clear, and all parties are satisfied.

It is a great security, both for diligent and for upright conduct in the judge, that he occupy *singly* the judgment seat. When a man knows that the whole credit and reward of what is done well; the whole punishment and disgrace of what is done ill, will belong to himself, the motive to good conduct is exceedingly increased. When a man hopes that he can shuffle off the blame of negligence, the blame of unfairness, or fix a part of it on another, the uncertainty of the punishment operates, as we have already seen, to the diminution, and almost to the extinction, of its preventive force. Certain common, and even proverbial expressions, mark the general experience of that indifference, with which a duty, that belongs in common to many, is apt to be performed. What is every body's business is nobody's. This is as true in the family as in the state; as true in judicature as in ordinary life. Much remains to be said upon this topic, which is one of great importance; but we must pass to the next.

Of the use of *appeal*, as a security against the misconduct of the judge, there is the less occasion to adduce any proof, because it seems to be fully recognized by the practice of nations.

One thing, however, which is not recognized by that practice, is, that, if it is necessary in any one sort of causes, so it is in every other, without exception. Not a single reason can be given why it should exist in one set of cases, which is not equally strong to prove that it should exist in any other.

It is instructive to observe the cases in which it has been supposed that it ought to exist, and the cases in which it has been supposed that it might be omitted. The cases in which it has been thought necessary, are those which concern property of considerable value. Those in which it has been dispensed with are those which concern property of inconsiderable value. The first set of cases are those which are of importance to the aristocratical class; the second are those which are of no importance to that class. It is the aristocratical class who have made the laws; they have accordingly declared that the suits which were important to them should have the benefit of appeal; the suits not important to them should not have the benefit of appeal.

We recognize only one standard of importance; namely, influence upon human happiness and misery. The small sum of money for which the suit of the poor man is instituted is commonly of much greater importance to him, than the larger sum for which the suit of the rich man is instituted is to the rich. Again, for one rich man there are thousands and thousands of poor. In the calculation, then, of perfect benevolence, the suits for the small sums are not, as in the calculation of perfect aristocracy, those of the least, or rather no importance; they are of ten thousand times greater importance than the suits for the largest sums.

If an appeal ought to be had, how many *stages* should there be of appeal? This question, we imagine, is easily answered. If you go for a second judgment, you should, if possible, go to the very best source: and if you go at once to the best source, why go any farther?

What is required to be done, in the case of an appeal, is the first thing which deserves to be ascertained. An appeal takes place in consequence of a complaint against the previous judge. Where no complaint, there is no appeal, nor place for appeal.

A complaint against the judge must relate to his conduct, either at the first, the second, or the third stage, of the judicial operations.

If to his conduct at the first stage, it must be a complaint of his having permitted a party to rest upon a fact which had not the investitive or divestitive quality ascribed to it; and this implies either a mistake with respect to the law, or that he allowed the decision to turn upon a fact which did not embrace the merits of the question. It is evident, that for the decision of this question, all that is necessary is an exact transcription of *the pleadings*, and transmission of them to the court of appeal.

If the complaint relates to his conduct at the second stage, it must turn upon one of two points; either that he did not take all the evidence, or that he did not properly determine its value.

If he did not take the evidence properly, by a failure either in assembling the sources of it, or in extracting it from them when assembled, the proper remedy is to send back the cause to him, with an order to him to supply the omission; or, if he be suspected of having failed wilfully, to send it to the judge of one of the neighbouring districts, to retake the evidence and decide.

If the complaint relates to a wrong estimate of the evidence, the statement of it transmitted to the court of appeal, with the reasons assigned by the judge for the value affixed to every portion of it, will enable the appellate court to decide.

With regard to the third stage, the only complaint [V-161] there can be is, that the judge has not taken measures to execute his own sentence. If any inquiry is in this case to be made, the proper course is, that the appellate court refer it to one of the neighbouring judges. When a simple act is to be done, the proper order is to be dispatched, and the proper penalties for non-performance exacted.

It thus appears, that for every thing which is required to be done by the appellate judicature, nothing whatsoever is required, as a foundation, but certain papers. The presence is not required, either of parties or of witnesses.

As it is of no great consequence, in a country in which the means of communication are tolerably provided, whether papers have to be transmitted 50 or 500 miles, the distance, even though considerable, of the seat of the appellate jurisdiction is a matter of very little importance. The object, then, is to get the best seat; that is, the best public. The best public, generally speaking, is in the capital. The capital, then, is the proper seat of all appellate

jurisdiction. And that there should be one judge, and one judge only, in each court of appeal, is proved by exactly the same reasons, as those which apply to the courts of primary jurisdiction.

The question how many courts there should be, as well of primary as of appellate jurisdiction, is to be determined by one thing, and one thing only; namely, the need there is for them. The number of the courts of primary jurisdiction must be determined, in some instances, by the number of suits; in some, by local extent. To render justice sufficiently accessible, the distance from the seat of judicature must not be great, though the number of accruing suits, either from the paucity or from the good conduct of the people, should be ever so small.

As the judgment seat should never be empty, for the need of staying injustice is not confined to times and seasons, and as one judge may be sometimes ill, sometimes called to a distance even by the duties of his office, provision ought to be made for supplying his place. For this purpose the proper expedient is a deputy. That the deputy should well perform his duty, the best security is, that he should be chosen and employed by the judge, the judge being responsible for the acts of the deputy as his own. Whatever it is which the judge cannot do, or cannot conveniently do, in that he may employ his deputy. If there is a great influx of causes, the deputy may be employed in some of those the least complex and difficult. If there is any business, not of first rate importance, requiring the presence of the judge at a distance, the delegation of the deputy or deputies is the proper resource.

Besides the judge and his deputy, there are two adjuncts to every tribunal, which are of the utmost importance; indispensable, indeed, to the due administration of justice. These are a *pursuer-general* and a *defender-general*. The business of both pursuer-general and defender-general is to reclaim the execution of all laws in the execution of which the nation has a peculiar interest, though individuals may not. The peculiar business of the pursuer-general is to act on behalf of the administrative authority, in its character of plaintiff, and on behalf of every plaintiff who is without the means of engaging another advocate; to obviate any prejudice he sees likely to arise to justice from the conduct of plaintiffs, whether in civil matters or penal; and to perform in the case of all offences, where no private prosecutor appears, the office of prosecutor. The peculiar duty of the defender-general is to act on behalf of the administrative authority in its capacity of defendant, and on behalf of every defendant who has not the means of engaging another advocate, and to obviate any prejudice he sees likely to result to justice from want of skill or other causes on the part of a defendant who pleads his own cause, or on the part of him who pleads it for him.

The courts of appeal, though all seated in the metropolis, ought to be as numerous as the speedy hearing of all the appeals which come to them requires. The judges of appeal ought all to be chosen from the judges of primary jurisdiction, not only on account of the education and the experience received, but as a step of promotion, and a proper motive to acquire the requisite education, and to merit approbation in the inferior employment. There is the same propriety, and for the same reason, in choosing the judges of primary jurisdiction from the deputies.

(F. F.)

LIBERTY OF THE PRESS.↩

THE task of pointing out which of the acts capable of being committed by the press it would be expedient to prohibit under penalties, we trust will be found to be greatly diminished, by what we have already established in the articles GOVERNMENT and JURISPRUDENCE. Liberty of the Press.

There is scarcely a right, for the violation of which, scarcely an operation of government, for the disturbance of which the press may not be employed as an instrument. The offences capable of being committed by the press are indeed nearly co-extensive with the whole field of delinquency. Nature and Objects of the Inquiry.

It is not for that reason, however, necessary to give a separate definition for every such violation or disturbance, for that would be to write the penal code over; first describing the violation as produced in other cases, and then describing them anew for the case in which the press is the particular instrument.

If, for the prevention of the violation of rights, it were necessary to give a separate definition for every instrument which might be employed as a means of producing the violation, the penal code would be endless. In general, the *means* is an immaterial circumstance. The violation itself, and the degree of alarm which may attend, are the principal objects of attention. If a man is put in fear of his life, and robbed of his purse, it is of no consequence whether he is threatened with a pistol or a sword. In the definition of a theft, of a fraud, or a murder, it is not necessary to include an account of all the sorts of means by which these injuries may be perpetrated. It is sufficient if the injury itself is accurately described. The object is to prevent the injury, not merely when produced by one sort of means or another sort of means, but by any means.

From these illustrations it sufficiently appears, that if an accurate penal code were composed, defining the violations of rights, and disturbances of the operations of government, to which penalties were to be annexed, every offence capable of being committed by the press would be defined without mentioning its name. It is no less evident, that if we include in the term *libel*, as, to the great encouragement of confusion, is generally done, all the offences capable of being committed by the press, we include in the definition of libel all the definitions of the penal code.

As far as persons and property are concerned, the general definition of the acts by which rights are liable to be violated, has been held sufficient; and has been regarded as including not less the cases in which the instrumentality of the press has been employed, than those in which any other means have been employed to the same end. Nobody ever thought of a particular law for restraining the press on account of the cases in which it may have been rendered subservient to the perpetration of a murder or a theft. It is enough that a law is made to punish him who has been guilty of the murder or theft, whether he has employed the press or any thing else as the means for accomplishing his end.

There can be no doubt, however, that the press is an instrument peculiarly adapted for the commission of injuries against *reputation*, and for effecting disturbance to the operations of *government*, while it has no peculiar adaptation for the commission of other offences. Here, too, it is equally certain there is the greatest disposition to restrain the press within improper limits. It is demanded of us, therefore, upon this part of the subject, to enter into greater detail.

We are then to inquire, in the first place, what are the acts of the press with respect to *private reputation*? and next, which are the acts with respect to *government*, which it is desirable that punishment should be employed to restrain?

Agreeably to the principles which have been already considered in the article JURISPRUDENCE, no act can be regarded as an offence with respect to an individual, which is not a violation of some of his rights. Offences of the Press with respect to Private Rights.

In considering the rights which ought to be established with respect to *reputation*, one proposition may be assumed, that every man should be considered as having a right to the character which he deserves; in other words, to be spoken of according to his actions.

In what manner the definition of this right, which would form a part of the civil code, should be expressed, is not now the question; but it is evident that no peculiar difficulty belongs to it. As words, not thoughts, are the object of legal cognizance, the right can only have respect to security against certain words;—words imputing to the individual actions which he has not performed, or a disposition to actions, of which disposition there is no evidence.

Suppose that one man has instituted a suit against another, for the offence of having violated, through the press, his right to all the reputation he deserves. In his ground of complaint he must affirm that the man has imputed to him either the performance of actions which he did not commit, or a disposition to certain actions, of which disposition no evidence can be given.

The words are produced; and the first question is, whether they do or do not impute the actions which, in the complaint or bill of accusation, they are alleged to impute?

It is to be observed, that they who oppose the attempt to define the offences, which, for shortness, we call the *offences of the press*, make use of such occasions as this to raise their objections. How, they ask, can all the forms of expression be defined, by which the imputation of such and such actions may be either more openly, or more covertly conveyed?

It is very evident that the question on such an occasion, whether the words do or do not impute such [V-259] or such actions, is a question of fact. The law says, that such and such actions shall not be imputed, defining the actions. Whether such and such a man has imputed such actions, either by one set of words or another, is a question of fact.

The law, when it said that such and such acts should not be imputed to a man, could not determine whether A, who is accused by B of having imputed to him one of these acts, did so or not. That is to be determined by evidence bearing upon the fact. One, and in general the main article of that evidence, are the words which have been used. What is the import of these words; or, which comes to the same thing, what is the degree of proof involved in them, is to be determined, as all questions respecting the weight of evidence are in each instance to be determined, by the tribunal before which the accusation is brought. The interpretation of words rests upon the same footing in this as in all other cases, that, for example, of a Will. The law determines that whatsoever disposition a man has made with respect to his property, shall take effect after his death. But whether A has left his manor of Dale to B, is a matter of fact to be determined by evidence applying to that particular fact; principally by that arising from the words of the will.

It may still be argued by persons who do not easily renounce an opinion to which they have once given their support, that even the actions, the interpretation of which, or that of the disposition to which the legislature means to prohibit, cannot be defined.

This, however, is a position which it is impossible long to maintain. Some actions it is hurtful, others it is not hurtful, to a man, if he is believed to have committed, or to have a disposition to commit them. Evidently it is by imputation of the first sort alone, that any right with respect to reputation can be infringed.

The acts which a man receives injury from being believed to have committed, or to be disposed to commit, are either those to which the law has annexed penalties, or those to which the penalties of public disrepute and dislike are annexed.

With respect to those acts to which the law has annexed penalties, as theft, murder, perjury, and so on, it will not be pretended that there is any difficulty; the law has already defined them, or ought to define them, and they may be included with perfect precision in a few words.

Those acts which it is hurtful to a man, solely on account of the disrepute and dislike which they produce, to have it believed that he has committed them, may also be with sufficient accuracy determined.

The ends to be attained by punishment are, reparation to the individual to whom injury has been done, and prevention of similar acts in future.

In the idea of all punishment, effectual reparation to the injured individual is a necessary and essential ingredient. Suppose, then, it were declared by the legislature, that the imputation falsely of all acts, hurtful to the person against whom the imputation is brought, by reason of the disrepute and dislike which attach to him by whom such acts are supposed to be committed, shall be punished at least by reparation to be made to the party injured; the word *hurtful* is to this purpose perfectly precise. It would remain with the complainant to show what kind and degree of injury he had received; which is a matter of fact, to be estimated in each instance from the evidence adduced, by the tribunal before which the question is brought. If the injury sustained is a pecuniary injury, the question coincides exactly with the question of damages, decided regularly, in English courts, as a question of fact by the jury.

Injuries of the kind which we are now considering can affect a man only in two ways; either, as stated above, by lessening the pecuniary value which he might otherwise have enjoyed; or, secondly, by lessening the marks of respect and affection which he would otherwise have received. What the loss is, in this latter instance, is also evidently a question of fact. It has nothing, therefore, to do with the legal definition of the offence, the business of the legislature. It is a question, which, like all other questions of fact, must of necessity be determined upon evidence by the tribunal before which it is brought. It is no doubt a question of delicacy, and considerable difficulty, because the evidence must often consist of very fine and minute circumstances, which can seldom be precisely ascertained. But this is not the only class of judicial questions, the determination of which depends upon such evidence as it is very difficult accurately to collect and to weigh.

What it is of greatest importance, on this occasion, to remark is, that all the difficulty lies in the matter of fact. There is no doubt or obscurity in the law, which says, that for whatsoever hurt a man has sustained through actions or dispositions falsely imputed to him, he shall receive compensation. Difficulties, however, arising either from the complexity of the matter of fact, or the obscurity of the evidence, no legislature enactments can prevent. These are committed to the skill and fidelity of the judge.

One question for the legislature we have not yet considered; and that is, the compensation which can be made to a man for the diminution of those marks of respect and affection which he would otherwise have received. Let us suppose that a soldier has been accused of

cowardice, in such a manner as to create a general belief of the truth of the accusation; that a man of honour has been accused of mendacity, or of some of those irregular propensities to which the horror of the public is attached; it is evident that money is not an appropriate compensation for injuries thus received.

When a man, through the offence of another, has been deprived of a certain amount of money, or of money's worth, we say that he has received compensation, when he is placed in the same situation in which he would have been if the offence had not taken place.

According to this idea of compensation, a man, against whom an unfavourable opinion has been created by the act of another man, has received compensation, when he is placed in the same situation with regard to the opinion of those with whom he is connected, as if that act had not taken place. This, [V-260] therefore, is the object which it ought to be the endeavour of the legislature to effect.

One expedient is perfectly appropriate. It is, that the man who has falsely propagated an unfavourable opinion with respect to another, should be made to do whatever is in his power to remove the impression he has made. To this end, he should publish the sentence of the judge, declaring that the action, or disposition which he had imputed to the individual injured, he had imputed to him falsely. He should at least be made to publish it in every way in which he had published the imputation. Frequently a more extensive publication might be required.

In most cases, it will be allowed, that this much would suffice. It may, however, be affirmed, that often the impression would be too profoundly struck, to be effaced by a mere knowledge of the sentence of the judge. In such cases, something more in the way of compensation would be required. On this, it is of importance to be observed, that if the impression produced by an imputation, which, after solemn inquiry, the judge has declared to be false, should not, by that declaration, be completely effaced, it implies necessarily one of two things; either that the public have evidence of the truth of the accusation, which was not adduced to the judge, and then the remaining impression is not owing to the imputation which the judge has condemned, but to the evidence; or, secondly, that the public mind is in a state of gross ignorance and imbecility, capable of forming opinions, even on the clearest subjects, not only not according to evidence, but in opposition to it. If the public mind, however, is in such a deplorable condition, it is the fault of the legislature; and for the rectification of this evil, the best course undoubtedly is, to take effectual measures for the instruction of the people, which instruction would soon place them beyond the danger of such contemptible as well as mischievous delusions. In the mean time, if something more than the publication of the sentence of the judge were necessary to restore a man to that degree of consideration of which the false imputation had deprived him, governments have numerous ways of raising the consequence of individuals; and no legislature would be at a loss for a gradation of expedients suited to the scale of demand.

We have now illustrated that part of this question which regards compensation to the injured individual. It remains to inquire what is best to be done in this case, for the attainment of the other object of punishment, namely, the prevention of similar offences in time to come.

To devise a punishment sufficient to prevent an offence, is to provide a motive sufficient to counteract the motive which leads to the offence. We have hence to consider what are the motives by which men are incited to make false imputations on the characters of others.

These motives may be of three different sorts. A man may derive *pecuniary profit*, he may derive *comparative distinction*, or he may satisfy his desire of *vengeance*, by blackening the character of his neighbour.

In the case in which a man has by calumny wrongfully intercepted the pecuniary receipts of his neighbour, the obligation of making satisfaction to the party injured would, it is obvious, alone suffice, provided the machinery of the laws were sufficiently perfect, to render the execution of them certain. Seldom would any man calumniate his neighbour, for the sake of placing L.20 in his own pocket, if he were sure that next day, or next week, he would have to restore it, with all the profit which might have been made by the use of it, and with the disgrace besides of having committed an action which other men abhor.

Sometimes, however, a man may derive pecuniary profit from calumniating persons whom he has not by that means deprived of any pecuniary advantage; by the sale, for example, of a slanderous publication; when the satisfaction due to the individual may not be of a nature to counteract the motive which leads to the offence. The expedient in this case, also, is sufficiently obvious, and sufficiently simple. It is necessary to ascertain the whole of the gain which has been made by the offender, and to take it away from him. This, together with the satisfaction which he ought to make to the injured individual, would, if it were certain, create a surplus of motive to abstain from the injurious act.

In both of these cases, if the execution of the law is uncertain, an additional punishment may be necessary, sufficient to compensate for the chance of escape. The allowance to be made on this score must depend upon the imperfection of the laws; while one important fact is to be kept in remembrance, that as severity of punishment, beyond a certain point, is increased, certainty of execution is diminished. The true expedient, therefore, is to render the machinery of the laws so perfect, that the penalties which they denounce may always be sure of execution; and then hardly any thing beyond compensation to the individual, and the abstraction of any additional gain which might have been made by the propagation of slander, would be necessary to repress all offences against the reputation of others, to which the motive was constituted by pecuniary gain.

The two remaining cases are still more simple. If a man propagates a falsehood, for the sake of injuring the character of a man by whom his own consideration is eclipsed, it is only when he expects to obtain by that means a permanent advantage. If he knows that immediately the law will take its hold upon him; that he will be compelled to re-elevate the character of his neighbour, and to proclaim his own disgrace, he will see that, to attempt depressing the character of another man by calumny, is the very worst of all expedients, for giving a comparative elevation to his own. The same is the result in the case where vengeance constitutes the motive to injure the reputation of another. To render this proposition manifest, the most obvious illustration will suffice. No man, to gratify his malignity to another person, would kill his ox or his ass, provided he were sure that immediately he would be obliged to make him full satisfaction; and instead of injuring the man whom he hated, to injure only himself. [V-261] No, the rudeness and inefficacy of the law, holding out a chance of escaping the duty of making reparation, is the sole origin and cause of all offences of this description; and if the law were placed in a state but approaching perfection, hardly any thing beside the obligation of making satisfaction would be necessary to repress the whole of this order of crimes.

We have now made considerable progress in this important inquiry. We have ascertained, we think, with sufficient evidence, all that is necessary to be done for preventing injuries to the reputation of individuals; provided the rights of reputation are, by the civil code, not made to extend beyond the boundaries of truth. Whether or not they ought to extend farther, and individuals ought to be protected from the disclosure of acts which they may have committed, is, we confess, a question highly worthy of solution; upon which, therefore, before we proceed to any of the subsequent topics, we shall offer the following reflections.

There can be no doubt that the feelings of the individual may be as painful, where actions of a disreputable nature are truly, as where they are falsely imputed to him. It is equally certain that no painful feelings ought to be wilfully excited in any man, where no good, sufficient to overbalance that evil, is its natural consequence.

We have already shown, that reputation is injured by the imputation of acts of two different descriptions; first, those to which the law annexes penalties; secondly, those to which disrepute and the dislike of others are annexed.

With respect to those acts to which the law annexes penalties, there is no room for uncertainty or dispute. Unless the law is a bad law, which ought to be repealed (this, we confess, constitutes an exception, and one, which, in very imperfect codes, extends a great way), the law ought not to be disappointed of its execution. The man who gives information against a murderer, or a thief, by the press, or without the press, renders a public service, and deserves not punishment but reward.

It appears, therefore, that the question, whether a man ought to be protected from the imputation of actions which he has really committed, refers solely to those acts which, without being punishable by the law, are attended with disrepute; acts, in other words, which the members of the society disapprove and dislike.

The prospect of the immediate and public exposure of all acts of this description, would be a most effectual expedient to prevent their being committed. Men would obtain the habit of abstaining from them, and would feel it as little painful to abstain, as at present it is to any well educated person to keep from theft, or those acts which constitute the ill manners of the vulgar. The fable of Momus has always been understood to carry an important moral. He found grievous fault that a window had not been placed in the breast of every man, by which, not his actions alone, but his thoughts, would have been known. The magnanimity of that Roman has been highly applauded, who not only placed his residence in such a situation that his fellow citizens might see as much as possible of his actions, but declared a wish that he could render open to the eyes of all his breast as well as his house.

If the hatred and contempt of the people, therefore, were always rightly directed, and rightly proportioned; if they never operated against any actions but those which were hurtful, either to the individual himself, or to others, and never, but in the degree in which they were hurtful, the case would be clear; the advantage which would be derived from the true exposure of any man's actions of any sort, would exceed beyond calculation the attendant evil. The great difficulty of insuring the practice of morality, in those numerous and highly important cases, to which the legal sanction, or the *security of pains and penalties* does not extend, consists in the want of a motive always present, and powerful enough to counteract the temporary motive which urges to the momentary offence. That motive almost every man would derive from his knowledge that the eyes were upon him of all those, the good opinion of whom it was his interest to preserve; and that no immoral act of his would escape their observation, and a proportionate share of their hatred and contempt. It is in this view that the aid of religion has been sometimes regarded as of importance to morality; suggesting the idea of a high and constant observer. All motives, however, are feeble, in proportion as the pains and pleasures upon which they depend are distant, and vague, or uncertain. Divines agree with all other men in complaining of the trifling effect of religious motives upon the lives of the greater number of men. From the nature of the prospect on which these motives depend, they were necessarily as feeble as they have so often been described. Such is not the case with the motives arising from the sentiments which we know we shall inspire in the breasts of our fellow creatures. It is a matter of daily and incontrovertible experience, that these are among the most powerful which operate upon the human mind. The soldier rushes upon death, and endures all the hardships and toils of his cruel profession, that he may enjoy the

admiration, and escape the contempt, of his fellow men. On what else is founded the greater part of all the pursuits of mankind? How few, even of those who toil at the meanest occupation, but exert themselves to have something for show, something to make an impression upon the eyes of those who surround them? The very subject of the present inquiry derives from this source the whole of its importance. The value of reputation is, indeed, but another name for the value which we attach to the favourable and unfavourable sentiments of our fellow men.

It is, however, true, that their unfavourable sentiments do not always fall where they ought, and this, we confess, is a consideration of the highest importance. It very often happens that men's antipathies are excited to actions from which no evil ensues, either to him who performs them, or to any body else. If any man derives a pleasure from such actions, it is to limit his sphere of innocent enjoyment, to debar him from them. And if the press exposes him to the antipathies, the hatred, and contempt of his fellow-creatures, on account of those actions, it produces [V-262] an evil, uncompensated by the smallest portion of good. If an Indian Brahman were known to have eaten, even when starving, a morsel of food which had been prepared by a Christian, the consequences to him would be dreadful. Where the Roman Catholic religion is in vigour, a man who should indulge himself in animal food on forbidden days would be regarded with horror. The use of wine, however moderate, would render a Mahomedan execrable to the whole of his tribe.

This misdirection of the favourable and unfavourable sentiments of mankind, in other words, this perversion and corruption of their moral sentiments, has, in by far the greater number of instances, been the work of priests, contriving the means of increasing their influence. In some very important instances, such, for example, as the prejudices of birth, at one time so powerful in Europe, as to make ineffable contempt the lot of the low, the highest veneration that of the man of elevated birth, the perversion of the moral sentiments, is evidently the work of the aristocratical class, securing to themselves a more easy dominion over the rest of their fellow creatures. It is, therefore, evident, that where antipathies, religious or aristocratical, should prevail, the press would be hurtfully employed in giving notoriety to the facts which would expose a man to the operation of either.

We have now ascertained the cases in which it would *not* be good that men should be protected from the declaration of truth by the press, and also the cases in which it *would* be good that they should be so protected.

What, upon this view of the subject, would be desirable, is sufficiently clear. It would be desirable that, in the one set of cases, the declaration should be allowed, in the other it should not be allowed. Are the two sets of cases, however, capable of being accurately distinguished?

If the comparison is made with any attention, it will not be difficult to determine that the evil to be incurred by the loss of truth in the set of cases in which the declaration of it would be useful, is much greater than that which would arise from permitting the declaration in the cases in which it would be hurtful.

In the first place, the set of cases in which the declaration would be useful are much more numerous, and much more important, than those in which, in any tolerably civilized state of society, it would be hurtful. Those in which it would be useful embrace the whole field of morality, all those acts, the performance of which, on account of their singular importance, has been elevated to the rank of virtues. Every body believes and proclaims, that the universal practice of the moral virtues would ensure the highest measure of human happiness; no one doubts that the misery which, to so deplorable a degree, overspreads the globe, while men injure men, and instead of helping and benefiting, supplant, defraud,

mislead, pillage, and oppress, one another, would thus be nearly exterminated, and something better than the dreams of the golden age would be realized upon earth. Toward the attainment of this most desirable state of things, nothing in the world is capable of contributing so much as the full exercise of truth upon all immoral actions,—all actions, the practice of which is calculated to lessen the amount of human happiness. According to this view, the justice of which it is impossible to dispute, the evil incurred by forbidding the declaration of truth upon all immoral actions is incalculable. That which would be incurred by the antipathies of misguided minds against actions innocent in themselves, nobody, we should imagine, would so much as think of placing in comparison.

In our own country, for example, the classes of actions which, though they injure nobody, expose a man to the unfavourable sentiments of others, are not numerous. The number of persons who would be exposed to inconvenience on account of the declaration of truth, in regard to them, would be small in comparison with those who would benefit by its declaration, in the case of all really hurtful acts.

It is, indeed, important to be observed, that a comparative smallness of number is necessarily implied in the supposition of injury from any unfounded antipathy. Those who share in the antipathy, of course, abstain from the action. And unless the antipathy were so general as to include almost the whole of the society, it would lose its injurious effect. Besides, all the injury which can be done to the individuals against whom truth would in this manner operate injuriously, would be, to make them abstain from the acts which were thus condemned.

Another thing to be considered is, that the whole of the evil arising from the exercise of truth is dependent upon an accidental circumstance, capable of being removed upon a mental disease, requiring to be cured; of which, of course, the legislature ought to undertake the case, and toward the cure of which truth is likely to operate as the most effectual of all expedients. If any considerable inconvenience were experienced from exposure to unfounded antipathies by publications of truth, the groundlessness of these antipathies could not fail to be so often canvassed, and made to appear, that at last it would become familiar to the multitude, and the antipathies would expire.

It clearly, therefore, appears, that, if the cases in which the declaration of truth would expose to unfounded prejudices could not be clearly defined, and separated from the cases in which the declaration would be salutary, the rule of permitting truth ought to be universal. But though we perceive, that, to a considerable extent, there are cases, in respect to which it would be vain to hope for agreement in drawing the line of distinction between what is hurtful and what is not, we are persuaded that principles might be laid down in which all would agree, and which would serve to mark out certain cases for exception with sufficient exactness. If any such cases could be separated, either of actions which, though injurious to nobody, excited antipathies, or of facts, as those of birth, for which, though a man was in no respect worse, he might be regarded as worse, the exercise of truth, with regard to them, might, on the express ground of these being actions innoxious, or facts which ought to be [V-263] of no importance in the estimate of human worth, be forbidden, when injurious, under the penalty of at least making reparation for all the injury of which it had been the cause.

We have now explained, we trust, with sufficient clearness for the present occasion, the principles upon which laws should be constructed for protecting the *rights of individuals* against violations committed by the press. The first part of this inquiry, therefore, we must consider as completed. In the second part we have to explain the principles upon which they should be constructed for protecting *the operations of government*.

Offences of the
Press with
respect to
Government.

This question involves a point which presents the appearance of considerable difficulty. In the first place, unless a door is left open to resistance of the government, in the largest sense of the word, the doctrine of passive obedience is adopted; and the consequence is, the universal prevalence of misgovernment, with the misery and degradation of the people. In the second place, unless the operations of government, instituted for the protection of rights, are secured from obstruction, the security of rights, and all the advantages dependent upon the existence of government, are at an end. Between these two securities, both necessary to obtain the benefits of good government, there appears to be such a contrariety, that the one can only be obtained by the sacrifice of the other.

As this difficulty, however, arises chiefly from the largeness of the terms, a close inspection of the cases which they involve, and which they have a tendency to confuse, will enable us to discover the course which it belongs to practical wisdom to pursue.

It is necessary, first of all, to ascertain what sort of obstructions are inconsistent and what are not inconsistent, with the operations of government, which are necessary for the protection of rights.

The application of physical force to resist the government in applying, to the execution of the laws, the physical power placed at its disposal by the law, is such an obstruction of the operations of government as would, if frequent, render it inadequate to the ends which it is provided to secure. This application of force, therefore, must be treated as an offence; and any thing proceeding from the press, tending directly to produce it, as a similar offence.

This proposition requires to be illustrated. The application of physical force which is here described, and treated as an evil, is clearly distinguishable from that resistance of government which is the last security of the many against the misconduct of the few. This is an application of physical force to obstruct the operations of government in detail; the proceedings, for example, of a court of justice; the proceedings of the legislative organ, or the proceedings of any of the administrative functionaries, in the execution of the duties with which they are charged. This is not that species of resistance which is necessary in the last resort to secure the people against the abuse of the powers of government. This last is not a resistance to the operations of government in detail. It is a resistance to all the powers of government at once, either to withdraw them from the hands in which they have hitherto been deposited, or greatly to modify the terms upon which they are held.

Even this last species of resistance it may be necessary to punish, at least in a certain degree, whenever it is not successful; that society may not be disturbed by frequent commotions, in the motives to which, the majority of the people do not partake. This, however, is a question which belongs to the penal code in general, and does not concern the inquiry into the offences capable of being committed by the press: because we think it may be satisfactorily shown, that no operation of the press, however directly exhorting to this species of resistance, ought to be treated as an offence. The reason is, that no such exhortation can have any immediate or formidable effect; can, indeed, have any effect at all, except through such mediums as ought to be at all times perfectly free. Suppose that a work is published, exhorting the people in general to take arms against the government, for the purpose of altering it against the consent of its rulers. The people cannot take arms against the government without the certainty of being immediately crushed, unless there has been already created a general consent. If this consent exists in such perfection as to want nothing to begin action but an exhortation, nothing can prevent the exhortation, and forbidding it is useless. If the consent does not exist in nearly the last degree of perfection, a mere exhortation, read in print, can have no effect which is worth regarding. In all circumstances, therefore, it is useless, and consequently absurd, to treat this species of exhortation as an offence. If, on the other hand, it were clearly recognized, that every man had a licence to

exhort the people to the general resistance of the government, all such exhortations would become ridiculous, unless on those rare and extreme occasions in which no prohibitions and no penalties can or ought to prevent them. The doctrine of this paragraph, which will appear somewhat startling and paradoxical to minds accustomed only to a certain train of ideas, will receive illustration, and we trust will be amply confirmed as we proceed.

Having mentioned this as a grand exception, we now return to the cases in which not only physical force applied to obstruct the operations of government, but the publishing of exhortations to that obstruction, ought to be treated as an offence. These relate solely, as above remarked, to the operations of government in detail. Obstructions, it is evident, may be offered to the operations in detail of a government which possesses and deserves the fullest confidence of the community at large, and the press may be employed in directly and efficiently exciting to these obstructions. A hand-bill, for example, may be distributed in a morning, which, operating upon an inflamed state of mind, in a narrow district, may excite a mob to disturb the proceedings of a court of justice, to obstruct the officers of law, police, or government, in the execution of their duties, or to disturb, on this or that occasion, the deliberations of the legislature itself.

These are clearly hurtful acts; they may be very [V-264] accurately defined; and penalties, of moderate severity, would be sufficient to deter from the performance of them. The obligation of the offending party to make satisfaction to the party injured, would often, in offences of this description, be excluded, because there would be no definite party to whom an injury would be occasioned. It would only be necessary to ascertain the sorts of motives by which such offences would be liable to be produced, and to apply skilfully, as in other cases, motives of an opposite tendency, sufficient to counteract them. This would not be more difficult in this than in other cases, and it is not, therefore, necessary to explain at any length the mode of performing it. One principle is to be carefully and most religiously observed, that of not imposing an atom of punishment for the purposes of *vengeance*. This is a principle, the justness and importance of which are so completely recognized, that we might have expected to be relieved ere now from the necessity of recommending attention to it. The fact, however, is, that so long as there are abuses in governments, so long will the men who have the means of profiting by those abuses, exert themselves to multiply the list of offences against government, and to apply to them punishments of the greatest severity. Punishments for contempt of court; punishments to vindicate the honour of the court, of the government, of the magistracy; punishments for the support of dignity; punishments severe in proportion as the dignity of the party offended is supposed to be high, and so on, are punishments almost always applied for purposes of vengeance, or the protection of the instruments of abuse. They are punishments, therefore, which will be rigidly excluded from a code which wisely and steadily pursues the general good.

What the *sort of acts* are, to which the exhortations of the press ought not to be applied, has been so far ascertained. The next point is, to determine with accuracy what *sort of exhortation* it is that ought to be forbidden. To all those who profit by the abuses of government, that is, more especially to all those who, in a defective government, wield any of its powers, it is of great importance to leave, as undefined as possible, the sort of exhortation that ought to be forbidden. The point of greatest importance to them is, to keep the people at large from complaining, or from knowing or thinking that they have any thing of which to complain. If this grand object is fully attained, they may then, without anxiety, and without trouble, riot in the pleasures of misrule. There is no limit to the degree in which the few may pursue their own advantage at the expence of the many. There can be nothing, therefore, in which they have a greater interest, than preventing the press from being employed in any such way, as will lead the people to think that they have any thing, on the part of their rulers, of which to complain. All artifices possible will be sure to be employed to

effect that prevention. And if it is enacted, that exhortations to acts which obstruct the operations of government in detail should be punished, *without defining accurately what sort of exhortations*, they will easily find expedients which, to a great extent, will accomplish their purpose.

Under the sort of constructions which it will be their interest to apply, every thing which can be done by the press, to make the people know or believe that there is any thing in the system of their government, or the conduct of their rulers, of which they have to complain, may be treated as an exhortation to obstruct the operations of government. Of these constructions, our experience affords innumerable examples. Does not the imputing of defects to the government, or misconduct to those who wield the powers of government, tend to bring both “into hatred and contempt?” And if the people hate and condemn the institutions and rulers of their country, will they not oppose their operations? The imputing of these faults, therefore, is it not, in essence and effect, an exhortation to oppose the operations of government? And are we to be governed, in our legislature, by the mere forms in which a set of words may appear, and not by our knowledge of their nature and consequences?

This is not only exceedingly plausible, but almost all the propositions which it involves are perfectly true. It is thus, therefore, the more easy to establish such a mode of interpreting an indefinite law of the press, as will prevent, or where the people cannot yet bear a total prevention, will go far towards preventing whatever can lead the people to believe that any thing is amiss in the manner in which they are ruled.

There are two species of exhortations, one the explicit and direct, the other implied and constructive. In the one, a particular act is pointed out, and the party, or parties, addressed are called upon to perform it. In the other, certain grounds only are laid, from which the opinion of the addresser may be inferred, more or less certainly, that the act ought to be performed.

With respect to the first, there is no occasion for doubt. A direct and explicit exhortation to commit one of those acts described above, as obstructing the operations of government in detail, should be treated as an offence. The precise question is, whether any exhortation, which is only implied and constructive, should be considered an offence? In the answer to this question, almost every thing which relates to the use of the press in matters of government, will be found to be involved.

We have already divided the subject of resistance to government into two parts; first, that general resistance, the object of which is, some great change in the government at large; and, secondly, resistance to this or that of its operations in detail.

We have already adduced an argument, which appears to us to be conclusive, to show, that no exhortation, whether explicit or implied, direct or indirect, the object or tendency of which is to produce the first species of resistance, ought to be subject to legal restraint.

It is necessary here to enter a little more fully into the grounds of that opinion.

We think it will appear, with sufficient evidence, that in the way of indirect exhortation to resistance, [V-265] that is, in laying the grounds of dissatisfaction with the government, there is no medium between allowing every thing and allowing nothing; that the end, in short, which is sought to be gained, by allowing any thing to be published in censure of the government cannot be obtained, without leaving it perfectly free to publish every thing.

The end which is sought to be obtained by allowing any thing to be said in censure of the government, is to ensure the goodness of the government, the most important of all the objects, to the attainment of which, the wisdom of man can be applied. If the goodness of government could be ensured by any preferable means, it is evident that all censure of the

government ought to be prohibited. All discontent with the government is only good, in so far as it is a means of removing *real cause* of discontent. If there is no cause, or if there is better means of removing the cause, the discontent is, of course, an evil, and that which produces it an evil.

So true it is, however, that the discontent of the people is the only means of removing the defects of vicious governments, that the freedom of the press, the main instrument of creating discontent, is, in all civilized countries, among all but the advocates of misgovernment, regarded as an indispensable security, and the greatest safeguard of the interests of mankind.

For what is meant by a vicious government? or wherein do the defects of government consist? Most assuredly they all consist in sacrificing the interests of the many to the interests of the few. The small number, in whose hands the powers of government are in part directly, in part indirectly placed, cannot fail, like other men, to have a greater regard for what is advantageous to themselves, than what is advantageous to other men. They pursue, therefore, their own advantage, in preference to that of the rest of the community. That is enough. Where there is nothing to check that propensity, all the evils of misgovernment, that is, in one word, the worst evils by which human nature is cursed, are the inevitable consequence. (See the article GOVERNMENT.)

There can be no adequate check without the freedom of the press. The evidence of this is irresistible. In all countries, the people either have a power legally and peaceably of removing their governors, or they have not that power. If they have not that power, they can only obtain very considerable ameliorations of their governments by resistance, by applying physical force to their rulers, or, at least, by threats so likely to be followed by performance, as may frighten their rulers into compliance. But resistance, to have this effect, must be general. To be general, it must spring from a general conformity of opinion, and a general knowledge of that conformity. How is this effect to be produced, but by some means, fully enjoyed by the people, of communicating their sentiments to one another? Unless where the people can all meet in general assembly, there is no other means known to the world of attaining this object to be compared with the freedom of the press.

It is, no doubt, true, that in countries where the liberty of the press is unknown, evil governments are frequently overthrown. This is almost always accomplished by the military force, revenging some grievance of their own, or falling in with some heat and animosity of the people. But does it ever enable them to make a new government, in which any greater security is provided for their interests than there was before? In such cases, the people get rid of one set of rulers, whom they hate, only to obtain another set, with equal powers of doing them injury.

There are, however, we believe, some people who say, that though the liberty of the press is a necessary instrument to attain good government, yet, if it is fairly attained, and if legal and peaceable means are in the hands of the people of removing their governors for misconduct;—if the people of England, for example, really chose the members of the House of Commons, and renewed their choice so frequently as to have the power of removal after a short experience of misconduct, the freedom of the press would be unnecessary.

So far is this from being true, that it is doubtful whether a power in the people of choosing their own rulers, without the liberty of the press, would be an advantage.

It is perfectly clear, that all chance of advantage to the people from having the choice of their rulers, depends upon their making a good choice. If they make a bad choice—if they elect people either incapable, or disinclined, to use well the power entrusted to them, they incur the same evils to which they are doomed when they are deprived of the due control over those by whom their affairs are administered.

We may then ask, if there are any possible means by which the people can make a good choice, but the *liberty of the press*? The very foundation of a good choice is knowledge. The fuller and more perfect the knowledge, the better the chance, where all sinister interest is absent, of a good choice. How can the people receive the most perfect knowledge relative to the characters of those who present themselves to their choice, but by information conveyed freely, and without reserve, from one to another?

There is another use of the freedom of the press, no less deserving the most profound attention, that of making known the conduct of the individuals who have been chosen. This latter service is of so much importance, that upon it the whole value of the former depends.

This is capable of being rigidly demonstrated. No benefit is obtained by making choice of a man who is well qualified to serve the people, and also well inclined to serve them, if you place him in a situation in which he will have motives sufficient to serve himself at their expence.

If any set of men are chosen to wield the powers of government, while the people have not the means of knowing in what manner they discharge their duties, they will have the means of serving themselves at the expence of the people; and all the miseries of evil government are the certain consequences.

Suppose the people to choose the members of the Legislative Assembly, with power of rechoosing, or dismissing, at short intervals: To what desirable end [V-266] could these powers be exercised, without the liberty of the press? Suppose that any one of those whom they have chosen has misconducted himself, or promoted, as far as depended upon him, the ends of misgovernment, how are the people to know that the powers with which they had entrusted him had been treacherously employed?

If they do not know, they will rechoose him, and that as cordially as the man who has served them with the greatest fidelity. This they are under a deplorable necessity of doing, even to be just; for, as they know no difference between him and the best, it would be on their part iniquity to make any. The consequences would be fatal. If one man saw that he might promote misrule for his own advantage, so would another; so, of course, would they all. In these circumstances, we see laid the foundation on which, in every country, bad government is reared. On this foundation it is impossible that it should not be reared. When the causes are the same, who can expect that the effects will be different? It is unnecessary to dwell upon these fundamental truths, because they have already been developed in the article GOVERNMENT.

Without the knowledge, then, of what is done by their representatives, in the use of the powers entrusted to them, the people cannot profit by the power of choosing them, and the advantages of good government are unavailable. It will surely not cost many words to satisfy all classes of readers that, without the free and unrestrained use of the press, the requisite knowledge cannot be obtained.

That an accurate report of what is done by each of the representatives, a transcript of his speeches, and a statement of his propositions and votes, is necessary to be laid before the people, to enable them to judge of his conduct, nobody, we presume, will deny. This requires the use of the cheapest means of communication, and, we add, the free use of those means. Unless every man has the liberty of publishing the proceedings of the Legislative Assembly, the people can have no security that they are fairly published. If it is in the power of their rulers to permit one person, and forbid another, the people may be sure that a false report,—a report calculated to make them believe that they are well governed, when they are ill governed, will be often presented to them.

One thing more is necessary, and so necessary, that, if it is wanting, the other might as well be wanting also. The publication of the proceedings tells what is done. This, however, is useless, unless a correct judgment is passed upon what is done.

We have now brought the inquiry to this important point: In the article GOVERNMENT, we have seen that, unless the people hold in their own hands an effectual power of control on the acts of their government, the government will be inevitably vicious. We have now seen, that they cannot exercise this control to any beneficial purpose without the means of forming a correct judgment upon the conduct of their representatives. We have likewise seen, that one of the means necessary to enable them to judge correctly of the conduct of their representatives, is the liberty to every body of publishing reports of what they do. It remains to inquire, by what other acts the press can be made to contribute to the same desirable end.

What is wanted is, that all the people, or as many of them as possible, should estimate correctly the consequences of the acts proposed or done by their representatives, and also that they should know what acts might have been proposed, if the best were not proposed, from which better consequences would have followed. This end would be accomplished most effectually, if those who are sufficiently enlightened would point out to those who are in danger of mistakes, the true conclusions; and showing the weight of evidence to be in their favour, obtain for them the universal assent.

How is this to be accomplished? In what manner are those wise men to be chosen? And who are to be the choosers? Surely it is evident the object cannot be attained. There are no distinct and indubitable marks by which wisdom, and less by which integrity, is to be known. And who is to be trusted with the privilege of pointing them out? They whose judgment requires to be directed are not well qualified to determine who shall direct them. And if the rulers are to choose, they will employ those only who will act in uniformity to their views, and enable them to benefit themselves by the pillage and oppression of the people.

As there is no possible organ of choice, no choice whatever ought to be made. If no choice is to be made, every man that pleases ought to be allowed. All this is indubitable. The consequences of denying any part of it are so obvious, that hardly any man, we suppose, will risk the imputations to which such a denial would justly expose him.

They who say that no choice ought to be made, say, in effect, that no limit whatsoever ought to be imposed upon the liberty of the press. The one of these propositions is involved in the other. To impose any restraint upon the liberty of the press undoubtedly is to make a choice. If the restraint is imposed by the government, it is the government that chooses the directors of the public mind. If any government chooses the directors of the public mind, the government is despotic.

Suppose that, by the restraint imposed upon the liberty of the press, all censure of the government is forbidden, here is undoubtedly a choice. The government, in this case, verbally says, the people who might attempt the task of directing the public mind are of two sorts; one that of those who would censure, another that of those who would not censure: I choose the latter.

Suppose that not every censure, but only such and such kinds of censure, are forbidden, here, again, is still a choice, while confessedly there is no party to whom the power of choosing for the rest can with safety be given.

If not every censure, but only some censures, are to be forbidden, what are those to which the prohibition should extend? The answer to this question will elucidate nearly all that yet remains in any degree obscure, of the doctrine of the liberty of the press.

It will not be said that any censure which is just [V-267] should be forbidden; because that would undoubtedly be to detract from the means of enabling the people to form correct judgments; and we have, we trust, rendered it indisputable that no source of benefit to society is at all to be compared with that of correct judgments on their government and its functionaries, formed among the people, and determining their actions.

But what censures are just and what are unjust; in other words, what are the conclusions which ought to be formed respecting the properties and the acts of the government, is exactly the point to be determined. If you say that no man is to pass an unjust censure upon the government, who is to judge? It is surely unnecessary to repeat the proof of the proposition, that there is nobody who can safely be permitted to judge. The path of practical wisdom is as clear as day. All censures must be permitted equally, just and unjust.

Where various conclusions are formed among a number of men, upon a subject on which it would be unsafe, and therefore improper, to give to any minor portion of them a power of determining for the rest, only one expedient remains. Fortunately, that is an expedient, the operation of which is powerful, and its effects beneficial in the highest degree. All the conclusions which have formed themselves in the minds of different individuals, should be openly adduced; and the power of comparison and choice should be granted to all. Where there is no motive to attach a man to error, it is natural to him to embrace the truth; especially if pains are taken to adapt the explanation to his capacity. Every man, possessed of reason, is accustomed to weigh evidence, and to be guided and determined by its preponderance. When various conclusions are with their evidence, presented with equal care and with equal skill, there is a moral certainty, though some few may be misguided, that the greater number will judge aright, and that the greatest force of evidence, wherever it is, will produce the greatest impression.

As this is a proposition upon which every thing depends, it is happy that the evidence of it should be so very clear and striking. There is, indeed, hardly any law of human nature more generally recognized, wherever there is not a motive to deny its existence. “To the position of Tully, that if Virtue could be seen, she must be loved, may be added,” says Dr Johnson, “that if Truth could be heard, she must be obeyed.” (*Rambler*, No. 87.)—“Je vous plains, mes Peres,” says Mons. Pascal to the Jesuits, “d’avoir recours à de tels remedes. Vous croyez avoir la force et l’impurité: mais je crois avoir la verité, et l’innocence. C’est une etrange et longue guerre que celle ou la violence essaie d’opprimer la verité. Tous les efforts de la violence ne peuvent affoiblir la verité, et ne servent qu’à la relever davantage: toutes les lumières de la verite ne peuvent rien pour arrêter la violence, et ne font que l’irriter encore plus. Quand la force combat la force, la plus puissante detruit le moindre: quand l’on expose les discours aux discours, ceux qui sont veritables et convainquants confondent et dissipent ceux qui n’ont que la vanité et le mensonge.” (*Lett. Provinc.* 12.)—“Reason,” says Burke, “clearly and manfully delivered, has in itself a mighty force; but reason, in the mouth of legal authority, is, I may fairly say, irresistible.” (*Lett. on Regicide Peace.*)

It is of importance to show how many of the greatest men, of all ages and countries, have borne testimony to the prevalence of true over false conclusions, when both are fairly offered to the human mind. “Truth,” says Mr Locke, “certainly would do well enough, if she were once left to shift for herself. She seldom has received, and I fear never will receive, much assistance from the power of great men, to whom she is but rarely known, and more rarely welcome. She is not taught by laws, nor has she any need of force to procure her entrance into the minds of men.” (*Letter on Toleration.*) The following is the emphatical language of Montesquieu: “La raison a un empire naturel; elle a même un empire tyrannique: on lui resiste, mais cette resistance est son triomphe, encore un peu de temps, et l’on sera forcé de revenir à elle.” (*Esp. de Loix*, l. 28, ch. 38.)—“It is noted out of Cicero, by Machiavel, that the people, though they are not so prone to find out truth of themselves, as to follow customs,

or run into error; yet if they be shown truth, they not only acknowledge and embrace it very suddenly, but are the most constant and faithful guardians and conservators of it.” (*Harrington.*)—“The labour of a confutation,” says Chillingworth, “I have not in any place found such labour or difficulty, but that it was undertakeable by a man of very mean abilities; and the reason is, because it is *Truth* I plead for; which is so strong an argument for itself, that it needs only light to discover it.” (*Religion of Protestants.*)—“About things on which the public thinks long,” says Dr Johnson, “it commonly attains to think right.” (*Life of Addison.*)—“The adversary,” says Dr Campbell, “is both subtle and powerful. With such an adversary, I should on very unequal terms enter the lists, had I not the advantage of being on the side of truth. And an eminent advantage this doubtless is. It requires but moderate abilities to speak in defence of a good cause. A good cause demands but a distinct exposition, and a fair hearing; and we may say, with great propriety, it will speak for itself.” (*Campbell on Miracles. Introd.*)

We have then arrived at the following important conclusions,—that there is no safety to the people in allowing any body to choose opinions for them; that there are no marks by which it can be decided beforehand, what opinions are true and what are false; that there must, therefore, be equal freedom of declaring all opinions, both true and false; and that, when all opinions, true and false, are equally declared, the assent of the greater number, when their interests are not opposed to them, may always be expected to be given to the true. These principles, the foundation of which appears to be impregnable, suffice for the speedy determination of every practical question.

All censure thrown upon the government, all censure thrown either upon the institutions of the government, or upon the conduct of any of the functionaries [V-268] of government, supreme or subordinate, has a tendency to produce resistance to the government. Of the censures thrown upon government, some may have a tendency to produce resistance to the operations of government in detail; others to produce that general resistance which has in view some great alteration in the government.

Of the first sort would be any such accusation of the conduct and disposition of a judge, as might excite the people, whose sympathies were roused in favour of the individual against whom his sentence was to operate, to rescue him from the officers of justice. We have already shown that such a rescue ought to be punished, and any direct exhortation to it ought to be punished. It will now be evident, we trust, that no censure on the judge, though capable of being treated as an indirect exhortation, ought to be punished.

The reason is conclusive. The people ought to know, if possible, the real qualities of the actions of those who are entrusted with any share in the management of their affairs. This they have no chance of knowing, without the unlimited power of censure upon those actions, both in gross and detail. To see the full force of these propositions, it is only necessary to apply the principles which have been already established.

If the people have not the means of knowing the actions of all public functionaries, they have no security for the good conduct even of their representatives. Suppose it is the duty of their representatives to watch the conduct of the judges, and secure the perfection of judicature, the people cannot know whether their representatives perform their duty, unless they know what the conduct of the judges is. Ignorance of this would of itself suffice to vitiate the government. A door would be left open, through which the rulers might benefit themselves at the expence of the people. All the profit to be made by an abuse of the power of justice, would thus become the profit of the representatives, by whom it would be allowed, and encouraged as far as the knowledge, which they could not withhold from the people, would permit.

That the people ought, therefore, to know the conduct of their judges, and when we say judges we mean every other functionary, and the more perfectly the better, may be laid down as indubitable. They are deprived of all trust-worthy means of knowing if any limit whatsoever is placed to the power of censure.

All censure consists in the delivery of an unfavourable opinion, with or without the grounds of it. This is the essence of censure. But if the conduct of the judge deserves that an unfavourable opinion should be entertained of it, the more perfectly that is known to the people the better.

The conduct of the judge, on this occasion, says a defender, does not deserve an unfavourable opinion: A public expression of such an opinion ought, therefore, to be prohibited. But the conduct of some judge, on some occasion, deserves an unfavourable opinion. When it is deserved, there is no security for good government, unless it is allowed to be made known. How can you allow an unfavourable opinion to be delivered in the one case, and not delivered in the other? To have the benefit of it in the one case, you must submit to the evil of it in the other.

As the real point of importance is, to establish correct opinions in the minds of the people, it is as mischievous to inculcate a favourable opinion, when an unfavourable is deserved, as an unfavourable when a favourable is deserved; and, in the eye of reason, it is incontrovertible, that, if the one deserves to be prevented by punishment, so does the other. But, if an unfavourable opinion is pronounced of any public functionary; of a judge, for example, would you have it left uncontradicted? Would you not grant the liberty of calling in question the truth of the allegations, and of supporting a different opinion? In that case, it is abundantly evident, that the character of no public functionary would be safe, and that any man, however deserving, might be made to appear the proper object of the most unfavourable sentiments.

It is perfectly certain, that it is not in the power of law to mark out, by antecedent definition, any sort of men, of whom it can say, all opinions favourable to such men shall be punished. It can never be affirmed of any men beforehand that they will certainly perform such and such injurious actions. If they do perform them, all declarations conformable with the matter of fact are good. But the question is, whether they have performed them? One man affirms that they have. Is that to be taken for granted? And is no man to be allowed to affirm the contrary, and to sift the grounds upon which the allegations of the other man are supported? It is by weighing well the evidence on both sides, that a well-founded opinion is capable of being formed. This is perfectly certain. It is equally certain, that the best security for having the evidence on both sides fully adduced, and the strength and weakness of it perfectly disclosed, is by permitting all those who are attached to different opinions to do what they can for the support of their own.

If it is evident that it ought not to be permitted to speak evil of public functionaries without limit, while any limit is put to the power of speaking well of them; it is equally evident that, for the purpose of forming a correct opinion of their conduct, it ought not to be permitted to speak well of them, and oppose any limit whatsoever to the power of speaking ill of them. It ought not to be permitted to speak evil of them without an equal liberty of speaking well; because, in that case, the evidence against them might be made to appear much stronger than it was. It ought not to be permitted to speak well of them without an equal liberty of speaking ill; because, in that case, the evidence in favour of them might be made to appear much greater than it really was. In either case, the people would be misguided, and defrauded of that moral knowledge of the conduct of their rulers, the paramount importance of which has so fully appeared.

It may be said (as by the short-sighted, if we did not anticipate them, it would be said), that if, by limiting the power of censure, the people are made to judge more favourably of their rulers than they deserve, the evil is small; but if they are permitted to [V-269] form a very unfavourable opinion, the consequences are alarming.

We believe it may be rigidly demonstrated, that no evils are greater than those which result from a more favourable opinion of their rulers, on the part of the people, than their rulers deserve; because just as far as that undue favour extends, bad government is secured. By an opinion of their rulers more favourable than they deserve, is implied an ignorance on the part of the people of certain acts of their rulers by which the people suffer. All acts by which the rulers have any motive to make the people suffer, are acts by which the rulers profit. When the ignorance of the people extends to material points, all the evils of bad government are secured. These are the greatest of all possible evils. To this it will not be said that the ignorance of the people ought to extend. On all material points, it is admitted, then, that the freedom of censure ought to be complete. But if it is to be allowed on great points, on those where it is calculated to exact the greatest disapprobation, what can be thought of their consistency who would restrain it on those where it is only calculated to excite a small? If it is proper to protect the people from great injuries at the hands of their rulers, by exciting a strong, it is good to protect them against small injuries by exciting a weak disapprobation.

To public functionaries may be imputed either acts which they have not performed, or a want of certain qualifications, moral or intellectual, which they do possess.

With respect to acts, and even dispositions, which do not, either directly or indirectly, concern their public function, the same protection may be safely extended to them as to private men.

Acts in their public capacity which they have not performed, may be imputed to them either by mere forgery, and without any appearance of ground, or they may be imputed with some appearance of ground. From permitting the former, no good can be derived. They ought, therefore, to be prevented, in the same way as false imputations, injurious to individuals in their private capacity. That there should be no restraint in imputing actions to any public functionary which he may appear to have done, flows immediately from the principles already established, and requires not that any thing should here be added to its proof. Any appearance sufficient to lay the foundation of the slightest suspicion, renders it useful to call the attention of the public to the suspected part, which can only be done by making the suspicion known. A man may, indeed, publish, as a matter of fact, what is supported by appearances which would only justify the slightest suspicion. In that case, he is sure of incurring the disgrace of temerity, if not of malignity; and this is all the penalty which needs or can safely be inflicted upon him.

In imputing inaptitude to a public functionary, on the score either of intellectual or moral qualities, scarcely any limitation would be safe. Every man ought to have liberty to declare upon this subject any opinion which he pleases, and support it by any evidence which he may think adapted to the end. If, in supporting his opinion of the inaptitude of any public functionary, he imputes to him actions which there is not even an appearance of his having performed, that limited prohibition, the propriety of which we have just recognised, will strictly apply. With this exception, freedom should be unimpaired.

We have now, therefore, explained, we hope sufficiently, in what manner the principles which we have established require that the use of the press should be regulated in speaking of the action of public functionaries, and their fitness for the duties which they are appointed to discharge; whether those functionaries are the immediate representatives of the people, or others whom it is the business of their representatives to control.

We have next to inquire in what manner those principles require that the use of the press should be regulated in speaking of the *institutions* of government. The illustrations already adduced will supersede the use of many words upon this part of the subject.

Institutions of government are good in proportion as they save the people from evil, whether it be evil created by the government, or not prevented by the government. Institutions of government are bad in proportion as they are the cause of evil to the people, either by what they create, or fail in preventing.

According to this statement, which it is impossible to controvert, institutions of government may, in strict propriety of speech, be said to be the cause of all the evil which they do not save the people from, and which any other institutions would save them from.

It is therefore of the highest importance that the people should know what are the institutions which save them from the greatest quantity of evil, and how much their own institutions want of being conformable to those best institutions.

Institutions of government are bad, either because those in whose hands the powers of government are placed do not know that they are bad, and though willing, cannot improve them; or they are bad, because those who have in their hands the powers of government do not wish that they should be improved.

Where the rulers are willing, but do not know how to improve, every thing which leads to a knowledge of these defects is desirable to both rulers and people. That which most certainly leads to such knowledge is, that every man who thinks he understands any thing of the subject, should produce his opinions, with the evidence on which they are supported, and that every man who disapproves of these opinions should state his objections. All the knowledge which all the individuals in the society possess upon the subject is thus brought, as it were, to a common stock or treasury, while every thing which has the appearance of being knowledge, but is only a counterfeit of knowledge, is assayed and rejected. Every subject has the best chance of becoming thoroughly understood, when, by the delivery of all opinions, it is presented in all points of view; when all the evidence upon both sides of every question is brought forward, and all those who are most interested in showing the weakness of what is weak in it, and the [V-270] strength of what is strong, are, by the freedom of the press, permitted, and by the warmth of discussion excited, to devote to it the keenest application of their faculties. False opinions will then be delivered. True; but when are we most secure against the influence of false opinions? Most assuredly when the grounds of these opinions are the most thoroughly searched. When are the grounds of opinions most thoroughly searched? When discussion upon the subject is the most general and the most intense; where the greatest number of qualified persons engage in the discussion, and are excited by all the warmth of competition, and all the interest of important consequences, to study the subject with the deepest attention. To give a body of rulers, or any other body of men, a power of choosing for the rest opinions upon government without discussion, we have already seen, upon good evidence, is the way to secure the prevalence of the most destructive errors.

When institutions are bad, and the rulers would gladly change them if they knew they were bad, discussion, it will not be disputed, would be good for both parties, both rulers and ruled. There is, however, another case, and that by far the most common, where the rulers are attached to the bad institutions, and are disposed to do all in their power to prevent any alteration. This is the case with all institutions which leave it in the power of them who are entrusted with the powers of government, to make use of them for their own advantage, to the detriment of the people; in other words, which enable them to do injury to the people, or prevent the people from good. This is the case with by far the greater number of those institutions by which the people suffer. They are institutions contrived for benefiting the few

at the cost of the many.

With respect, therefore, to the greater number of defective institutions, it is the interest of the rulers that true opinions should not prevail. But with respect to these institutions, it is of still greater importance to the people that discussion should be free. Such institutions as the rulers would improve, if they knew that they were defective, will be improved as the rulers themselves become sensible of their defects. Such defective institutions as the rulers would not wish to see improved, will never be improved, unless the knowledge of these defects is diffused among the people, and excites among them a disapprobation which the rulers do not think it prudent to disregard.

That the prevalence of true opinions among the people, relative to those defects in their political institutions, by which the rulers profit at their expence, is of the utmost importance to the people, is therefore a proposition which no improbity will dare openly to controvert. That freedom of discussion is the only security which the people can have for the prevalence of true opinions has already been proved. It is therefore proved that freedom of discussion, in its utmost perfection, they ought to enjoy.

What is included in the term *freedom of discussion*, is evident from what has already been said.

Freedom of discussion means the power of presenting all opinions, equally, relative to the subject of discussion; and of recommending them by any medium of persuasion which the author may think proper to employ. If any obstruction is given to the delivering of one sort of opinion, not given to the delivering of another; if any advantage is attached to the delivering of one sort of opinion, not attached to the delivery of another, so far equality of treatment is destroyed, and so far the freedom of discussion is infringed;—so far truth is not left to the support of her own evidence, and so far, if the advantages are attached to the side of error, truth is deprived of her chance of prevailing.

To attach advantage to the delivering of one set of opinions, disadvantages to the delivering of another, is to make a choice. But we have already seen, that it is not safe for the people to let any body choose opinions for them. If it be said, that the people themselves might be the authors of this preference, what is this but to say, that the people can choose better before discussion than after; before they have obtained information than after it? No, if the people choose before discussion, before information, they cannot choose for themselves, They must follow blindly the impulse of certain individuals, who, therefore, choose for them. This is, therefore, a pretence, for the purpose of disguising the truth, and cheating the people of that choice, upon which all their security for good government depends.

If these deductions are as clear and incontrovertible as to us they appear to be, the inquiry respecting the principles which ought to regulate the use of the press is drawn pretty nearly to its close. We have shown, that as far as regards the violation of the rights of individuals in respect to both persons and things, no definition on account of the press is required. We have shown in what manner the rights of individuals, in regard to reputation, should be defined by the civil code, and the violation of them prevented by the penal. We next proceeded to what may be considered as the main branch of the inquiry, namely, the use of the press in speaking of the institutions and functionaries of government. We have found, that in this respect the freedom of the press is of such importance, that there is no security for good government without it. We have also found, that the use of it, in respect to these subjects, admits but of two useful restrictions;—that of a direct exhortation to obstruct any of the operations of government in detail, and that of imputing to a functionary of government a criminal act, which there was no ground, nor even any appearance of ground, to impute to him. These restrictions, of course, it would be very easy to define in the criminal code, and to find

appropriate motives to sanction. In all other respects, we have seen that the press ought to be free; that if there is any limit to the power of delivering unfavourable opinions, either of the functionaries or the institutions of government, and of recommending those opinions by any media, with the single exception of false facts, under the circumstances mentioned above, the benefits which may be derived from the freedom of the press are so greatly infringed, that hardly any security for good government can remain.

In the administration of English law, or rather of [V-271] what is called law, upon this subject, without being any thing better than the arbitrary will of the judges, it is said, that though discussion should be free, it should be “decent;” and that all “indecent” in discussion should be punished as a libel. It is not our object in this discourse to give an exposition of the manifold deformities of the English law of libel. If we have been successful in developing the true principles which ought to regulate the freedom of the press, every reader may, by an application of those principles, determine what he ought to think of the several particulars which may there attract his attention. We shall confine ourselves to a short notice of those *dicta*, or doctrines, which seem most likely to be pleaded in opposition to the principles which we have endeavoured to establish.

The question is, whether *indecent* discussion should be prohibited? To answer this question, we must, of course, inquire what is meant by indecent. In English libel law, where this term holds so distinguished a place,—is it not defined? English legislators have not hitherto been good at defining; and English lawyers have always vehemently condemned, and grossly abused it. The word “indecent,” therefore, has always been a term under which it was not difficult, on each occasion, for the judge to include whatever he did not like. “Decent,” and “what the judge likes,” have, therefore, been pretty nearly synonymous.

Indecency of discussion cannot mean the delivery either of true or of false opinions, because discussion implies both. In all discussion there is supposed at least two parties, one who affirms, and one who denies. One of them must be in the wrong.

The delivery, though not of all true opinions, yet of some, may be said to be indecent. All opinions are either favourable or unfavourable. True opinions that are favourable to government and its functionaries will not be said to be indecent; nor will all opinions that are true and unfavourable be marked out for prohibition under that name. Opinions unfavourable may either be greatly unfavourable or slightly unfavourable. If any unfavourable opinions are exempted from the charge of indecency, it must be those which are slightly so. But observe, what would be the consequence of prohibiting, as indecent, those which are greatly unfavourable. A true opinion, greatly unfavourable to a functionary, or institution of government, is an opinion that the functionary, or institution, is greatly hurtful to the people. You would permit the slight evil to be spoken of, and hence removed; you would not permit the great evil to be spoken of.

If no *true* opinion can be regarded as indecent, meaning by indecent, requiring *punishment*, we must inquire if any *false* opinion on matters of government ought to be treated as such. If all false opinions are indecent, all discussion is indecent. All false opinions, therefore, are not indecent. The English libel law does not treat any favourable opinions, how much soever false, as indecent. If all opinions that are false and unfavourable are said to be indecent, who is to judge if they are false? It has been already proved, that the people can confide the power of determining what opinions are true, what are false, to none but themselves. Nothing can resist this argument. Either the people do know, or they do not know, that an opinion is false. If they do not know, they can permit nobody to judge for them, and must leave discussion its free course. If they do know, all infliction of evil for the delivery of an opinion which then can do no harm, would be purely mischievous and utterly absurd.

If all opinions, true and false, must be allowed to be delivered, so must all the *media* of proof. We need not examine minutely the truth of this deduction, because it will probably be allowed. It will be said, however, that though all opinions may be delivered, and the grounds of them stated, it must be done in calm and gentle language. Vehement expressions, all words and phrases calculated to inflame, may justly be regarded as indecent, because they have a tendency rather to pervert than rectify the judgment.

To examine this proposition, it must be taken out of that state of vagueness in which so many things are left by the English law, and made, if possible, to speak a language, the meaning of which may be precisely ascertained.

We have just decided, as appeared, on very substantial grounds, that the statement of no opinion, favourable or unfavourable, true or false, with its *media* of proof, ought to be forbidden. No language, necessary for that purpose, can be indecent, meaning here, as before, nothing by that term, as nothing can be meant, but simply *punishable*, or proper for punishment.

But the only difference between delivering an opinion one way and another way is, that in the one case it is simply delivered, in the other it is delivered with indications of passion. The meaning of the phrase in question then must be, that an opinion must not be delivered with indications of passion. What! not even a favourable one? “Oh, yes! a favourable one. Merited *praise* ought to be delivered with warmth.” Here, then, is inequality, and therefore mischief at once. An opinion, meaning here a true opinion, if it is favourable, you allow—if unfavourable, you do not allow—to be delivered in a certain way. Why? Because in that way, you say, it is calculated to make an undue impression. Opinions favourable, then, you wish to make an undue impression, and by that confess the wickedness of your intention. You desire that the people should think better of the institutions and functionaries of their government than they deserve; in other words, you wish the government to be bad.

If opinions, to what degree soever unfavourable, may be freely and fully delivered, there are two conclusive reasons why the terms in which they are delivered should not be liable to punishment. In the first place, the difference between one mode of delivery and another is of little consequence. In the second place, you cannot forbid the delivery in one set of terms, without giving a power of preventing it in almost all.

1. *The difference is of little consequence.* If I say barely that such a functionary of government, or such an institution of government, is the cause of great injury and suffering to the people, all that I [V-272] can do more by any language is, to give intimation, that the conduct of such functionary, or the existence of such institution, excites in me great contempt, or great anger, or great hatred, and ought to excite them in others. But if I put this in the way of a direct proposition, I may do so, because then it will be a naked statement with regard to a matter of fact, and cannot be forbidden, without overthrowing the whole of the doctrine which we have already established. If, then, I give indication of certain sentiments of mine, and of my opinion of what ought to be the sentiments of others *explicitly*, I ought, you say, to be held innocent; if *implicitly*, guilty. Implicitly, or explicitly, that is the difference, and the whole of the difference. If I say, that such a judge, on such an occasion, took a bribe, and pronounced an unjust decision, which ruined a meritorious man and his family, this is a simple declaration of opinion, and ought not, according to the doctrine already established, to meet with the smallest obstruction. If I also state the matter of fact with regard to myself, that this action has excited in me great compassion for the injured family, and great anger and hatred against the author of their wrongs, this must be fully allowed. I must further be allowed to express freely my opinion, that this action ought to excite similar sentiments in other members of the community, and that the judge ought to receive an appropriate punishment. Much of all this, however, I may say in another manner. I

may say it much more shortly by implication.—Here, I may cry, is an act for the indignation of mankind! Here is a villain, who, invested with the most sacred of trusts, has prostituted it to the vilest of purposes! Why is he not an object of public execration? Why are not the vials of wrath already poured forth upon his odious head?—All this means nothing, but that he has committed the act; that I hate him for it, and commiserate the sufferers; that I think he ought to be punished; and that other people should feel as I do. It cannot be pretended, that between these two modes of expression the difference, in point of real and ultimate effect, can be considerable. For a momentary warmth, the passionate language may have considerable power. The permanent opinion formed of the character of the man, as well as the punishment which, under a tolerable administration of law, he can sustain, must depend wholly upon the real state of the facts; any peculiarity in the language in which they may have been originally announced soon loses its effects. If that language has expressed no more indignation than what was really due, it has done nothing more than what the knowledge of the facts themselves would have done. If it has expressed more indignation than what was due, the knowledge of the facts operates immediately to extinguish it, and, what is more, to excite an unfavourable opinion of him who had thus displayed his intemperance. No evil then is produced; or none but what is very slight and momentary. If there should be a short-lived excess of unfavourable feeling, we have next to consider what is the proper remedy. Punishment should never be applied, when the end can be attained by more desirable means. To destroy any excess of unfavourable feeling, all that is necessary is, to show the precise state of the facts, and the real amount of the evil which they import. All excess of feeling arises from imputing to the facts a greater efficacy in the way of evil than belongs to them. Correct this opinion, and the remedy is complete.

2. *You cannot forbid the use of passionate language, without giving a power of obstructing the use of censorial language altogether.* The reason exists in the very nature of language. You cannot speak of moral acts in language which does not imply approbation and disapprobation. All such language may be termed passionate language. How can you point out a line when passionate language begins, dispassionate ends? The effect of words upon the mind depends upon the association which we have with them. But no two men have the same associations with the same words. A word which may excite trains of emotion in one breast, will excite none in another. A word may appear to one man a passionate word, which does not appear so to another. Suppose the legislature were to say, that all censure, conveyed in passionate language, shall be punished, hardly could the vices either of the functionaries or institutions of government be spoken of in any language which the judges might not condemn as passionate language, and which they would not have an interest, in league with other functionaries, to prohibit by their condemnation. The evil, therefore, which must of necessity be incurred by a power to punish language to which the name of *passionate* could be applied, would be immense. The evil which is incurred by leaving it exempt from punishment is too insignificant to allow that almost any thing should be risked for preventing it.

Religion, in some of its shapes, has, in most countries, been placed on the footing of an institution of the state. Ought the freedom of the press to be as complete, in regard to this, as we have seen that it ought to be, in regard to all other institutions of the state? If any one says that it ought not, it is incumbent upon him to show wherein the principles which are applicable to the other institutions fail in their application to this.

We have seen, that, in regard to all other institutions, it is unsafe for the people to permit any but themselves to choose opinions for them. Nothing can be more certain, than that it is unsafe for them to permit any but themselves to choose for them in religion. If they part with the power of choosing their own religious opinions, they part with every power. It is well known with what ease religious opinions can be made to embrace every thing upon which the

unlimited power of rulers, and the utmost degradation of the people, depend. The doctrine of *passive obedience* and non-resistance was a *religious doctrine*. Permit any man, or any set of men, to say what shall and what shall not be religious opinions, you make them despotic immediately. This is so obvious, that it requires neither illustration nor proof.

But if the people here, too, must choose opinions for themselves, discussion must have its free course; and the same propositions which we have proved to be true in regard to other institutions, are true in regard to this.

(F. F.)

[VI-8]

NATIONS, LAW OF. ↩

In the meaning of the word Law, three principal ideas are involved; that of a Command, that of a Sanction, and that of the Authority from which the command proceeds. Ideas involved in the term Law.

Every law imports, that something is to be done; or to be left undone.

But a Command is impotent, unless there is the power of enforcing it. The power of enforcing a command is the power of inflicting penalties, if the command is not obeyed. And the applicability of the penalties constitutes the Sanction.

There is more difficulty in conveying an exact conception of the Authority which is necessary to give existence to a law. It is evident, that it is not every command, enforced by penalties, to which we should extend such a title. A law is not confined to a single act; it embraces a class of acts: it is not confined to the acts of one man; it embraces those of a community of men. And the authority from which it emanates must be an authority which that community are in the habit of obeying. An authority to which only a temporary obedience is paid, does not come up to the notion of that authority which is requisite to give existence to laws; for thus, the commands of a hostile army, committing plunder, would be laws.

The conditions, which we have thus described, may all be visibly traced, in the laws which governments lay down for the communities to which they belong. There we observe *the command*; there *the punishment* prescribed for its violation; and there *the commanding authority* to which obedience is habitually paid.

Of these conditions how many can be said to belong to any thing included under the term Law of Nations? These ideas how modified in the term Law of Nations.

[VI-9]

By that term is understood, something which either does, or which, it is supposed, ought to bind the conduct of one nation towards another.

But it is not understood, that one nation has a right to command another. When one nation can be commanded by another, it is dependent upon that other; and the laws of dependence are different from those which we are at present considering. An independent nation would resent, instead of obeying, a command delivered to it by another. Neither can it properly be said, that nations, taken aggregately, prescribe those laws to one another severally; for when did they ever combine in any such prescription? When did they ever combine to vindicate the violations of them? It is therefore clear, that the term Command cannot be applied, at least in the ordinary sense, to the laws of nations. Law of Nations.

In the next place, it would not seem, that any thing, deserving the name of Sanction, belongs to them. Sanction, we have already seen, is punishment. Suppose nations to threaten one another with punishment, for the violation of any thing understood to be a law of nations. To punish implies superiority of strength. For the strong, therefore, the law of nations, may perhaps have a sanction, as against the weak. But what can it have as against the strong? Is it the strong, however, or is it the weak, by whom it is most liable to be violated? The answer is obvious and undeniable.—As against these from whom almost solely any violation of the laws of nations need be apprehended, there appears, therefore, to be no sanction at all.

If it be said, that several nations may combine to give it a sanction in favour of the weak, we might, for a practical answer, appeal to experience. Has it been done? Have nations, in reality, combined, so constantly and steadily, in favour of the law of nations, as to create, by the certainty of punishment, an overpowering motive, to unjust powers, to abstain from its violation? For, as the laws against murder would have no efficacy, if the punishment prescribed were not applied once in fifty or a hundred times, so the penalty against the violations of the law of nations can have no efficacy, if it is applied unsteadily and rarely.

On the mode in which it has been applied, we may appeal to a great authority. Montesquieu says—“Le droit public est plus connu en Europe qu’en Asie: cependant on peut dire que les passions des princes—la patience des peuples—la flatterie des écrivains, en ont corrompu tous les principes. Ce droit, tel qu’il est aujourd’hui, est une science qui apprend aux princes jusqu’à quel point ils peuvent violer la justice, sans choquer leurs intérêts.”—(*Lett. Persanes*, XCIV.)

To go a little deeper, we may consider, whether the interest of nations, that which, in the long run, governs them all, can ever produce combinations, from which an effectual sanction, of the nature in question, can be expected to proceed. That they would derive some advantage from the general observation of those maxims which have been called laws of nations, frivolous as are the points upon which the greater part of them turn, cannot be denied. These advantages, however, are seen at a distance, and with the mind’s eye; they are speculative, rather than sensible. The inconveniences, on the other hand, which must be felt, from any movement to lend effect to the law of nations, are immediate and formidable; the whole train of the evils of war are almost sure to arise from them. The latter class of impressions must, in general, be far more powerful than the former; and thus the interposition, in favour of the law of nations, will generally be shunned. A nation is often but too easily stimulated to make war in resentment of injuries done to itself. But it looks with too much coolness upon the injuries done to other nations, to incur any great chance of inconvenience for the redress of them.

Besides, the object is to be gained by the means of combination. But the combinations of nations are very difficult things. Nations hardly ever combine without quarrelling.

Again, all nations ought to combine for an object common to all. But for all nations to combine in any one enterprise is impossible. Suppose a prince to have violated the law of nations, it would be absurd to suppose that all the countries on earth should conspire to punish him. But if not all, what is to be the selection? Who shall come forward; who stand excused? By those who are condemned to the sacrifice, in what proportion are the contributions to be made? Who is to afford the greatest, and who may come with the least?

It is unnecessary to pursue any farther the analysis of this extraordinary hypothesis. It is evident from what has been said, that it is full of impracticabilities.

Are we, then, obliged to consider the maxims or rules, which pass under the name of Laws of Nations, as utterly without force and influence; and the discourse which is made about them, as mere affectation and impertinence?

Not wholly so. It is of use, that the ordinary intercourse of nations should be conducted according to certain forms, generally known and approved; because they will be observed on all occasions, when there is no particular motive to violate them, and will often prevent disputes which might arise on frivolous occasions. They resemble, in this respect, the ceremonial of a court, or the established forms of polished society.

The only sanction applicable to the Law of Nations is the popular sanction.

The objects, however, which are understood to be embraced by the law of nations, are of two sorts. The first are those minor objects, which partake more of form than of substance. The other are objects which deeply affect humanity. That there are certain interests of nations, which it were good to have considered as their rights, and of which it is infinitely to be desired that the violation could be prevented, is most true. But if national law has no penalty annexed to it; if the weaker party, who is wronged, has no means of redress, where, it may be said, is the advantage of such a law? Or where the propriety of calling that a law, which is only a declaration respecting rights; violated by the more powerful party with impunity, as often, and to as great an extent, as he pleases?

There is still, however, a power, which, though it be not the physical force, either of one state, or of a [VI-10] combination of states, applied to vindicate a violation of the law of nations, is not without a great sway in human affairs; and which, as it is very nearly the whole of the power which can be applied to secure the observation of that law, deserves to be carefully considered, that, by duly appreciating its efficacy in this important affair, we may neither trust to it where it will disappoint our expectation, nor neglect the use of it where it may be turned to advantage.

That the human mind is powerfully acted upon by the approbation or disapprobation, by the praise or blame, the contempt and hatred, or the love and admiration, of the rest of mankind, is a matter of fact, which, however it may be accounted for, is beyond the limits of disputation. Over the whole field of morality, with the exception of that narrow part which is protected by penal laws, it is the only power which binds to good conduct, and renders man agreeable and useful to man. It is evident, also, that where there is not great inequality, it is a power, the binding force of which must be necessarily great. Because every individual, considered in himself, is weak and helpless as compared with the rest of the community. Unless, therefore, he can prevail upon them to abstain from injuring him, he must be exposed to unlimited suffering. And if, on the other hand, he can prevail upon them to combine in doing, or in desiring to do him good, he is put in the way of receiving perpetually the greatest advantages. His motive, therefore, to obtain the favourable, and to avoid the unfavourable regards of the members of the society, in which he lives, is of the highest order. But he can obtain their favourable, and avoid their unfavourable sentiments, only by abstaining with scrupulous anxiety from doing any injury to them, and observing all such modes of conduct as are calculated to be useful and agreeable to them.

The value which men set upon these favourable regards of the persons among whom they live, is strikingly manifested by some of the most ordinary forms of their discourse and behaviour. What is more esteemed than character? What injury reckoned more deep and unpardonable than that of the man who exerts himself to take away unworthily any part of the reputation of his neighbours? But what is character, if not the title to the favourable sentiment of other men? And what is the loss of character, but the opinion of other men, that we do not deserve those favourable sentiments, with which they have been accustomed to regard us?

Honour and shame, those emotions, the intensity of which is proved by so many phenomena of human life, are but the feelings which attend upon those different situations. When a man finds himself in possession of the love, the esteem, and admiration of those by whom he is surrounded, he is filled with that delight which the belief of the secure possession of a great source of benefit, cannot fail to inspire: he is fearless, elated, and confident; the principal characteristics of that state of mind which we denominate pride. When he is conscious, on the other hand, of having forfeited in any degree the favourable sentiments of those among whom he lives, he suffers that depression which the loss of a highly valued possession is calculated to create; he ceases, in some degree, to look forward to his fellow men for good, and feels more or less the apprehension of evil at their hands; he fears to prove

how far their disapprobation of him reaches, or to excite them to define it too accurately for themselves; he hangs down his head, and dares not so much as look them in the face.

When men are favourably situated for having those impressions deeply struck; or more correctly speaking, when those combinations of ideas have consistently and habitually been presented to their minds, the association becomes at last so indissoluble and strong, as to operate, even where the connection among the things themselves may not exist.

When persons, who have been educated in a virtuous society, have, from their infancy, associated the idea of certain actions with the favourable sentiments, and all the advantages which flow from the favourable sentiments of mankind; and, on the other hand, have associated the idea of certain other actions with the unfavourable sentiments, and all the disadvantages which flow from the unfavourable sentiments of mankind; so painful a feeling comes in time to be raised in them at the very thought of any such action, that they recoil from the perpetration of it, even in cases in which they may be perfectly secure against any unfavourable sentiments of mankind, which it might be calculated to inspire.

It will, we apprehend, upon the most accurate investigation, be found, that this is the only power to which we can look for any considerable sanction to the laws of nations;—for almost the only species of punishment to which the violation of them can ever become amenable; and the only security, therefore, which mankind can ever enjoy for the benefit which laws, well contrived for this purpose, might be calculated to yield.

It is in the next place incumbent upon us to inquire, what dependence can be placed upon this security, in the set of cases now under consideration; and in what circumstances it is calculated to act with the greatest, in what with the least efficacy, toward this important end.

What dependence may be placed upon the popular sanction.

A power, which is wholly derived, from the good which may follow the favourable, the evil which may follow the unfavourable sentiments of mankind, will act most efficaciously upon him who is the most, least efficaciously upon him who is the least exposed to receive good and evil from the immediate inclination of his fellow men.

It seems to be evident, that he who is most weak, as compared with the rest of the community, is the most exposed to receive good or evil in consequence of their favourable or unfavourable sentiments; and that he, on the other hand, who is the most powerful, as compared with them, is the least exposed to receive good or evil in consequence of those sentiments.

When men are nearly upon equality, no one has any chance of inducing other people to abstain from hurting him, but by his abstaining from doing hurt in any way to them. He has no means of inducing them to do him any acts of service, but by their expectation of receiving similar acts of service from him. He is, therefore, intensely interested in its [VI-11] being generally believed of him, that he is a man who is careful to abstain from injuring, and ever ready to exert himself to do services to others.

The case is exceedingly different, where one man is lifted high above others. In that case he has powerful means of protection against their hurtful acts, powerful means of obtaining their services, altogether independent of his conduct, altogether independent of his disposition either to abstain from injuring them, or to render them service.

So far, therefore, as good conduct arises from a man's dependence upon the sentiments of others; and from this is derived the moral power, to which alone the term moral sanction or obligation can properly belong; the security for good conduct is apt to be lessened, in exact proportion as any one is raised above the level of those composing the mass of the

community. If any man possesses absolute power over the rest of the community, he is set free from all dependence upon their sentiments. In this, or nearly in this situation is every despot, having a well established authority. So far as a man is educated as a despot, he can therefore have but few of those associations, on which a conduct, beneficent to others, depends. He is not accustomed to look—for the services which he needs, or the evils which he apprehends, from others—to the opinion which they may entertain of the goodness or badness of his conduct; he cannot, therefore, have that salutary train of associations from an evil act to the condemnatory sentiments of mankind, and from the condemnatory sentiments of mankind to the forfeiture of all those delights and advantages which spring to him from the operation of their favourable regards;—associations which in men favourably situated become at last habitual, and govern the conduct, as it were, mechanically, without any distinct recurrence to the consequences, upon the thought of which, nevertheless, this salutary and ennobling sentiment ultimately depends, and from which it has been originally derived.

If such is the situation of the despot with regard to these important associations, it is in a proportional degree the situation of all those who partake of that species of elevation. In an Aristocratical country, for example, a country in which there is great inequality of wealth, those who possess the large fortunes, are raised to a great degree above any chance of receiving evil, or of standing deprived of any good, because the great mass, the lower orders, of their countrymen, think unfavourably of them. They are, no doubt, to a considerable degree dependent upon what the people of their own class may think of them; and it is accordingly found, that those qualities and acts, which are useful to that class, are formed into a particular, an Aristocratical code of morality, which is very effectually sanctioned by the favourable and unfavourable sentiments of the Aristocratical body, at the same time that it is exceedingly different from that more enlarged and all comprehensive code, on which the happiness of the greatest number depends, and to which alone the epithet moral in propriety belongs.

Such being the state of the facts connected with this important case, it remains to see what are the inferences, bearing upon it, which we are entitled to draw from them. We have already ascertained, that the only power which can operate to sanction the laws of nations; in other words, to reward or punish any nation, according as it obeys, or disobeys them, is the approbation and disapprobation of mankind. It follows, that the restraining force is, in this case, determined by the associations which they who govern it may have formed with the approbation and disapprobation of mankind. If they have formed strong associations, of a pleasurable kind, with the approbation, strong associations, of the painful kind, with the disapprobation of mankind, the restraining force will be great; if they have not formed such associations, it will be feeble and insignificant. It has, however, appeared, immediately above, that the rulers of a country, of which the government is either monarchical, or aristocratical, can have these associations in but a very low degree; as those alone, who are placed on a level with the great body of other men, are placed in circumstances calculated to produce them. It is only then in countries, the rulers of which are drawn from the mass of the people, in other words, in democratical countries, that the sanction of the laws of nations can be expected to operate with any considerable effect.

Having thus ascertained, what is the power which restrains from violating the laws of nations, and what the description of rulers upon whom its restraining force is the greatest, we are next to inquire, by what expedients the force of it may be raised to the greatest pitch, and the greatest amount of benefit may be derived from it.

What is required to give to the Law of Nations its greatest perfection.

It is sufficiently recognized, that whatever is intended to produce any effect as a punishment, produces it in a greater degree, in proportion as it operates with greater precision and certainty. The inquiry, then, regards the means of giving precision and certainty to those sentiments of the world, on which the binding power of the laws of nations so greatly depends.

Two things are necessary to give precision and certainty to the operation of laws within a community. The one is, a strict determination of what the law is, the second, a tribunal so constituted as to yield prompt and accurate execution to the law. It is evident, that these two are indispensable requisites. Without them no penalties can operate with either precision or certainty. And the case is evidently the same, whether we speak of the laws which regulate the actions of individual and individual within the state, or those which regulate the actions of one state towards another.

It is obvious to remark, in the first place, that with regard to the laws of nations, not one of these two indispensable requisites has ever yet had any existence. It has neither been determined what the laws in question are, nor has any common tribunal for cognizance of the violations of them ever been constituted. With respect to the last, not so much as the idea of it seems to have been entertained. And with respect to the first, though much has been written, it has been almost wholly in the way of vague [VI-12] and general discourse. Hardly a single accurate definition has yet been applied to any part of the subject.

Here, then, we come to what is obviously the grand inquiry; namely, *first*, What can be done towards defining the laws of nations? and, *secondly*, What can be done towards providing a tribunal for yielding prompt and accurate decisions in conformity with them? in other words, for applying with the greatest possible efficacy the opinion of the world for restraining the violation of them?

In the Article JURISPRUDENCE, to which it is necessary for us here to revert, we have sufficiently made it appear, that the foundation of all law is the constitution of rights. Of two parties, unless it is previously determined what each shall enjoy, it can never be determined whether one has improperly disturbed the enjoyment of the other. To determine, however, what a party is to enjoy, is to determine his rights.

[Necessity for a
CODE of
International
Law.](#)

Now, then, with regard to nations, the question is, what ought to be constituted rights? or in other words, what would it be desirable, for the good of mankind upon the whole, that the several nations should respect as the rights of each other?

This, it is pretty obvious, is one of the most extensive of all inquiries, far exceeding the limits of an article in the present work. We can attempt little more than to show the way in which the inquiry may be carried on.

In the Article JURISPRUDENCE, we have endeavoured to clear up the meaning which in legislation can, without leading to confusion, be alone attached to the term *Rights*; and we have there likewise seen, that there are but two classes of objects, in which individuals can have rights; namely, Things, and Persons.

[Rights of
Nations.](#)

The case, we believe, will be found the same with respect to nations. They also can have rights, in nothing but Persons, and Things. Of course, it follows, that they can receive injury in nothing but in Persons, or Things.

The inquiry, however, with respect to the rights of nations, is not so simple, as that with respect to the rights of individuals; because between individuals, subject to the same system of laws, the legislature recognizes no state of hostility; but between nations there is the State

of War, and the State of Peace, and the rights which are understood to belong to nations are different in these two different states. In the state of war, nations recognize in one another very few rights respecting either persons or things; they kill the one, and take and destroy the other, with little other limit than the want of ability. In the state of peace, they respect as rights belonging to one another, nearly the same things which are constituted rights of individuals, by the ordinary systems of national law.

We shall begin with the consideration of those things which it would be desirable that nations should respect as the rights of one another, in the time of peace. [What should be recognized as Rights in time of Peace.](#)

And, *first*, of rights with respect to things. As the subject of the rights of nations, things may be divided into two sorts; things belonging to some individual member of the nation, and things belonging to the nation in its collective, or corporate, capacity.

Those rights in things which the nation guarantees to its individual members, within the nation, it would be desirable, with hardly any exception, that nations should respect in regard to one another; that those things, for example, which the government of the country to which a man belongs, would regard, and would compel all its subjects to regard, as his property, the governments of all other countries should respect, and compel all their subjects to respect as his property. [The Property of Individuals.](#)

There are two states of circumstances in which questions may arise between nations, respecting the property of their respective subjects. The first, where the property in question, when the cause of dispute arises, is within the country of the individual to whom it belongs: The second, where the property has, by its owner, been previously removed into the country, with which, or some of the inhabitants of which, the dispute has arisen.

1. The first set of circumstances exists between two conterminous countries; the bordering inhabitants of which are neighbours to one another, and may, as any other neighbours, infringe the properties of one another. The proper mode of settling these disputes seems to be sufficiently obvious. The rights of the party complaining should be adjudged, according to the laws of the country to which he belongs. But the party sued or prosecuted, should be amenable only to the tribunals of the country to which he belongs; that is to say, the question should be tried before the tribunals of the country of the defendant; but the definition of the right in question should be taken from the law of the country to which the plaintiff belongs. It might in some cases be convenient for countries in this situation, to agree in constituting a common judicature, appropriated to these disputes, to consist, for example, of two judges, one of each country, with power to chuse a third, when they could not agree.

The injury complained of may be capable of redress by a remedy of the nature of a civil suit merely; or it may be of that more atrocious sort, theft or robbery, for which the remedy of punishment is required.

It would appear that punishment ought to be apportioned according to the laws of the country to which the party who has incurred it belongs. Whatever would be the punishment decreed for the offence, if committed against a man of his own country, such a punishment he ought to sustain, for the offence against the man of the other country. The question of punishment is here understood, as extraneous to that of compensation. This ought always to be made to the party injured, where it is capable of being made, and in a case of property it is always capable; if not by the author of the injury, from want of property, or other cause, at least by the government of the country to which he belongs.

2. Where a man has removed his property from his own into another country, there seems no peculiar reason why it should be regulated by any other laws than those of the country into which he has removed it; why the rights which it confers should be [VI-13] otherwise determined; or the violation of them otherwise punished.

We have now considered, though in a very general manner (and our limits preclude us from attempting any thing more), the mode in which nations should agree about the rights of one another (in other words, the laws they should establish), in as far as the property of individuals, belonging to them, is concerned. After the *property* of individuals, their *persons* are to be considered as requiring the protection of laws.

There is more difficulty in determining what is desirable, as [The Persons of Individuals.](#) international law, upon this part of the subject, than in that which regards the property of individuals. It is desirable that the persons of the inhabitants of every country should receive protection, according to the laws of their own country. But it is also desirable that each man should sustain punishment according to the laws of his country; and these two objects are to a certain extent inconsistent with one another.

The inconvenience, however, seems to be greater, in permitting the inhabitants of one country to be punished, according to the laws of another; than in leaving the inhabitants of one country to the same measure of protection against injury to their persons from the inhabitants of other countries, as is afforded to the inhabitants of those countries by their own laws. Many cases, indeed, may be conceived, in which this is a measure of protection which all reasonable men would allow to be inadequate. In such cases, however, the only remedy seems to be the formation of a compact, by which a mode of proceeding, agreeable to the sentiments of both parties, may be positively prescribed. This latter expedient is of course extraneous to that equitable construction which ought to be uniformly applied by the tribunals of one country to the injuries perpetrated, by those whom they may have to judge, upon the inhabitants of another country. If an inhabitant of Persia, for example, should force cow-broth down the throat of an inhabitant and native of Hindostan, the tribunals of Persia should not punish this outrage, as they would punish one Persian for making another swallow the same liquid. To the Persian it would be a trifling injury, and more than a trifling punishment would not be required. To the Hindu, it would be one of the greatest of all conceivable injuries. It ought to be, therefore, put upon the same footing, with an injury of an equal degree, done to a Persian; the nature of the injury, not the external act, should be the object of consideration: and whatever the punishment which would be awarded against a Persian for one of the greatest injuries of which he could be guilty to a Persian, the same ought to be inflicted upon him, for this, one of the greatest which he could occasion to a Hindu.

Besides the cases in which a government, as representative of the country, may be injured through the individuals who live under its protection, there are cases in which it may be injured more directly. Certain things belong as property to the government, without belonging to any individual; and there are persons who are members of the government, or agents of the government, and who may receive injuries in that capacity, distinct from those which affect them, as private individuals. These are the cases to which it now remains that we direct our attention.

Those things which belong to government as goods and chattels; its [The Property or Dominion of the State.](#) moveables, for example; or the lands which it holds, as any individual holds them, in the way of an estate; there seems to be no reason for considering as subject to any other rules, than those applicable to the goods and chattels which belong to individuals.

Of other things, those to which any government can claim a right, as representative of a nation, must be, either, first, Portions of Land, or, secondly, Portions of Water.

1. The questions which relate to the rights which any nation may claim [Dominion in Land](#). in any portion of land, are questions regarding boundaries; and these involve the whole of the questions respecting the acquisition of dominion.

To have any standard for determining questions with regard to dominion, the different modes of acquiring dominion, must be recognized; those which are proper to be allowed and respected by other nations must be distinguished from those which are improper, must be accurately defined, and the definitions made known.

For this purpose it is easy to perceive, that the same process is necessary, as that for the definition of rights, described, at some length, in the Article in this work, entitled JURISPRUDENCE, to which we must again refer.

It is necessary, according to that example, that the events which are to be considered as giving commencement to a right of dominion, and those which are to be considered as putting an end to it, should be fully enumerated, and accurately defined.

This is the first part of the process. The other part is, to distinguish the different degrees of dominion. There is a dominion which is perfect, which includes every power over the subject in question, and leaves nothing farther to be acquired, a *dominium plenum*: there is also a dominion, which is but the commencement, as it were, of dominion, and includes the smallest possible fragment of a full dominion. These are the two extremes; and between them are various distinguishable degrees. All these should be fully depicted, and accurately defined.

When any of those events occurs which are to be considered as giving commencement to rights, it often happens that they are accompanied by circumstances which limit the right they would otherwise convey, and render the dominion less than full. These circumstances ought, also, to be completely enumerated; and the power of each to be accurately defined.

If this were done, an international code would be composed, in which the rights of dominion would be accurately defined; and to determine any question about boundaries, or about the degree of dominion, nothing farther would then be necessary than an adequate inquiry respecting the state of the facts.

The questions would exactly resemble those, which we have already described, in the Article JURISPRUDENCE, in analyzing what is called pleading in judicature. [VI-14] In a question about boundaries there is, let us suppose, a district, over which one country affirms that it has a right of dominion, a dominion more or less complete; and another country denies that it has that right. The first question is, Whether any of those events has occurred, which would give the affirming country a right of dominion? The second question is, Whether, if such an event had occurred, it was accompanied with any of those circumstances which limit dominion, and render it less than full, and if so, under what degree of limiting power they are classed? The third question is, Whether, if an event, thus giving commencement to a right of dominion had occurred, any other event, putting an end to that right, had subsequently occurred?

We need not here enlarge upon these several topics; because they will be sufficiently understood by those readers who bear in mind the expositions already given in the article referred to; and to those, who do not, we suggest the propriety of recurring to that article, as a preparation for the perusal of this.

It is evidently disproportionate to the limits which we must here prescribe to ourselves, to enumerate the events which it would be agreeable to the interests of mankind in general, that nations should regard as giving, and alone giving, commencement and termination to rights of dominion; because, in order to afford an enumeration which would be in any degree instructive, the reasons must be given why one set of events, and not another, should have the privilege in question conferred upon them.

It may be proper, however, in the mean time, to observe, that the events in question will not be found to be numerous, nor very difficult to discover. In fact, they are, and among civilized nations, almost always have been, pretty nearly agreed upon; and they are the questions of modification, and questions of fact, upon which, chiefly, differences have arisen. For example, there is no dispute, that Occupancy, where there is no prior right, is an event which should be considered as giving commencement to a right of dominion. Neither is there any doubt, that the Consent of those who have a right, may transfer that right to others: or in other words, that such consent is an event which gives commencement to a right in those others. Conquest, also, made in a lawful war, is recognized as an event of the same description; and, it will be found upon inquiry that these do, in fact, contain the whole. For on every occasion on which dominion is acquired, the territory so acquired must, before hand, either have belonged to some body, or have belonged to no body. If it belonged to no body, occupancy is the only event which can be supposed to give commencement to the right. If it belonged to some body, it must be taken from him, either willingly, or by force. If it is taken from him willingly, we have his consent. If it is taken by force, it is by conquest in war, that the new right is created.

It is evidently, however, farther necessary, that the different species of consent should be distinguished; and those to which it would be proper to attach this investitive power, separated accurately from those from which it should be withheld. It is here accordingly, that the doctrine of contracts, would need to be introduced; that the different species of them applicable to this subject, in which all treaties would be included, should be enumerated; that the effects proper to be given to each of them should be defined; and the mode of interpreting them, or fixing the sense which they ought to bear, accurately laid down.

It would also be expedient, after the principal contracts, applicable to international concerns, are ascertained, to exhibit in the international code, *formulae*, with blanks to be filled up, which should be employed by nations on all occasions of such contracts, and being framed with the greatest possible accuracy, would go as far as it would be possible by words to go, in excluding ambiguity, and the grounds of dispute.

With respect to conquest, the last event, calculated to give commencement to rights of dominion, mentioned in the above general enumeration, it is allowed, that as there are some conquests which ought not to be considered as conferring rights of dominion, there are others which ought to be considered as doing so. It is evidently necessary, therefore, that the line of separation should be drawn.

Whether a conquest, however, should or should not be considered as conferring a right of dominion, depends very much upon the nature of the war, through which it is made. If the war be what is regarded as just, and the mode of warfare conformable to the recognized rules, the conquest is apt to be regarded as conferring a legitimate title; if the war, and mode of war, be of a contrary description, the validity of the title conferred by the conquest may be liable to dispute.

It is evident, therefore, that in order to define the species of conquest on which the investitive power in question should be conferred, the circumstances which render a war justifiable, and the mode in which it is justifiable to carry it on, must first be ascertained. This

forms the second part of our inquiry: and the question regarding the investitive power of conquest must be deferred, till that inquiry is performed.

Having thus far considered the mode in which should be determined the rights which nations acquire over portions of territory, or Land, it remains that we consider the mode in which their rights should be determined with regard to Waters.

Waters, as concerns the present purpose, are, either rivers or the sea. [Dominion in Water.](#)

As the sea involves the questions of greatest extent and importance, we shall attend to that part of the subject first.

Even in the language of ordinary discourse, the sea is denominated the common domain of nations.

The first principle with regard to the sea is this, that all nations have an equal right to the use of it. The utility of recognizing this principle, is so apparent, that it has never been the subject of any dispute. And all the rights assigned to nations severally, in the enjoyment of this common domain, ought to rise out of this principle; and to be limited by it. Whatever use any nation makes of it, should be such as not to prevent a similar and equal use from being made by other nations. And every use which cannot [VI-15] be shown to have that effect, should be recognized as a right by the law of nations.

The principal use which nations make of the sea, is that of a passage for their ships. Agreeably to the principle which we have recognized, the ships of one nation should pass in such a manner as not to obstruct the passage of those of another. The rules according to which the possible cases of interference should be regulated, are very simple; and are, in fact, laid down and acted upon, with considerable accuracy. They resemble, in all respects, those according to which the vessels of the same country are made to avoid and to regulate their interferences in the rivers of the country, or upon its coasts. There would be no difficulty, therefore, in making accurate definitions of the requisite rights, for insertion in the international code.

The rights being established, the violations of them should be punished, on the same principles, as those which we have laid down in regard to the preceding cases. Either property has been injured, or persons. In either case, compensation is an indisputable part of the remedial process, wherever it is practicable. In loss of property, it is fully practicable. It is also practicable in many of the injuries done to the person. As in the case of offences committed on land, the rights of the individual who has suffered should be estimated according to the laws of the country to which he belongs; but the punishment of the offender should be measured according to the laws of the country to which he belongs. In the case of piracy, which is robbery, or murder, committed by persons whom no country recognizes, and upon whom, therefore, justice can be demanded from no foreign government, it has hitherto been the practice that the nation suffering has taken the punishment into its own hands. Accordingly, the punishment of piracy has always been extremely severe. It would be, no doubt, better, if a mode were adopted, by which it would not be necessary for a nation to be judge in its own cause. A rule does not seem impossible to be framed, according to which the punishment of piracy might be provided for, by referring those accused of it, either to some general tribunal, constituted for that purpose, or to the tribunals of some nation other than that against which the offence has been perpetrated. A general law, on this subject, to be observed by all nations, would be highly desirable.

Rules, therefore, seem not difficult to be laid down, for regulating the proceedings of nations on the high seas. A distinction, however, is drawn between what is called the *high*, and what is called the *narrow seas*. By the narrow seas is commonly meant some portion of

sea, to a greater or less extent, immediately surrounding a particular country; and in which that country claims peculiar privileges. The question is, whether any such privileges should be allowed, and if allowed, to what extent?

The regulating principle in this, as in other cases, is the general advantage, the principle of utility. There are cases, in which certain privileges, in the waters surrounding a particular country, are of so much importance to that country; and the exercise of those advantages occasions so very little inconvenience to other nations, that what is lost, by all of them taken together, bears no comparison with what is gained by that particular nation. In these cases, the exercise of such privileges should be allowed; they should, however, be defined, in as many instances as possible, and promulgated by insertion in an international code.

Of the privileges in question, are all those which are essential, or to a considerable degree subservient, to the national security. In some cases, the exclusive right of fishing might perhaps come under the same rule. But this is in general provided for, by the necessity of drawing the nets, or curing the fish upon the land, a privilege which, of course, it is in the power of any nation to give or to withhold.

In obedience to this equitable principle, it appears, that such foppish privileges, as have sometimes been insisted upon, and afford no advantage to one nation, which is not wholly at the cost of others—lowering the flag, for example, and such like impositions—should not be recognized by the code of nations.

It appears, also, that those tolls which have been, sometimes, and are levied at the narrow inlets of some seas, deserve to fall under the same condemnation. The passage through these inlets is a common good to all the nations of the earth which may have a motive to use them; a good of the highest importance to the nations which are situated within, and to which it is the only means of maritime communication; and, while it imparts no evil to the conterminous nation, the toll which that nation levies is an advantage obtained wholly at the cost of others; and imposing upon them a burthen, in the way of obstruction and trouble, which is compensated for by advantage to nobody.

The waters, we have said, in respect to which rights should be assigned to nations, are rivers and the sea. Having stated what appears necessary on the present occasion with respect to the sea, it remains that we offer the few observations required, on the subject of rivers.

Rivers are either the boundary between two countries, or they are wholly within a particular country.

Those which are wholly within a particular country, it seems most agreeable to the principle of utility to regard as wholly belonging to that country. In the case of navigable rivers which pass through several countries, it would indeed be desirable for those countries which are situated higher up than that at the mouth of each, as well as for all those who might thus have intercourse with them, that the navigation of such rivers should be free; but it would be difficult so to regulate this right, as not to affect the security of the country through which a free navigation should thus be allowed; and a slight diminution in its security would be so great a loss to that country as would require, to compensate for it, a very great advantage to those by whom the navigation was enjoyed. Unless where this advantage were very great, it would not, therefore, be agreeable to the principle which should dictate the laws of nations, that the freedom of the navigation should be regulated on any other principles than those of mutual agreement.

In regard to those rivers which flow between two [VI-16] countries, the principle of regulation is sufficiently plain. The benefits derivable from the river should be shared equally between them. Its principal benefits arise from the fishing and from the navigation. The right

of fishing in most cases may be fitly distributed, by each party fishing from its own bank to the middle of the stream. The right of navigating of each must be so exercised as not to obstruct the right of the other. In this case the same sort of rules are required, to prevent the ships of the two nations from obstructing one another, in a common river, as are found available to prevent the ships of different individuals from obstructing one another, in a river belonging to one country. There is no difficulty, therefore, here, which it is worth stopping to show how to remove.

We have now adduced, what our limits admit to be said, upon the first great branch of the inquiry relative to the law of nations; namely, the rights which they should recognize in one another in the state of peace. We proceed to the second branch, relating wholly to the state of war.

What should be recognized as Rights in time of War.

The questions which present themselves for solution relating to the state of war, are either those which respect its commencement, or those which respect the mode of carrying it on.

With respect to the commencement of a war, the principal question is, What are the conditions which should be regarded as necessary to render it just?

What should be regarded as necessary to render the commencement of a War just.

As men, in a situation where laws, and the protection derived from them, do not exist, are left to their own protection, and have no means of deterring other men from injuring them, but making them dread injury in return, so nations, which, with respect to one another, have, as we have seen before, but little protection from the legal sanction, are left to supply its place by this dread of injury in return, which, in the case both of individuals and of nations, may be called the *retributive sanction*, and of which, in the case of nations, war is the principal organ.

From this view of the essence and end of war, we lay down immediately one pretty extensive proposition with regard to the conditions necessary to render it just.

As the legal sanction, or punishment for the offences of individuals ought to operate only where some right has been violated, and the violation has been such as to require it, so the retributive sanction of nations, which is war, ought to operate only where some right of the nation, or something which ought to be treated as a right, has been violated, and where the violation has been such as to require that desperate remedy.

But as not all violations which may possibly be committed of the rights of a nation will justify it in inflicting war, the next object is, to draw the line of separation, and distinguish between those violations of the rights of nations which justify, and those which do not justify, the extremity of war.

As the evils which war produces are exceedingly great, it is, first of all, evident, that no violation of rights which is not very great, will, upon the principle which we have so often recognized, suffice to justify it. Of two evils, the least, is the choice of all sound legislation.

Of the violation of the rights of individuals, in the same country, the cases meet for punishment are capable of being pointed out, with a degree of accuracy, not wanting much of perfection. Of the violation of the rights of nations, committed by one nation against another, the cases which would justify the remedial operation of war are much more difficult to define. The difficulty, indeed, is not universal; for there are cases which may be very satisfactorily defined; and as far as definition can go, it is of the utmost importance that it should be carried. Uncertainty, then, pervades only one part of the field; which the more we are able to lessen, the greater the advantage in favour of humanity which we gain. If a proper code of international law were formed, there would be certain defined violations of the rights

of nations which would be pointed out, not only as deserving the indignation and hatred of all the world, but as justifying the injured nation before all the world, in inflicting upon its injurer the calamities of war. There would also be certain other injuries pointed out, of a more doubtful character; which might, or might not, according to circumstances not easy to define, be such as to justify recourse to war. The injuries of this secondary character, also, which might, or might not, according to circumstances, justify a war, are capable of being pointed out with a certain degree of accuracy. To a certain degree, likewise, the circumstances which would convert them into justifying causes, are capable of being foreseen. So far definition is capable of extending, and so far, of course, it ought to be carried.

In illustration of this latter class of injuries, we may select the most remarkable, perhaps, and important of all the instances; preparations for a threatened attack. A sense of security is one of the most valuable treasures of a nation; and to be deprived of that sense of security, is one of the greatest of injuries. But what state of preparation shall, or shall not be considered as justifying the threatened nation in striking the first blow, in order not to give its enemy the advantage of completing his preparations, and making his attack just at the moment when it would be most destructive, it is perhaps impossible to determine, for all cases, beforehand; though, no doubt, a certain progress may be made towards that determination, and the bounds of uncertainty may be greatly reduced.

We are aware how general, and therefore how unsatisfactory, these observations are, on the important subject of defining those violations of the rights of nations which ought to be regarded as justificatory causes of war; but at the same time it is to be observed, that not much more could have been done without framing the code, by actually enumerating and defining the violations for which that remedy should be reserved.

Another consideration is now to be weighed. It is evident that whatever injuries are done by one nation to another, compensation may almost always be made for them. It is equally evident, that whatever injury may have been sustained, if compensation is made for it, the justificatory cause of war is removed.

[VI-17]

The doctrine of compensation, therefore, is an important part of international jurisprudence. Before recourse is had to war, for any violation of rights, compensation ought first to be demanded; and no war, except in cases fit for exception, should be regarded as just, which this demand had not preceded; a demand which should be made through a constituted organ, and in a predetermined mode, as we shall more fully describe in a subsequent page, when we come to treat of an international tribunal.

As there can be no reason why the demand of compensation should not always precede the use of arms, except in cases of such a necessity as will not allow time for demanding compensation—a necessity for the immediate use of arms, in order to prevent an evil immediately impending—those cases of urgent necessity should, as far as possible, be sought out, and defined.

Other circumstances may be enumerated, as belonging to this first stage of the remedy, against a nation, which places itself in an attitude, affecting the sense of security of any of its neighbours. If a nation is making preparations, or executing any other measures, calculated to excite alarm, it may be called upon to desist from them; or it may be called upon to give security, that it will not make a hostile use of them. Of these securities, hostages are one of the most familiar instances. Various other instances will easily present themselves to the consideration of our readers. Upon this part of the subject, therefore, it is unnecessary for us to enlarge.

It thus appears, that we may lay down, with a considerable degree of precision, the conditions upon which the commencement of a war ought to be regarded as just. It remains, under this head of inquiry, that we show how it may, as far as possible, be determined, what ought to be regarded as just and unjust in the modes of carrying it on.

What should be regarded as just and unjust in the modes of carrying on a War.

This is an inquiry of more complexity, a good deal, than the first. In looking out for a guiding principle, it is evidently necessary to keep in view the end to which every just war is of necessity restricted. That is, compensation for an injury received, and security that a fresh injury shall not be committed. Combining this with the grand principle of humanity and utility, in other words, of morality; namely, that all evil, wilfully occasioned, and not calculated to produce a more than equivalent good, is wicked, and to be opposed, we obtain one comprehensive and highly important rule; which is this: That in the modes of carrying on war, every thing should be condemned by the law of nations, which, without being more conducive, or more in any considerable degree, to the attainment of the just end of the war, is much more mischievous to the nation against whom it is done.

As the end is to be gained, in most cases, only by inflicting a loss of men and property, upon the opposing nation, it would be desirable that the distinction should be drawn between the modes of inflicting this loss, which are the most, and those which are the least calculated, to inflict pain and suffering, without being more conducive to the end.

One distinction is sufficiently remarkable; namely, the distinction between the men who are in arms or actually opposed to the designs of the belligerent, and the men who are not so; also between the property which belongs to the government of the opposing nation, and that which belongs to private individuals composing the nation.

With respect to the first class of objects, the men in arms, and the property of the government, there is not much difficulty. To produce the loss of them, as rapidly as possible, till the end or purpose of the war is obtained, appears to be a privilege which cannot be separated from the right of warring at all.

With respect to the loss of the men, indeed, there is an important restriction. It means the loss of them for the purposes of the war, and no more. If it be practicable to put them in a situation in which they can no longer be of any service to the war, all farther injury to them should be held unjustifiable. Under this rule falls the obligation, so generally recognized, of making our enemies, as often as possible, prisoners, instead of killing them, and of treating them with humanity, while retained in that condition.

That part of the subject, therefore, which relates to men in arms, and to such property as belongs immediately to the government, it is not impossible to include in rules of tolerable precision. The difficulty is, with respect to those individuals who, composing the body of the nation, form no part of the men in arms, and with respect to the property of such individuals.

Though it would not be correct to say, that these do not contribute, or rather that they may not be made to contribute, to the means with which the government carries on the war; yet it would be absurd not to recognize a very broad distinction between them, and the men and things which are immediately applied, or applicable to the war. A difference, therefore, equally broad, ought, in reason, to be made in the mode of treating them. The mode of treating the one ought to be very different from that of treating the other. As the rule of destruction must be the rule with regard to the first, only limited by certain restrictions; so the rule of forbearance and preservation ought to be the rule with regard to the latter, only to be infringed upon special and justifying circumstances.

Thus far we seem to have travelled with the advantage of light to our path. We may go a little farther, with equal certainty, and say, that as far as regards the persons of those who are not engaged in the immediate business of hostility, very few occasions can occur, in which it would be allowable, upon any just principle of international law, to do them any injury. Leaving them out of the question, we narrow it to the case of the property belonging to individuals; and shall now proceed to see how far the protection of it can be embraced within general rules.

We must suppose the case, which is the strongest, that of an invading army. The advantage which is capable of being derived to such an enemy, by seizing and destroying the property of individuals, bears, unless in certain very extraordinary instances, no sort of proportion, to the evil inflicted upon the individuals. This, we presume, cannot admit of a dispute. Upon the principle, therefore, so often recognized, [VI-18] as that, the dictates of which ought in this affair to be solely obeyed, no such destruction, unless in such instances, ought to be sanctioned by the law of nations. Such property, it is well known, can rarely be counted upon, as any considerable resource; because it is to a very great extent in the power of the people invaded to drive their property away, or to destroy it. The property of individuals, in an invaded country, would in general be a much more certain resource to an invading army, if that army were to purchase from them the articles which it desired. And, perhaps, this would be the most advantageous compromise of which the circumstances admit; namely, that the invading army should abstain from the violation of private property; but that it should in return have the benefit of an unrestricted market; that nothing should be done on the part of the government of the invaded country to prevent its subjects from buying and selling with the invaders, as they would with any other parties.

It may no doubt be true, that the plunder and devastation of a province, or other portion of a country, must have an effect in diminishing the resources of the government for carrying on the war. In this point of view it must be allowed that the destruction of private property is of some importance to the invading nation with regard to the result of the war. But the question, in settling the difficulties of international jurisprudence, is not whether an advantage is gained, but whether the advantage, such as it is, be not gained, at too great a cost of evil.

If it be certain that the losing party, in consequence of the destruction in question, loses more than the gaining party gains, it is certain that the two parties, taken together, are losers by the proceeding; and of course that nations, in the aggregate, are losers upon the whole. Nay, it is certain that each nation, taken by itself, is a loser, upon the balance of the cases in which it is liable to lose, and those in which it is liable to gain. If it loses more in the cases in which it bears, than it gains in the cases in which it inflicts invasion; and if it is as liable to bear, as to inflict, which is the usual condition of nations, it follows clearly that it is its interest to concur in a rule which shall protect the property of individuals, in cases of invasion.

Even in that more civilized mode, which has been adopted by invading armies, of availing themselves of the property of individuals; by exacting contributions through the instrumentality of the local authorities; contributions which these authorities are left to partition among the people, as they may deem equitable; though it is admitted that this is a much less hurtful proceeding than military rapine, still we think, it will easily appear, that the evil inflicted upon the contributors is greater than the benefits derived to the receivers.

Unless the amount thus received by an invading army is very considerable, the benefit which is derived, the aid which is gained towards accomplishing the end of the war, must be considered as trifling. But if a contribution, the amount of which can be of any considerable avail towards attaining the object of the war, is levied suddenly upon a particular district, a

comparatively small portion of the invaded country, it must operate upon the contributors with a dreadful weight of oppression. Upon an equitable estimate of the circumstances, it can, therefore, hardly fail to appear, that, whether the contribution exacted is heavy or light (it must always be heavy to those who sustain it), the loss to those who suffer must greatly outweigh the advantage to those who receive. If it be so, this mode of exaction should, it is evident, be forbidden by the law of nations.

If these are the principles, upon which an international code, regarding this branch of the subject, ought to be constructed, they will enable us to determine the question with regard to the property of individuals in another set of circumstances, to which the rules of civilized society have hardly yet begun to be applied. Whatever rules apply to the property of individuals found upon the land, the same rules ought, by parity of reason, it should seem, to apply to it when found upon the sea.

The conduct of nations, however, has hitherto not been conformable to the parity which appears to belong to the two sets of cases. Some tenderness, more or less, according to the progress in civilization, appears to have been shown, by all but savages, to the property of individuals upon the land. To this hour the property of individuals upon the sea is made prize of without mercy by the most civilized nations in the world.

The notions of piracy, in fact, have, on this subject, unhappily prevailed, and governed the minds of men. Pirates make prey of every thing. Sailors, originally, were all pirates. The seafaring state was a belligerent state, of almost every vessel against every other vessel. Even when nations had gradually advanced into a more civilized state, and when their vessels abstained from injury to one another in a period of peace, they appear, when the ties of peace were dissolved, and they were placed with respect to one another in a state of war upon the seas, to have felt the force of none but their old associations, and to have looked upon the state of war as a state of piracy. Two nations at war with one another continue to act towards the property of individuals belonging to one another, exactly as two nations of pirates would do.

Assuredly this is a state of things to which the present intelligence and morality of the world ought speedily to put an end. The very same reasoning which we have applied to the case of the property of individuals upon the land, is not less conclusive when applied to the property of individuals upon the sea. The loss to the party losing is more than an equivalent for the gain to the party that gains.

There is another consideration of great importance. All nations gain by the free operations of commerce. If then we were to suppose that the losses and gains of the two belligerent parties balanced one another, which yet they never do, there is an advantage derived from their commerce to every nation on the earth to which, in any degree, either directly or indirectly, that commerce extends; which advantage is either lost or diminished, by their preying upon the property of the individuals belonging to one another. This, therefore, is an unquestionable balance of loss, to the general community of nations, [VI-19] which the law of that community ought to endeavour to prevent.

If, then, we should suppose that it were enacted as the law of nations, that the property of individuals passing on the seas should be equally respected, in peace and in war, we may proceed to consider whether any disadvantage, nearly countervailing the general good, would thence accrue to the belligerents.

It may be alleged, that a nation at war with another is retarded in reducing its antagonist, by the riches which the commerce of that antagonist, if undisturbed, will place at its disposal. But it is evident that an advantage to one of two antagonists, when compensated to the other, by a power to overcome that advantage, exactly equivalent, is in reality no advantage at all.

Such is the case with the advantage accruing to the nation with which another is at war, when the property of individuals upon the sea is allowed to pass unmolested. If its riches are increased by freedom of commerce, so are those of its antagonist. The advantages are equal, where the circumstances are equal, which, in the majority of cases, they undoubtedly are.

If it be still objected, that there may be cases in which they are not equal, the answer is obvious, and incontrovertible. There is no general rule without its exceptions, but partial evil must be admitted for general good. Besides, if the case were very remarkable, it might be excepted from the general rule.

If this were adopted as part of the law of nations, all those questions respecting the maritime traffic of *Neutrals*, questions which have been the source of so much troublesome inquiry, so much animosity, and so much mischief, would be immediately at an end. If the traffic of the belligerents, so far as concerned the property of individuals, were free, so would be that of all neutral nations.

Places actually blockaded, that is surrounded with an hostile force for the immediate purpose of being reduced, either by arms, or by famine, would still form exceptions; because the admission of ships into them, with supplies either of food, or munition of war, would be directly at variance with the very object of the blockade.

In all other cases, the admission either of provisions or of instruments of war into a belligerent country, ought, undoubtedly, upon the principle of utility, not to be disturbed. The benefit, except in rare and remarkable cases, could not be material to the country into which they might enter, nor hence the injury to its antagonist; on the other hand, that antagonist would enjoy the same privilege of the free admission of those commodities, and thus they would be equal in all respects. The inconvenience, however, which would thus be saved to the neutrals—the annoyance of search, the loss by detention, the occasions of quarrel—are known to be evils of no ordinary magnitude.

The desertion of sailors from the ships of a belligerent to those of a neutral has given rise to disputes in one instance only, that of Great Britain and the United States of America. The question to be determined, in laying down the principles of international jurisprudence, is, whether this desertion ought to be considered as constituting a ground for the general right of search; in other words, whether the evil to which a belligerent is exposed by desertion, or rather by that portion of desertion which can be prevented by the right of search, is an equivalent for all the evil which is unavoidably produced by it.

Desertion must take place either from the ships of war of the belligerent, or from its merchant ships.

In respect to ships of war, it is so easy for a belligerent to prevent desertion to neutrals, at least in any such degree as to constitute a great evil, that it would be altogether absurd to speak of it as an evil to be compared with those arising from the right of search. The only occasions on which ships of war can be exposed to desertion to neutrals, must be, on those occasions on which they go into a neutral port. But on those, comparatively rare, occasions, they can so easily take precaution against desertion, that the danger to which they are exposed is hardly worth regarding.

When the sailors belonging to merchant ships transfer their services to the ships of a neutral, it is not to be called desertion. It can only take place, in very considerable numbers, when seamen's wages in the neutral country are much higher than in that of the belligerent. The sailor, in this case, leaves his own for another country, only because he improves his situation by so doing. This is a liberty, which, as it ought to belong to every body, so it ought not to be withheld from the sailor. If, indeed, any nation thinks proper to forbid any class of

its people to leave their country, as England with regard to its artificers, other countries cannot help that, but they ought not to be called upon to lend their aid to such an antisocial regulation, by allowing their vessels to be searched, as security against its infringement. Besides, it is evident, that there is a much greater security, arising from the very nature of the case, against the chance of a nation's being, to any considerable degree, deprived of its sailors by any such means. If the sailors go into the neutral country because wages are higher there, a small number only will have gone, when wages, from diminution of the numbers, will begin to rise in the country which they have left, and from increase of the numbers, will begin to fall in the country to which they have been tempted to repair. When the wages of seamen have thus sufficiently risen, in the belligerent country, which they are sure to do if the demand for them rises, the sailors will not only come back from every country in the world, but the sailors of other countries will hurry along with them; and the evil of desertion cures itself.

Only two questions, of any great importance, appear to remain; that relating to the march of troops, for a hostile purpose, through a neutral country, and that relating to the extent to which the operations of a successful war ought to be pursued.

According to the principles which we have already laid down for regulating the proceedings of a hostile army even in the invaded country, namely, that of committing no plunder, and enjoying the right of market, it appears that the right of passing through a neutral country on similar terms should be refused to no party. This rule, while it holds out equal advantages to all belligerents, admits, less than any other rule, grounds of dispute.

[VI-20]

The end, which we have already described as that alone the pursuit of which can render any war justifiable, sufficiently defines the extent to which the operations of a successful war ought to proceed. The end of every justifiable war is to obtain compensation for an injury sustained, and security against the repetition of it. The last point, that of security, alone contains any uncertainty. Nations are apt to exaggerate the demand for security, to require too much; very often unconsciously, from the mere cravings of self-love; sometimes fraudulently, as a cover for ambitious views. As the question, however, respecting what may or may not, in each instance, be sufficient security, is a question of fact, not of law, it must be determined, if determined at all, by a tribunal empowered to take cognizance of the facts.

We have now then laid down the principles by which, in our opinion, the rights of nations, in respect to one another, ought to be determined; and we have shown in what manner those principles should be applied, in order to come to a decision, in the most remarkable cases. The minor points it is, of course, not in our power to illustrate in detail; but that will not, we should hope, be difficult, after the exemplification exhibited, and the satisfactory solutions at which we seem to have arrived, of all the more considerable questions which the subject presents.

Of the construction of an International Code, and an International Tribunal.

From what has been shown, it is not difficult to see, what would be the course pursued by nations, if they were really actuated by the desire of regulating their general intercourse, both in peace and in war, on the principles most advantageous to them all.

Two grand practical measures are obviously not only of primary importance toward the attainment of this end, but are of indispensable necessity toward the attainment of it in any tolerable degree. These are, first, the construction of a Code; and, secondly, the establishment of a Tribunal.

It is perfectly evident, that nations will be much more likely to conform to the principles of intercourse which are best for all, if they have an accurate set of rules to go by, than if they have not. In the first place, there is less room for mistake; in the next, there is less room for plausible pretexts; and last of all, the approbation and disapprobation of the world is sure to act with tenfold concentration, where a precise rule is broken, familiar to all the civilized world, and venerated by it all.

How the nations of the civilized world might concur in the framing of such a code, it is not difficult to devise. They might appoint delegates to meet for that purpose, in any central and convenient place; where, after discussion, and coming to as full an understanding as possible upon all the material points, they might elect some one person, the most capable that could be found, to put these their determinations into the proper words and form, in short, to make a draught of a code of international law, as effectually as possible providing for all the questions, which could arise, upon their interfering interests, between two nations. After this draught was proposed, it should be revised by the delegates, and approved by them, or altered till they deemed it worthy of their approbation. It should then be referred to the several governments, to receive its final sanction from their approbation; but, in the mean time, it should be published in all the principal languages, and circulated as extensively as possible, for the sake of two important advantages. The first would be, that, the intelligence of the whole world being brought to operate upon it, and suggestions obtained from every quarter, it might be made as perfect as possible. The second would be, that the eyes of all the world being fixed upon the decision of every nation with respect to the code, every nation might be deterred by shame from objecting to any important article in it.

How the nations
might concur in
framing an
International
Code.

As the sanction of general opinion is that upon which chiefly, as we have already seen, such a code must rely for its efficiency, not a little will depend upon the mode in which it is recognized and taught. The recognition should in each country have all possible publicity and solemnity. Every circumstance which can tend to diffuse the opinion throughout the earth, that the people of each country attach the highest importance to such a code, is to themselves a first-rate advantage; because it must be of the utmost importance to them, that all the nations of the earth should behave towards them upon the principles of mutual beneficence; and nothing which they can do can have so great a tendency to produce this desirable effect, as its being generally known that they venerate the rules which are established for its attainment.

If nations, then, were really actuated by the desire of regulating their mutual intercourse upon principles mutually beneficent, they would adopt measures for having a code of international law constructed, solemnly recognized, and universally diffused and made known.

But it is not enough that a code should exist; every thing should be done to secure a conduct conformable to it. Nothing is of so much importance for this purpose as a tribunal; before which every case of infringement should be tried, the facts of it fully and completely explored, the nature and degree of the infringement ascertained; and from which a knowledge of every thing material to the case should be as rapidly as possible diffused through the world; before which also all cases of doubt should regularly come for determination: and thus wars, between nations which meant justly, would always be avoided, and a stigma would be set upon those which justice could not content.

The analogy of the code, which is, or ought to be, framed by each state for regulating the intercourse of its own people within its own territory, throws all the illustration which is necessary upon the case of a tribunal for the international code. It is well known, that laws, however carefully and accurately constructed, would be of little avail in any country, if there

was not some organ, by means of which it might be determined when individuals had acted in conformity with them, and when they had not; by which also, when any doubt existed respecting the conduct which in any particular case the law required, such doubt might be authoritatively removed, and one determinate line of action prescribed. Without this, it is sufficiently evident, that a small portion of the benefit capable of being derived from laws would actually be attained. It will presently be seen how much [VI-21] of the benefit capable of being derived from an international code must be lost, if it is left destitute of a similar organ. We shall first consider in what manner an international tribunal might be constructed; and, next, in what manner it might be appointed to act.

As it is understood that questions relating to all nations should come before it, what is desirable is, that all nations should have equal security for good judicature from it, and should look with equal confidence to its decisions.

How an
International
Tribunal should
be constructed.

An obvious expedient for this purpose is, that all nations should contribute equally to its formation; that each, for example, should send to it a delegate, or judge. Its situation should be chosen or its accessibility, and for the means of publicity which it might afford; the last being, beyond comparison, the advantage of greatest importance. As all nations could not easily, or would not, send, it would suffice if the more civilized and leading nations of the world concurred in the design, with such a number of the less considerable as would be sure to follow their example, and to be desirous of deriving advantage from an instrument of protection, which to them would be of peculiar importance.

As it is found by specific experience, and is, indeed, a consequence of the ascertained laws of human nature, that a numerous assembly of men cannot form a good judicatory; and that the best chance for good judicial service is always obtained when only one man judges, under the vigilant eyes of interested and intelligent observers, having full freedom to deliver to the world their sentiments respecting his conduct; the whole of these advantages may be obtained, in this case, by a very effectual expedient. If precedent, also, be wanted, a thing which in certain minds holds the place of reason, it is amply furnished by the Roman law; according to which a great number of judges having been chosen for the judicial business generally of the year, a selection was made out of that number, according to certain rules, for each particular case.

Every possible advantage, it appears, would be combined in the international tribunal, if the whole body of delegates, or judges, assembled from every country, should, as often as any case for decision came before them, hold a conference, and, after mature deliberation, choose some one individual of their body, upon whom the whole duty of judge should, in that case, devolve; it being the strict duty of the rest to be present during the whole of his proceedings, and each of them to record separately his opinion upon the case, after the decision of the acting judge had been pronounced.

It would be, no doubt, a good general rule, though one can easily foresee cases in which it would be expedient to admit exceptions, that the judge, who is in this manner chosen for each instance of the judicial service, should not be the delegate from any of the countries immediately involved in the dispute. The motive to this is sufficiently apparent.

We apprehend, that few words will be deemed necessary to show how many securities are thus provided for the excellence of the judicial service.

In the first place, it seems impossible to question, that the utmost fairness and impartiality are provided for, in the choice of the judge; because, of the two parties involved in the dispute, the one is represented by a delegate as much as the other, and the rest of the delegates are indifferent between them. In general, therefore, it is evident, that the sinister

interest on the two sides being balanced, and there being a great preponderance of interest in favour of nothing but a just decision, that interest will prevail.

The best choice being made of a judge, it is evident that he would be so situated, as to act under the strongest securities for good conduct. Acting singly, he would bear the whole responsibility of the service required at his hands. He would act under the eyes of the rest of the assembled delegates, men versed in the same species of business, chosen on account of their capacity for the service, who could be deceived neither with respect to the diligence which he might exert, nor the fairness and honesty with which he might decide; while he would be watched by the delegates of the respective parties, having the power of interest stimulating them to attention; and would be sure that the merits or demerits of his conduct would be made fully known to the whole, or the greater part of the world.

The judicatory being thus constituted, the mode of proceeding before it may be easily sketched.

Form of
procedure
before the
International
Tribunal.

The cases may be divided into those brought before it by the parties concerned in the dispute; and those which it would be its duty to take up, when they were not brought before it by any of the parties.

A variety of cases would occur, in which two nations, having a ground of dispute, and being unable to agree, would unite in an application to the international tribunal for an adjustment of their differences. On such occasions, the course of the tribunal would be sufficiently clear. The parties would plead the grounds of their several claims; the judge would determine how far, according to the law, they were competent to support those claims; the parties would adduce their evidence for and against the facts, on which the determination of the claims was found to depend; the judge would receive that evidence, and finally decide. All this is so perfectly conformable to the course of pleading, and receiving proof, in the case of suits between individuals, as analyzed and explained in the Article JURISPRUDENCE, that it is unnecessary to be more particular here. If farther exposition is required, it will be found upon a reference to the article to which we allude. Decision, in this case, it is observable, fully accomplishes its end; because the parties come with an intention of obeying it.

Another, and a numerous class of cases, would probably be constituted, by those who would come before it, complaining of a violation of their rights by another nation, and calling for redress.

This set of cases is analogous to that, in private judicature, when one man prosecutes another for some punishable offence.

It should be incumbent upon the party thus applying to give notice of its intention to the party against which it is to complain, and of the day on [VI-22] which it means that its complaint should be presented.

If both parties are present, when the case comes forward for trial, they both plead, according to the mode described in the Article JURISPRUDENCE; evidence is taken upon the decisive facts; and if injury has been committed, the amount of compensation is decreed. When it happens that the defendant is not present, and refuses to plead, or to submit, in this instance, to the jurisdiction of the court, the inquiry should notwithstanding go on; the allegations of the party present should be heard, and the evidence which it adduces should be received. The non-appearance of the party defendant should be treated as an article of evidence to prove the truth of its opponent's allegations. And the fact of not appearing should, itself, be treated as an offence against the law of nations.

It happens, not unfrequently, when nations quarrel, that both parties are in the wrong; and on some of these occasions neither party might think proper to apply to an equitable tribunal. This fact, namely, that of their not applying to the international tribunal, should, itself, as stated before, be marked in the code as an international offence, and should be denounced as such by the international tribunal. But even when two offending parties do not ask for a decision from the international tribunal, it is not proper that other nations should be deprived of the benefit of such a decision. If these decisions constitute a security against injustice from one another to the general community of nations, that security must not be allowed to be impaired by the refractory conduct of those who dread an investigation of their conduct.

Certain forms, not difficult to devise, should be laid down, according to which, on the occurrence of such cases, the tribunal should proceed. First of all, it is evident, that the parties in question should receive intimation of the intention of the court to take cognisance of their disputes, on a certain day. If the parties, one or both, appeared, the case would fall under one of those which have been previously as above considered. If neither party appeared, the court would proceed to estimate the facts which were within its cognisance.

It would have before it one important article of evidence, furnished by the parties themselves, namely, the fact of their non-appearance. This ought to be considered as going far to prove injurious conduct on both sides. The evidence which the court would have before it, to many specific facts, would be liable to be scanty, from the neglect of the parties to adduce their pleas and evidence. The business of the court, in these circumstances, would be, to state correctly such evidence, direct or circumstantial, as it had before it; giving its full weight to the evidence contained in the fact of non-appearance; and to pronounce the decision, which the balance of the evidence, such as it was, might be found to support.

Even in this case, in which the practical effect of a decision of the international court may be supposed to be the least, where neither party is disposed to respect the jurisdiction, the benefit which would be derived would by no means be inconsiderable. A decision solemnly pronounced by such a tribunal, would always have a strong effect upon the imaginations of men. It would fix, and concentrate the disapprobation of mankind.

Such a tribunal would operate as a great school of political morality. By sifting the circumstances, in all the disputes of nations, by distinguishing accurately between the false colours and the true, by stripping off all disguises, by getting at the real facts, and exhibiting them in the true point of view, by presenting all this to the world, and fixing the attention of mankind upon it by all the celebrity of its elevated situation, it would teach men at large to distinguish. By habit of contemplating the approbation of such a court attached to just proceeding, its disapprobation to unjust; men would learn to apply correctly their own approbation, and disapprobation; whence would flow the various important effects, which these sentiments, justly excited, would naturally and unavoidably produce.

As, for the reasons adduced at the beginning of this article, the intention should never be entertained of supporting the decisions of the international court by force of arms, it remains to be considered what means of another kind could be had recourse to, in order to raise to as high a pitch as possible the motive of nations respectively to yield obedience to its decisions.

We have already spoken of the effect which would be produced, in pointing the sentiments of mankind, giving strength to the moral sanction, and by the existence of an accurate code, and by the decisions themselves of a well constituted tribunal.

To increase this effect to the utmost, publicity should be carried to the highest practicable perfection. The code, of course, ought to be universally promulgated and known. Not only that, but the best means should be in full operation for diffusing a knowledge of the proceedings of the tribunal; of the cases investigated, the allegations made, the evidence

adduced, the sentence pronounced, and the reasons upon which it is grounded.

The book of the law of nations, and selections from the book of the trials before the international tribunal, should form a subject of study in every school, and a knowledge of them a necessary part of every man's education. In this manner a moral sentiment would grow up, which would, in time, act as a powerful restraining force upon the injustice of nations, and give a wonderful efficacy to the international jurisdiction. No nation would like to be the object of the contempt and hatred of all other nations; to be spoken of by them on all occasions with disgust and indignation. On the other hand, there is no nation, which does not value highly the favourable sentiments of other nations; which is not elevated and delighted with the knowledge that its justice, generosity, and magnanimity, are the theme of general applause. When means are taken to make it certain that what affords a nation this high satisfaction will follow a just and beneficial course of conduct; that what it regards with so much aversion, will infallibly happen to it, if it fails in the propriety of its own behaviour, we may be sure that a strong security is gained for a good intercourse among nations.

[VI-23]

Besides this, it does not seem impossible to find various inconveniencies, to which, by way of penalties, those nations might be subjected, which refused to conform to the prescriptions of the international code.

Various privileges granted to other nations, in their intercourse with one another, might be withheld from that nation which thus demeaned itself in a way so contrary to the general interests. In so far as the withholding of these privileges might operate unfavourably upon individuals belonging to the refractory nations,—individuals who might be little, or not at all, accessory to the guilt, the effect would be the subject of proportional regret. Many, however, in the concerns of mankind, are the good things which can only be attained with a certain accompaniment of evil. The rule of wisdom, in such cases, is, to be sure that the good outweighs the evil, and to reduce the evil to its narrowest dimensions.

We may take an instance first from trivial matters. The ceremonial of other nations might be turned against the nation, which, in this common concern, set itself in opposition to the interests of others. The lowest place in company, the least respectful situation on all occasions of ceremony, might be assigned to the members of that nation, when travelling or residing in other countries. Many of those marks of disrespect, implying neither injury to person nor property, which are checked by penalties in respect to others, might be free from penalties in respect to them. From these instances, adduced merely to illustrate our meaning, it will be easy to see in what manner a number of considerable inconveniencies might, from this source, be made to bear upon nations refusing to conform to the beneficial provisions of the international code.

Besides the ceremonial of other nations, means to the same end might be derived from the law. A number of cases might be found in which certain benefits of the law, granted to other foreigners, might be refused to them. They might be denied the privilege of suing in the courts, for example, on account of any thing except some of the higher crimes, the more serious violations of person or property.

Among other things it is sufficiently evident, that this tribunal would be the proper organ for the trial of piracy. When preponderant inconvenience might attend the removing of the trial to the usual seat of the tribunal, it might delegate for that purpose the proper functionaries to the proper spot.

By the application of the principles, which we have thus expounded, an application which implies no peculiar difficulty, and requires nothing more than care in the detail, we are satisfied that all might be done, which is capable of being done, toward securing the benefits of international law.

(F.F.)

PRISONS AND PRISON DISCIPLINE. ↩

THE arrangements, necessary to adapt prisons to the ends for which they are designed, seem to require little more than the exercise of practical good sense; and yet the manner in which the practice of the world blunders on from one absurdity, and very often from one atrocity, to another, shows pretty distinctly, how little the public affairs of mankind have hitherto had the benefit of that practical faculty, or of any thing that resembles it.

Prisons and
Prison
Discipline.

Prisons have been applied to three purposes; *1st*, That of safe custody; *2dly*, That of punishment; *3dly*, That of reformation.

Ends of
Imprisonment.

It is very evident, that each of these purposes requires an arrangement of means peculiar to itself.

Though each requires a combination of means peculiar to itself, it does not follow that, of the means required for each, a portion may not be the same in all. Every body will acknowledge that this is the case.

The means of safe custody, for instance, are equally required for those who are imprisoned in order to be punished and those who are imprisoned in order that they may be reformed, as for those who are imprisoned to the sole end of being made present at a particular time and place.

The arrangements, then, for safe custody, form a basis, on which every combination of means for attaining any of the other ends of imprisonment must always be erected. Other means for the attainment of these ends are to be considered as accessions to those required for the first.

It is a corollary from this position, that the same house may, at one and the same time, be employed for all the three purposes. Those properties in the building which make it fittest, at the least expense, for safe custody, make it fittest also for the purposes either of punishment or of reformation. This will be rendered abundantly apparent in the sequel; and from the single circumstance, that the means of punishment and reformation are only additions to those of safe custody, it wants not much of its demonstration already. If the arrangements needed, for those who are to be punished, and those who are to be reformed, interfere not with one another, or with those needed on account of the persons in safe custody merely, the truth of the corollary is indisputable; for nobody will deny that, in point of economy, there must be very great advantage.

I. We shall consider, first of all, what is the best combination of means for safe custody. Dungeons and fetters are the expedient of a barbarous age. And in respect of prisons, as of every thing which comes within the precincts of law, the expedients of a barbarous age are, with great industry, retained in those which are civilized; they are, indeed, not only retained with great industry, but preserved with a success which, if it were not experienced, would be altogether incredible. As the expedients of a barbarous age are still preserved in many more of the arrangements for the purposes of law, so it is but of yesterday that the prisons of our forefathers have been regarded as fit for reform, or the means which in their ancestral wisdom those sages devised for attaining the ends of imprisonment were supposed capable of being altered for the better, by their less instructed sons.

Means of safe
Custody.

It is at last, however, allowed, that inspection is a means for safe custody, which renders unnecessary all but very ordinary means of any other description. Thus, so long as a man is, and knows that he is, under the eyes of persons able and willing to prevent him, there is very little danger of his making an attempt, which he sees would be vain, to effect a breach in the wall, or force open the door, of his cell. Any great strength, therefore, in such wall or door, as well as fetters upon any part of his body, the object of which is to make provision against such attempts, are wholly unnecessary; since the attempts are sure of not being made, or of being instantly frustrated.

The plan of a prison, in which the power of inspection is rendered so complete, that the prisoner may be, and cannot know but that he is, under the eyes of his keepers, every moment of his time, and which we owe to General Bentham, so universally known for his mechanical genius, is described by his brother, in his work entitled *Panopticon, or Inspection House*; where also a system of management is delineated, and its principles are so perfectly expounded, and proved, that they who proceed in this road, with the principle of utility before them, can do little else than travel in his steps.

An idea of the contrivance may be conveyed in a few words. It is a circular building, of the width of a cell, and of any height; carried round a space, which remains vacant in the middle. The cells are all open inwards, having an iron grating instead of a wall, and, of course, are visible in every part to an eye properly placed in the vacant space. A narrow tower rises in the middle of that space, called the inspection tower, which serves for the residence of the keepers, and in which, by means of windows and blinds, they can see without being seen; the cells, by lights properly disposed, being capable of being rendered as visible by night as by day.

We have thus provision for safe custody; and along with it, five other important purposes are gained. First of all, there is great economy; the vast expense of thick, impenetrable walls, being rendered unnecessary. Secondly, All pretence for subjecting prisoners to the torture and degradation of irons is taken away. Thirdly, No misbehaviour of the prisoners can elude observation, and instant correction. Fourthly, No negligence, or corruption, or cruelty, on the part of the subordinate agents in the prison, can escape the view of their principals. And, Fifthly, No misconduct towards the prisoners, on the part [VI-386] of their principals, can remain unknown to the public, who may obtain a regulated admittance into the inspection tower, and regulated communication with the prisoners.

The persons who are liable to be in prison, for sure custody merely, are of three classes. First, Persons apprehended, and about to be put on their trial, for the commission of a crime. Secondly, Persons convicted of a crime, and about to receive their punishment; and, Thirdly, Debtors.

Under a good system of law, very little provision would need to be made for these cases. It is one of the essential properties of a good system of law to permit as little time as possible to intervene between the apprehension and trial, and between the conviction and punishment, of a person for a crime. There would never, therefore, be many such persons in any prison at a time. And under a good system of law, there never would be any body in a prison on account of debt. [*]This is mentioned merely to show how little, under a good system of law, the apparatus and expense of a separate prison, for this set of cases, would be wanted.

These persons being inmates of a prison, for insuring their presence merely, the question is, What treatment they ought to receive?

Persons in prison before trial, and debtors, are persons of whom nothing is certainly known, but that they are unfortunate. They are, therefore, entitled to all the benevolence which is due to the unfortunate.

What is done for them in a prison must, however, be done at the expense of the community, that is, by sacrifices demanded of those who are not in prison; and those sacrifices ought, undoubtedly, to be the smallest possible. The question is, therefore, to be settled by a compromise between the principle of benevolence, and the principle of economy.

The principle of benevolence undoubtedly requires that the health of the prisoners should not be impaired; for this, importing the premature loss of life, is in reality the punishment of death, inflicted upon those to whom no punishment is due.

That health may not be impaired, three things are indispensable:—1. A wholesome apartment; 2. A sufficiency of wholesome food; 3. Sufficient clothing.

The principle of economy, with equal certainty, exacts, that all those should be of the cheapest possible kind.

All this is abundantly clear. It is equally clear that, with respect to those who are in prison for safe custody merely, the principle of benevolence requires, and the principle of economy does not forbid, that they should be free to use any indulgence, which costs nothing, or which they provide for themselves; and that no farther restraint should be placed upon their liberty than the custody of their persons, and the rule of economy, which prescribes the limits and accommodations of the place, may demand.

Few words will be necessary to show what is appropriate to the case of the man, who is in prison during the interval between his sentence and his punishment.

By the supposition, in this case, his punishment is something distinct from his imprisonment; because, if not, it is a case which comes under another head, namely, that of persons who are in prison for the sake of punishment; and will be fully considered in another part of this discourse.

If he is in prison for detention merely, his punishment, as meted out and fixed by the judge, being something wholly separate; every particle of hardship, imposed upon him, not necessary for his detention, is something without law, and contrary to law; is as much injustice and a crime, when inflicted upon him, as if inflicted upon any other member of the community. The same considerations, which, as we found above, ought to regulate the imprisonment of debtors, and persons in custody before trial, namely, the compromise between the principle of benevolence and the principle of economy; apply, without the smallest difference, to the case of persons who, during the interval between their sentence and its execution, are in prison for the mere purpose of preventing their escape.

We foresee a difficulty, or rather an objection, for there is really no difficulty in the case.

Persons come into prisons, who have been accustomed, in the preceding part of their lives, to all degrees of delicate and indulgent living; to whom, therefore, the hard fare prescribed by the principle of economy will occasion very different degrees of uneasiness.

Such persons, when in prison for safe custody merely (what is required when persons are in prison for punishment, or for reformation, will be seen hereafter), may be allowed to make use of any funds which they may possess for procuring to themselves all unexceptionable indulgences. They may be also allowed the exercise of any lucrative art, consistent with the nature of the prison, for procuring to themselves the means of such indulgences. This the principle of benevolence dictates, and there is nothing in the principle of economy which forbids it.

We shall be told, however, that there are persons, who have been accustomed to a delicate mode of living, and who come into prison without the command of any funds, or the knowledge of any art, by which they may soften the hardship of their lot: and we shall be asked what is the course which our philosophy recommends for the treatment of them? The course which it recommends is very clear. Such persons are paupers, and whatsoever treatment is fit for paupers of the description to which they belong, is fit also for them. If there are [VI-387] any funds, to which as paupers they can apply, the application should be open to them. If there are none, and there is no person to whose benevolence they can resort, the effects of such a destitute situation must be sustained, the same way in a prison, as they must be, when any person falls into it, out of a prison.

II. Having stated what appears to us necessary for illustrating the [Means of Punishment](#), principles which ought to regulate the imprisonment of those, in respect to whom safe custody is the end in view, we come, in the next place, to the case of those, in respect to whom, in addition to safe custody, punishment is to be effected through the same medium.

This subject we shall unfortunately be under the necessity of treating superficially; because, in order to explain it fully, we ought to have before us the whole doctrine of punishment; and, for this purpose, a developement, too extensive for the present purpose, would be required.

This we may assume as an indisputable principle; that whatever punishment is to be inflicted, should be determined by the judge, and by him alone; that it should be determined by its adaptation to the crime; and that it should not be competent to those to whom the execution of the sentence of the judge is entrusted, either to go beyond the line which he has drawn, or to fall short of it.

We have already established, on what seemed sufficient reasons, that for persons confined, on account of safe custody merely, the cheapest accommodation, not importing injury to health, in respect to apartment, food, and clothing, should alone be provided at the public expense.

Unless in the case of those whom the judge might condemn to lose a portion of their health, as the punishment due to them, by the sufferings of an unwholesome prison, unwholesome food, or improper clothing, this accommodation ought to be afforded even to those who are placed in prisons for the sake of punishment. And if it should be thought that the loss of health never can be a proper punishment, if it has never been regarded as such even by savages, and is repudiated by every principle of reason, then it follows, that the accommodations which we have described in the former part of this discourse, as required in the case of prisoners detained for safe custody, are required in the case of prisoners of every description.

This is a basis, therefore, upon which every thing is to rest. In every rational system of prison management, this is an essential condition. We are now to see in what manner, upon this footing, punishment, by means of imprisonment, is to be effected.

One mode is sufficiently obvious and sufficiently known. The punishment may be rendered more or less severe by its duration. Want of liberty is, in almost all cases, a source of uneasiness; want of liberty, added to the denial of all pleasures of sense, can hardly ever fail to be a source of great uneasiness. A long imprisonment therefore, with the cheapest accommodation not importing injury to health, must be a severe punishment. This, it is evident, may be graduated to more or less of severity, not only by degrees of time, but the use of such means as the prisoner might command for procuring accommodations and indulgences.

To this imprisonment may be added solitude. But though we mention this, as a practicable addition to simple imprisonment, it is well known how little, unless for short periods, and on very particular occasions, it is to be recommended.

The modes, which lately have been most in repute, of adding to the severity of simple imprisonment for the purpose of punishment, have been two; 1st, Hard labour; and, 2dly, Bad prisons, and bad management in those prisons.

1. The species of labour which appears to have obtained the preference is that of treading in a wheel.

If a criminal in a prison is ever to be let out again, and to mix in society, it is desirable that nothing should be done, and least of all done on purpose, to make him a worse member of society than when he went in. There cannot be a worse quality of a punishment, than that it has a tendency to corrupt and deteriorate the individual on whom it is inflicted; unless, indeed, he is a prisoner for life; in that case, people of a certain temper might say, that making worse his disposition is a matter of little importance; and to them we have no time to make any reply.

Most of those persons who come into prison as criminals, are bad, because they have hated labour, and have had recourse to other means than their industry of attaining the supply of their wants and the gratification of their desires. People of industry, people who love labour, seldom become the criminal inmates of a prison.

One thing, however, is pretty certain, that men seldom become in love with their punishments. If the grand cause of the crimes which have brought a man to punishment is his not having a love but hatred of labour; to make labour his punishment, is only to make him hate it the more. If the more a man hates labour, the more he is likely to act as a bad member of society; to punish a man with labour, and then to turn him out upon society, is a course of legislation which savours not of the highest wisdom.

Besides, in treating labour as an instrument of punishment, call it *hard* labour, if you will, what sort of a lesson do you teach to the industrious and laborious class, who form the great body of your people? to those whose lot is labour, whose lot is hard labour, harder than any which it is in your power to impose? What compulsory labour is so hard as many species of voluntary labour?

As an instrument of reformation, labour, as we shall presently see, is invaluable. As an instrument of punishment, hardly any thing can be conceived more exceptionable. That which is the source of all that mankind enjoy, that which is the foundation of every virtue in the most numerous class of the community, would you stamp with ignominy and dishonour, by inflicting it as a punishment upon the worst and basest of your people? Is this your expedient for rendering it, what every wise legislator would wish to render it, honourable, and thence desirable?

[VI-388]

There are other objections, perfectly decisive, against labour as a punishment. It operates with more inequality than almost any other instrument of punishment that ever has been invented. The same degree of labour would kill one man, that to another would be only a pastime. From this source we may apprehend the most horrid abuses, in the continuance of those tread-mills. We may be very sure, that the most atrocious cruelty will often be inflicted upon those who, with strength below the average standard, are placed in those penal engines; while, in the case of those whose strength is much above that standard, they will hardly operate as a punishment at all.

It is impossible that the judge can measure out this punishment; because the judge has not the means of ascertaining the relative strength of the parties who come before him. It must, therefore, be left to the jailor. The jailor, not the judge, will mete out and determine the degree of suffering which each individual is to undergo. The jailor, not the judge, is the man who adapts the punishment to the crime. Hence one of the stains which mark a careless and stupid legislation.

It is a far inferior, though still no inconsiderable proof of a blundering legislation, that the labour, if labour it must be, is not of such a sort as to be useful. The turning of a wheel, by human labour, when so many better means of turning it are possessed in abundance, is destitute of even this recommendation. It stands upon a similar footing with the contrivance of the jailor, whom Mr Bentham celebrates: “We are told somewhere,” he says, “towards the close of Sully’s *Memoirs*, that for some time after the decease of that great and honest minister, certain high mounts were to be seen at no great distance from his house. These mounts were so many monuments of his charity. The poor in his neighbourhood happened to have industry to spare, and the best employment he would find for it was, to remove dirt from the place where it lay to another where it was of no use. By the mere force of innate genius, and without having ever put himself to school to learn economy of a French minister, a plain English jailor, whom Howard met with, was seen practising this revived species of pyramid architecture in miniature. He had got a parcel of stones together at one end of his yard, and set the prisoners to bring them to the other: the task achieved, Now, says he, you may fetch them back again. Being asked what was the object of this industry, his answer was, ‘To plague the prisoners.’ ”—In a note on this passage, Mr Bentham says, “I beg the jailor’s pardon; what is above was from memory; his contrivance was the setting them to saw wood with a blunt saw, made blunt on purpose. The removers of mounts were a committee of justices.”

2. Bad prisons, and bad management in these prisons, is a mode of punishment, the recommendation of which has lately been revived, after we might have hoped that, in this country at least, it was exploded for ever. The language of such recommendation has, on several recent occasions, been heard in Parliament; and an article on Prison Discipline, which lately appeared in the *Edinburgh Review*, cannot be interpreted in any other sense. Even the Committee of the *Society for the Improvement of Prison Discipline* have not been able to withstand the force of what they may have supposed to be fashionable doctrine. In their *Fourth Report*, lately published, which we are sorry to say evinces more of good intention, than of enlightened views for its guidance, they say; “No charge can be more mistaken and unfounded, than that the plans recommended by this institution are calculated to introduce comfort into gaols. The committee are of opinion, and have always contended, that severe punishment must form the basis of an effective system of prison discipline;” thereby confounding two things, punishment, and prison discipline; which are totally distinct; and between which, it is of so much importance to preserve the distinction, that without it not a rational idea can be entertained about either.

No doubt crimes must be punished. Who needs instruction upon that head? But when the judge has prescribed, that, in a particular way, which he points out, a particular measure of pain shall be inflicted upon an individual; and when the individual is taken, and made to sustain the operations through which the pain is generated; what has this to do with the discipline of the prison? It is an act or series of acts, *sui generis*; acts not forming any part of the ordinary course of prison management; acts which would not have taken place, which ought not to have taken place, if the judge had not commanded them, and which were performed solely and exclusively in obedience to his commandment. This is the nature of punishment,—other punishment than this there ought to be none.

The Committee would make severe punishment the basis of prison discipline! What business have the Committee with punishment? The assigning of punishment the legislature have given to other and fitter hands; to those who take cognizance of the offence, and alone ought to measure the punishment. Saying they would make punishment the basis of prison discipline, what do they intend by this ill contrived expression? Do they mean, that their jailor shall hold the scales, and weigh out the proper quantity? If not, how are they to be understood? for if not the jailor but the judge is to weigh, and the jailor is to do nothing but punctually carry the prescription of the judge into execution, then is punishment, in no proper sense of the word, any part of prison discipline. It is a separate operation, performed on a particular occasion, because prescribed by the judge, and in the exact manner in which the judge has prescribed it. If it is, on the other hand, a part of prison discipline, then all the horrid consequences, inseparable from making the jailor the judge and meter of punishment, present themselves to the imagination; and he who can endure to look at them may dwell upon the picture of a prison, wherein the poor will not be more comfortable than at home, nor by the charms of imprisonment enticed to the commission of crimes.

Nothing can more clearly indicate that state of mind, which consists in confusion of ideas, than [VI-389] the vague language which we hear about the necessity of making prisons the seats of wretchedness, that crimes, they say, may not receive encouragement.

We have already seen, that, unless it is part of a man's punishment, expressly ordained, that he shall lose a portion of his health; that is, that his life shall be out short; that is, that after a period of torture, he shall receive a capital punishment; a wholesome apartment, a sufficiency of wholesome food, proper clothing, all of the cheapest kind, must be provided for every body. When people talk about making prisons seats of wretchedness, do they mean something worse than this?

Many of them will no doubt answer; Yes, we mean hard labour in addition. We ask again, Do you mean hard labour, according to the prescription of the judge, or without the prescription of the judge? If according to the prescription of the judge, the case is the same with that which we have previously examined. This instrument of punishment is exceptionable, only because it is a bad instrument.

The whole matter evidently comes to this. If more wretchedness is desired than what is implied in confinement under the worst accommodation which the preservation of health admits, it must be meted out, either at the pleasure of the jailor, or the pleasure of the judge. The writer in the *Edinburgh Review*, and the Committee of the Society for the Improvement of Prison Discipline, speak as if they had never reflected upon the difference.

We do not mean to bestow a word upon that theory, which, for the prevention of offences, would make prisons scenes of wretchedness at the pleasure of the jailor.

The only question which can deserve a solution is, what mode of inflicting evil in a gaol can the judge make use of for best attaining the ends of punishment? The answer is not difficult. Unless, where that course of reformatory discipline, which we shall delineate under the next head, suffices; and we allow, that, though it may be made to involve no small degree of punishment, there are cases in which it would not suffice; it will certainly appear, that prisons are not the best instruments of punishment.

A single consideration suffices for the proof of this proposition. Punishment in a prison loses the grand requisite of a punishment, that of engendering the greatest quantity of terror in others, by the smallest quantity of suffering in the victim. The principal, perhaps the sole end of punishment, is to restrain by the example; because, with respect to the individual whom you have got, if you think society in any danger from him, you can keep him in sight, and no more is required. Yet, the language we hear about the tread-mill, and hear from the

mouths of high persons, implies, that hardly any thing more is in their minds, than the effect upon the individual sufferers. “Nothing finer than the tread-mill; a fellow who has been in the tread-mill never comes back again.” Be it so; but by your leave, this is a very insignificant part of the question.

The choice of expedients, for obtaining the punishment best adapted to the several cases for which a course of reformatory discipline does not suffice, belongs to another head of inquiry, and must, for the present purpose, be regarded as determined. All that it is necessary for us to show here is, that a prison is not the proper scene for it, nor the instruments of a prison the proper instruments. To render a punishment the most efficacious in accomplishing the great end of punishment, it must be a punishment calculated to make the strongest impression upon the senses, and, through the senses, upon the imagination, of the public at large; more especially of that part of the public who lie under the strongest temptations to the commission of similar crimes. But the punishments inflicted in a prison are withdrawn from the senses of the public, and seem as if they were intended to make the smallest possible, not the greatest possible, impression upon the imaginations of those who are to be deterred from crime. They are defective, therefore, in the most essential quality of a punishment, and can always be supplied by better means of attaining the same end.

The proper idea of a prison is that of a place of custody, and that alone. This idea ought to be clearly, and distinctly, and steadily preserved in the mind, in all disquisitions respecting prison discipline. Punishment and reformatory discipline may be annexed to safe custody; and in as far as they consist of a series of operations, requiring time for their performance, it is essential to them. As reformatory discipline consists wholly in such a series, imprisonment is a necessary condition of it. Since many, also, of the best kinds of punishment are not such as can be executed all at once, but require a period of time, imprisonment is equally necessary for these punishments. But though you must have safe custody to enable you to execute certain punishments, and also to enable you to carry into effect a course of reformatory discipline, safe custody is not the same thing with punishment, nor the same thing with reformatory discipline; and no conclusions can be depended upon, in which ideas so distinct are confounded.

III. Having thus considered prisons, as instruments of safe custody, and [Reformatory Discipline](#), as instruments of punishment; two of the purposes to which they have been applied as means; it remains, that we consider them, as instruments of reformatory discipline, the third of the purposes to which they have been applied.

It is necessary, first of all, to state a clear idea of reformatory discipline.

When offences, against which it is necessary that society should have protection, are committed, it is desirable that the punishment of the offender should have three properties; *1st*, That it should deter all other persons from committing a similar offence, which is its most important property. *2dly*, That it should have the effect of deterring the man himself from a repetition of the offence. *3dly*, That it should have the effect of removing his former bad habits, and planting useful habits in their stead. It is this last property which is sought to be communicated to his punishment by reformatory discipline.

As the creating and destroying of habits is the work of time, and as the restraint of safe custody, and restraint from all indulgences, except under certain conditions, are necessary to reformatory discipline, whatever punishment is involved in such protracted [VI-390] coercion, is a necessary part of reformatory discipline.

What is desired is, to create a habit of doing useful acts, in order to break the habit of doing hurtful acts. To accomplish this, means must be obtained of making the individual in question perform certain acts, and abstain from the performance of certain other acts.

The means to be employed for producing performance cannot be of more than two sorts; the pleasurable, and the painful. A man may be induced to perform certain acts, either by punishment, or reward. He may be made to abstain from performing certain acts by an additional means, by withholding the power of performing them.

The latter is the means chiefly applicable for preventing the performance of hurtful acts in prisons; not only crimes, but acts of intemperance, gaming, or any others, the tendency of which is towards crimes. As this is nearly the universal practice, the reasons of it must be so generally known, as not to need development.

The inquiry which chiefly calls for our attention is, What are the best means of producing the performance of those acts, the habit of performing which we desire to render so perfect, that it may be relied upon for the effect, even in a state of freedom?

The persons on whom reformatory discipline is intended to operate, belong to the class of those who depend upon their industry for their support. So nearly, at least, do they belong to this class exclusively, that the immaterial exceptions may, in this general inquiry, be omitted.

The necessary foundation, in the case of such persons, not only for all virtues, but for abstinence from crime, is the habit of performing some one of those series of acts, which are denominated lawful industry, and for which the performers obtain payment or reward.

Labour, therefore, in some of its useful branches, is to be regarded as the foundation of all reformatory discipline. But as the object of this discipline is to train the man to love, not to hate labour, we must not render the labour in such a case any part of his *punishment*. The labour must, for this important purpose, be a source of pleasure, not of pain.

The way in which labour becomes agreeable to men out of a prison, is the way in which it can be made agreeable to them in a prison; and there is no other. Advantages must accrue from the performing of it.

The way of attaching to it advantages the most intensely persuasive, in a reformatory prison or *Penitentiary*, is exceedingly obvious.

There it is easy to prevent the attaining of any pleasure, except through the medium of labour.

What is provided in the prison, according to the principles already explained, is lodging, food, and clothing, all of the very cheapest kind not producing injury to health. In the monotony of a prison, there is no one who will not intensely desire pleasure in addition to this.

In the sentence of a criminal, who is subjected to reformatory discipline, it may, and as often as the case requires, it ought, to be rendered a part, that he shall not be permitted to make any additions to this hard fare from any source belonging either to himself or others, except his labour; but that what he earns by his labour he may, in a certain way, lay out to procure to himself better food, or any other indulgence (certain hurtful ones excepted) which he may desire. Few cases, indeed, will be found in which this simple contrivance will not produce steadiness of application.

We have now then attained what is of principal importance. For if we have got the inmates of a prison to labour steadily in some useful branch of industry, to look to labour as the great or only source of their enjoyments, and to form habits of so doing, sufficiently confirmed to be depended upon for governing their conduct in a state of freedom, we have prepared them for being useful members of society, and our purpose is accomplished.

Here, then, comes the question, By what arrangements, in detail, can the business of confining, maintaining, and setting offenders to work, be most advantageously performed?

In other words, In what hands should the government of Penitentiaries be placed, and under what rules should it be ordained for them to act?

It is an universal axiom in morals, that no security is equally to be depended upon for any desirable result, as the interest of those upon whom its accomplishment depends. If, in devolving upon a man the task of bringing about a particular end, we make it his interest to bring it about in the best possible manner, especially if we make it his interest in any high degree, we can hardly be disappointed in counting upon his most strenuous exertions. On the other hand, if he has no interest, or a very inconsiderable interest, in the end which he is entrusted to bring about; if little cognizance will be taken of his proceedings, whether good or bad; if to attend to the business would be exceedingly troublesome, to neglect it will produce little inconvenience; we may be very sure that, by a great majority of men, the business of the task devolved upon them will be very imperfectly performed. If they can make a profit out of oppression, or if, as is the case, to so great a degree in prisons, they can consult their ease by imposing additional and mischievous restraints upon the prisoners, their interests are strongly set against their duties, and ill conduct is still more perfectly secured.

This last, how deplorable soever the confession, is the state of management of all British prisons, with hardly any exception. There is a Jailor, who receives a salary and power; and is told to manage the prison well; and there is a number of Justice, that is, gentlemen of the neighbourhood, who obtain not a little power, and a great deal of praise, for undertaking to do certain public duties of a local nature, with little interest in doing them well, and no little interest in doing them in many respects exceedingly ill, who have the charge of looking after him. Varieties we cannot afford to particularize. This is the general description.

The management, then, of the prison, is the joint concern of the jailor and the justices, or magistrates, including sheriffs, who, jointly or severally, have no such interest, as can be expected generally to produce [VI-391] any considerable effect, in any thing more than such a kind of management as will not excite attention and indignation by its badness. All the degrees of bad management, which are within those limits, having little or no interest to prevent, they have abundant interest to permit.

It is surely not necessary, that we should go far into the detail of this case, to show the causes which it places in operation, and their natural effects.

First of all, it is sufficiently evident, that the jailor has an interest in obtaining his salary, and other emoluments, with as little trouble to himself as possible.

It is not less evident, that the magistrates have an interest in getting the power and credit, attached to their office, with as little trouble to themselves as possible.

This is enough. The book of human nature is clear upon the subject. This principle, at uncontrolled work in a prison, is perfectly sufficient to generate all the evils which those abodes of misery can be made to contain.

It is undeniable, that so far as those, who thus have the superintendence of jailors, are disposed to consult their ease, and to perform negligently a troublesome duty, which they may perform well or ill, just as they please, so far they will be indisposed to listen to any complaints against the jailor. It saves them a good deal of trouble to confide in the jailor. They speedily come, therefore, to look upon confidence in the jailor, and to speak of it, as a good thing,—a duty. “Has not the jailor been most carefully and judiciously selected for his office, by wise and good men? (viz. ourselves). Would it not be an injury to a man of his

character to distrust him? And to distrust him—for what? For the complaints of prisoners. But prisoners are always complaining, always giving trouble. Jailors are a good set of men. Prisoners are a bad set of men; especially complaining prisoners. They are the very worst kind of men;—they are, therefore, to be silenced; and it is often very difficult to silence them; nothing but harsh measures will do it; when harsh measures, however, are absolutely necessary, it is the duty of jailors to use them, and the duty of magistrates to protect such men in the discharge of so important a duty.”

Such are the feelings and conclusions which are undeniably prompted, by the mere love of ease, in the bosoms of such men as English magistrates.

So far as the magistrates consult their ease (men generally do consult their ease when they have not a preponderating motive to the contrary), the jailor is at liberty to consult his ease.

In the jailor’s consulting his ease, every thing that is horrid in a prison finds its producing cause.

What the jailor has chiefly to guard against is, the escape of his prisoners, because that is a result which cannot be hidden, and will not escape animadversion. But the love of ease prompts him to take the easiest means for this purpose; locking up in dungeons, loading with irons, and prohibiting communication from without: in other words, all the measures which are the most tormenting to the prisoner. If the prisoner, confiding in his ingenuity or his strength, makes any attempts to free himself from this misery, by escaping, the disturbance which is thus given to the ease of the jailor, is a cause of pain, proportional to the love with which he cherishes his ease; this pain, excites resentment, resentment calls for vengeance, and the prisoner is cruelly punished. The demon despotism reigns in his most terrific form.

This is only one half of the evil. The servants of the jailor, the turnkeys, as they are called, and others who wait upon the prisoners, are as fond of their ease as the jailor is of his. If the jailor has not adequate motives to make him take care that the business of the prison is well done, he will repose the same confidence in his servants, which the magistrates so liberally exercise towards him. He will leave them to indulge their ease, as he could not do otherwise without disturbing his own.

From the servants of the prison indulging their ease, neglect of the prisoners is the immediate and unavoidable consequence. From neglect of prisoners, that is, of men placed in a situation destitute of all the means of helping themselves, all those evils, which, in another situation, could be produced only by the most direful oppression, immediately ensue.

Upon the servants of a gaol, cherishing their ease, and left by their superintendents to do so, every call of a prisoner for help, for relief from any annoyance, is felt as an injury, and resented as such. Cruelty speedily comes, as a co-operator with neglect, to fill up the measure of the prisoner’s calamity.

The prisoner, finding himself destitute of all remedy, except he can prevail upon the people who approach him to remove some of the causes of the misery which he endures, has recourse to bribery, when he can possibly command the means; and then pillage, without limit and without mercy, is added to all the evils of this den of horrors.

If such are the consequences of entrusting the management of prisons to persons who have no interest, or not a sufficiency of interest, in good management, we have next to consider the important question, By what means a sufficiency of interest in good management can be created? We need not have any doubt, that if a sufficiency of good accrues to the managers from every particle of good management, and a sufficiency of evil

from every particle of bad, we shall have as much as possible of the good, and as little as possible of the evil.

1. The grand object, as we have stated, of reformatory discipline is, to create habits of useful industry.

2. A second object is, to preserve the health of the prisoners, and impose upon them no suffering, not implied in the conditions of their confinement, or prescribed by the judge.

3. A third is, by moral and religious tuition, to generate and strengthen good dispositions.

4. A fourth is, to attain those ends at the smallest possible expense.

It is not difficult to give the manager or keeper of a reformatory prison or Penitentiary, a very strong interest in all these important results.

We have already seen, that the mode of giving to the prisoner a motive to labour, is, by giving him a share in the produce of his labour.

It is evident that an equally certain mode of giving [VI-392] to the jailor a motive for obtaining as much of that labour as possible, that is, for doing all that depends upon him to make the prisoners labour as much as possible, and as productively as possible, is by giving him also a share in the produce of their labour.

It may be said, however, that if the jailor receives a share of the labour of the prisoners, he will have a motive for making them labour too much: labour may be so excessive as to equal the severest torture.

Effectual expedients, however, for the prevention of this evil, are easy and obvious. In the first place, it does not seem necessary that the labour should be in any degree compulsory. If a prisoner is, according to the rule above laid down with respect to the cheapest fare, confined to the coarsest kind of bread, and water, if he does not labour, but has it in his power to add to his enjoyments by labouring, more especially if he may labour in company, but if he will not labour, must remain in solitude, the cases will be exceedingly few in which compulsion will be needful; and these might, if it were deemed of sufficient importance, be specially provided for by the legislature.

If a man may work, or not work, as he pleases, and much or little as he pleases, there is no need of any farther security against excessive labour. If there were, it would be afforded by the interest which it is easy to give to the jailor in the health of the prisoner.

Giving to the jailor a share in the produce of the labour of a prisoner has two happy effects; not only that of giving him an interest in rendering the value of that produce as great as possible, but that, also, of giving him an interest in the health of the prisoner, because the produce of a man's labour is greater when he is in health than when he is not.

This may be increased by giving to the jailor, through a very obvious channel, an interest, and an interest to any amount, in the life of each prisoner. It being ascertained what is the proportion of persons of a similar age that die annually, when not confined in a prison, all that is necessary is, to entitle the jailor to a sum of money for each of the individuals above that proportion whom he preserves alive, and to make him forfeit a sum for each individual above that proportion who dies. This sum, it is evident, may be sufficiently high, to ensure, on the part of the jailor, a strong desire for the life, and thence a proper attention to the health of the prisoners.

Another particular in this case requires attention. It is obvious, that the motive of the prisoner to render the quantity or value of his labour the greatest, is, when the share which he enjoys of it is the greatest. It is equally obvious, that the motive of the jailor to promote the augmentation of this quantity or value is the greatest when his share is the greatest.

If the whole of the produce of the labour of each of the prisoners were left to be divided between himself and the jailor, the motives of the two parties, taken jointly, would be at the highest. And the question then would be, according to what proportion should the division be made?

The peculiar circumstances of this case permit the most decisive answer to be returned. No evil can accrue, and every good purpose is best gained, by allowing the jailor to take as much as he pleases. It being first established that he can employ no compulsory methods, that the prisoner must have as much of the coarsest fare and accommodation as he needs, whether he works or not, and that work can thus be obtained from him only by the operation of reward, it will be the interest of the jailor to make his reward sufficiently high to obtain from him all the work which he can perform, and, in his situation as a criminal, he ought, generally speaking, to receive no more. The propriety of this regulation, therefore, rests on conclusive evidence.

Here, however, an objection, worthy of attention, occurs. If the jailor receives so great a proportion of the produce of the labour of the prisoners, he may receive a much higher remuneration than the nature of his duties requires; and so far the public is deprived of a fund which ought to be available for the public service.

This observation is true; and the question is, in what manner can the separation of what is necessary in remuneration of the jailor, and what should be detached for the benefit of the public, be most advantageously made?

If the situation of the jailor affords more than an adequate reward, he will be willing to give something annually in order to retain that situation. And for measuring exactly what he ought to give, there is a sure and a well tried expedient: it is, to lay the thing open to competition.

By this expedient, a double advantage is gained: for both the public receives as great a share of the produce of the labour of the prison, as is compatible with the due remuneration of the jailor; and the jailor being entitled, in the first instance, to share the whole of the produce with the labourers, having both to pay what he owes to the government, and obtain his own remuneration out of his share, has a motive as strong as if the whole were his own, to render the produce as great as possible.

It will easily be seen that this contract between the public and the jailor, if sufficient securities can be taken for its being cancelled, as soon as misconduct on his part should render it desirable that it should be so, ought, for important reasons, to be concluded for a considerable number of years, or for his life. It is of importance that those individuals, who are to undergo the reformatory discipline, and who are unacquainted with any trade, should, especially if they are young, be taught the trade in which their labours can be turned to the greatest account; and, to make it the interest of the jailor to have them taught, it is evident that he must have the prospect of enjoying the benefit of their skilled labour for a sufficient length of time. This short illustration we hope will suggest to the reader sufficient reflections, for evidence on this point; and we must hasten to the remainder.

We have now shown, to how great an extent, upon the plan which we have thus briefly sketched, the interest of the jailor is rendered co-incident with the ends which are in view, and the most effectual [VI-393] of all securities is obtained for the goodness of his

management. We proceed to show what additional securities this plan enables us to provide.

Let us, first of all, attend to the power of inspection, which may be afforded in a degree altogether unparalleled. By the admirable properties of the building which we have recommended, not only is the conduct of the prisoners rendered wholly transparent to the jailor, but the conduct of the jailor may be rendered equally transparent to his inspectors. And as the central lodge, or tower of inspection, may be entered by any number, without giving the least disturbance to the prisoners, without their even knowing that any body is there, the public may be admitted on such terms, as to afford the full benefit of public inspection,—the most efficient of all inspections,—over the whole economy of the prison. By means of whispering tubes, oral communication might be permitted with the prisoners, at such times, and under such regulations, as would prevent it from interfering with the working hours, or other parts of the discipline, to all persons who might have a wish to hear if they had any complaints.

Another very simple expedient would make an important addition to the list of securities. It ought to be an obligation on the jailor to keep a book, in which all complaints of the prisoners should be entered, and, as often as they could write, signed with their names. Along with the complaint should be entered a statement of what had been done for removing the ground of the complaint, or of the reasons for doing nothing. And this book should be open to the perusal of the public, and should lie in a place convenient for the inspection of all the visitors of the prison.

A still more important and indispensable security would be, the obligation of the jailor to present, annually, to the principal court of justice, such as the Court of King's Bench in England, a report on the management and state of the prison during the preceding year, containing, with all other points of useful information, exact accounts of the receipts and disbursements; to verify these statements by his oath; to print and publish them at his own expense; and to answer, upon oath, all interrogatories, made to him, in open court, by the judge, or by any other person, how much soever the answer might tend to his own crimination; and this as often as the judge might call upon him for such a purpose. By this means, with the obvious security afforded for other still more important ends, so perfect a knowledge would be communicated of the gains of the jailor, and the mode of obtaining them, as would ensure an accurate bargain, rigidly proportioned to the amount of them, as often as the contract came to be renewed.

The last thing which we think it necessary to recommend in the shape of a security, would operate as a test of the efficacy of the management in its character of a reformatory discipline. The jailor should be held bound to pay a certain sum, varying in proportion to the length of time during which the prisoner had been subject to his discipline, for each of the prisoners who, after liberation, should be convicted of a crime.

Connected with the important part of the subject relating to the labour of the prisoners, it is proper to bring to view the advantage of a subsidiary establishment for receiving and employing those who might be liberated from the prison. It is a well known ground of lamentation, that persons liberated from a prison, find often great difficulty in obtaining employment, and are constrained, by a kind of necessity, to betake themselves to their former evil courses, though with the inclination to have devoted themselves to honest industry, had the means not been denied them. The best mode of obviating this great evil would be, to have a subsidiary establishment, the architectural form the same as that of the prison, in which the jailor should be obliged to receive all persons who have been liberated from the prison, and who make application for admittance; and to employ them on the same terms as the prisoners, with the single exception of its being in their power to remove when they please, and to make, in respect to terms, all such stipulations with the jailor as may be for their

mutual advantage.

The next part of the subject to which we proceed, is the plan according to which the prison shall be supplied with the articles which the prisoners are enabled by their labour to purchase.

As there are certain articles, such as intoxicating liquors, which ought to be altogether withheld, unless for special reason permitted, and as the jailor could not have a sufficient command over the articles conveyed into the prison, unless he had, in his own hands, the power of supply; as the intercourse, also, which would be created with strangers, if the prisoners were at liberty to purchase of whom they pleased, would be incompatible with the discipline of the prison, the power of supplying articles of purchase to the prisoners ought to be confined to the jailor.

If it be objected that the jailor would thus have the power of oppressing the prisoners, by selling bad articles, or good articles too dear, the answer is, That he could not. We have already seen, that in order to derive from the prisoners the greatest quantity of profit to himself, he must give to them a reward for their labour sufficient to make them labour to the most profitable account. But if he sells articles to them at more than the usual price, this is merely a reduction of the reward left to them for their labour: this he cannot reduce beyond a certain point, without reducing the amount of his profit; and any greater reward than up to this point, the nature of the case renders undesirable.

We have now then stated all that seems necessary to be said on the three great subjects; 1st, Of the structure and form of the prison; 2^{dly}, The securities which may be applied for obtaining good conduct on the part of the jailor; and 3^{dly}, The first and principal part of reformatory discipline, namely, voluntary labour.

The remaining conditions of reformatory discipline will not require much explanation.

1. Separation, as far as concerns the sexes, and as [VI-394] far as concerns the good from the bad, is now so generally attended to as an object of importance, that the danger sometimes is of other things being too much overlooked in the comparison.

In a prison, such as we have described, in which, by means of moveable partitions, the cells may be enlarged or contracted at pleasure, and in which the prisoners are all under continual inspection, the power of separation, to any desired extent, is complete.

The two sexes, though inmates of the same prison, and simultaneously subject to the same inspection, may be as completely disjoined as if they were inhabitants of a different region. By a piece of canvas, and nothing more costly, extended in the form of a curtain, from the boundary on each side of the female cells, in the direction of a radius across the central area to the inspection lodge, the females would be as completely cut off from seeing, or being seen by the male prisoners, as if they were separated by seas and mountains; the same effect would be obtained as to hearing, by merely leaving a cell vacant between those of the males and females; and thus the space appropriated to each of the two sexes might, in the easiest manner, be diminished or enlarged, as their relative numbers might require.

A much more complete and desirable separation, than that which is aimed at, as the utmost in other prisons, is easily attainable in this. The ordinary separation of young offenders from old, of the greatly corrupted from those who are presumed to be less deeply infected, is still apt to leave associations too promiscuous, and too numerous, not to be unfavourable to the progress of reformation.

The prisoners should be put together in companies of twos, and threes, and fours, seldom more; each company occupying a separate cell. It would be the interest of the jailor to put them together in such assortments as would be most conducive to the quantity and value of work they could perform, and to the goodness of their behaviour; that is, to the most perfect operation of the reformatory discipline: and his experience of their dispositions and faculties would of course fit him beyond any one else for making the selection.

It will have been all along understood, that, to attain the ends of inspection and economy, the same rooms or cells which form the day and working rooms on our plan, form also the sleeping rooms. Not the smallest inconvenience from confusion of things in the apartment can thence be derived; because the hammocks, which would be more convenient than beds, could be stowed away in little compass during the day.

It is also to be particularly observed, that whatever degree of seclusion might either be indulged to the feelings of an individual, or might be deemed conducive to his mental improvement, might still, upon this plan, be easily secured; because, by means of screens, a portion of the cell might be formed into as many private apartments as might be desired; and where experience of good conduct had laid a foundation for confidence, periods of seclusion, even from the eye of the inspector, might be allowed.

2. Nothing of great importance to be mentioned in this summary sketch seems now to remain, except schooling, and religious instruction.

The Sunday is the appropriate period for both. Sunday-schools are found by experience to be sufficient for communicating to children the important arts of reading, writing, and accounts. It would be obligatory on the jailor to afford the means of instruction in these respects to every prisoner who might not have attained them; together with all other means, not incompatible with the case, of promoting their moral and intellectual improvement.

3. The religious services proper to the day, and such other devotional exercises as might be thought requisite on other days, would be conducted by the chaplain, the prison affording remarkable facilities for bringing all the prisoners into a situation conveniently to hear; and also, which would be a circumstance of great importance, bringing the public from without, to participate in the religious services of the prison, for whom temporary accommodation in the vacant central area might be provided, and to whom, by the charms of eloquence and music, and the power of curiosity, it would be the interest of the jailor, by letting the seats, to provide sufficient attraction.

It seems to be necessary, before concluding, to obviate an objection, which, though it has seldom been urged as a reason against reformatory discipline, is yet considered as requiring a great deduction to be made in the estimate formed of its advantages. The objection is, that, by affording the means of employment to prisoners, we take away those means from a corresponding number of persons who are not prisoners, and thus sacrifice the deserving to the worthless.

This objection is drawn from some of the conclusions of Political Economy. That which affords the means of employment to labour is capital; in other words, the means of subsistence to the labourer, the tools he works with, and the raw material on which he is employed. When labourers are too numerous for the means of employment, it is evident that, if any new ones are added to the number, you can give employment to them only by taking it away from the old ones. It is, therefore, said, that by giving employment to prisoners, we make an equal number of honest workmen paupers.

In this objection, however, as is generally the case with false reasoning, a part only of the essential circumstances, not the whole, is taken into the account. In the first place, with regard to the prisoners, one principal part of the capital which puts labour in motion, namely subsistence, is afforded to them of course, whether they labour or not.

In the next place, the objection proves too much; for, if it would be better, for the sake of affording employment to others, that the man should do nothing in prison, it would equally be better that he should have done nothing out of prison; better that we should have a portion of our population useless than productive. According to this doctrine, the proper rule, whenever population exceeds the demand for labour, and wages are low, would be to give subsistence to a portion of the people, on the condition of their abstaining from labour.

Thus much of the allegation is true, namely, that when to the subsistence, which you would have given at any rate, you add tools and raw materials, [VI-395] you so far diminish the quantity of tools and raw materials which can be furnished to others. But, counting only this circumstance, another most important circumstance is left out of the computation. This deduction of tools and raw materials is made once for all. The productive labourer replaces the capital, which employs him, with a profit. Advance to him, for one year, the food and other articles which he needs, you never need to advance any thing more. What he produces in the course of the year, replaces the food and all other articles which he has used, with a profit. But if he has not laboured, he has produced nothing; you have to supply him, therefore, with the means of subsistence, not one year, but every year, from the produce of other men's labour. If he labours, you have to give him once, out of the general stock of means for the employment of labour, subsistence for a year, with tools and raw material, and you have no occasion to give him any more. If he is to be idle, you give him, it is true, only subsistence, without tools and raw material, the first year; but you have to give him subsistence, that is, so far to diminish the means of employing other men's labour, every year; whereas, if he is a productive labourer, for the advance which you make to him the first year, he not only exempts you from all farther deductions from the means of employing other men, but he every year adds to those means, by the whole amount of the profit made upon his labour. To make those persons, therefore, productive labourers, whom you must at any rate subsist, is to increase, not to diminish the means of employing others.

As to another objection which is sometimes offered, that the commodities produced in a prison glut the market, and injure other manufacturers, this is still more evidently founded upon the consideration of part of the determining circumstances, without consideration of the remainder. If it is meant to apply not to one class, or two classes of commodities, but to the mass of commodities in general, it may instantly be seen to be untrue. The men who become sellers of the articles produced in a prison, become buyers to the same amount. Whenever a man sells a greater amount of articles than before, he gets the means of buying an equally greater amount. He always brings as much of a new demand into the market as he brings of a new supply. If he introduces more of some one commodity than the market requires, and reduces the profits on producing it, capital leaves that employment till the inequality is redressed. If the number of people is the same, and the quantity of commodities is increased, it is a contradiction in terms, not to say that the circumstances of such a people are improved.

Having answered these objections, it does not occur to us that there is any thing more which in this outline it is necessary for us to add. The plan, both of construction and management, appears to us simple, and easy to be understood; and to offer securities for the attainment of the end, such as the imperfection of the human powers, seldom permit to be realised. In the delineation presented, the only merit we have to claim is that (if our endeavour has been successful) of adding perspicuity to compactness. There is not, we believe, an idea which did not originate with Mr Bentham, whose work ought to be the manual of all those who are concerned in this material department of public administration.

Endnotes

- [*] See Hickes's *Thesaurus*, T. II. *Dissertatio Epistolaris*, p. 20, 22.
- [*] *The Life of the Hon. Sir D. North, &c.* By the Hon. Roger North, p. 179.
- [*] The only part of Mr Mill's pamphlet to which it is of any use at present particularly to refer, is where he proves, that a balance necessarily exists between production and consumption; and that no amount of production can ever be without a market; a doctrine of cardinal importance, first illustrated by M. Say, in his very able work, entitled *Traité d'Economie Politique*, but of which the evidence will perhaps be found more clearly deduced in this pamphlet than in any other treatise yet published.
- [*] There is one brilliant authority on the side of Helvetius: "It was a favourite opinion of Sir William Jones, that all men are born with an equal capacity of improvement." Lord Teignmouth's *Life of Sir William Jones*, Vol. II. p. 211.
- [*] *An Inquiry into the Nature and Origin of Mental Derangement, &c.* By A. Crichton, M. D. I. 274.
- [*] *Chrestomathia*, being a collection of papers explanatory of the design of an institution proposed to be set on foot, under the name of the Chrestomathic Day-school, &c. By Jeremy Bentham, Esq.
- [†] We mention, with extraordinary satisfaction, that an idea of education, hardly less extensive than what is here alluded to, has been adopted by that enlightened and indefatigable class of men, the Baptist Missionaries in India, for the population, poor as well as ignorant, of those extensive and populous regions. A small volume, entitled, "*Hints relative to Native Schools, together with the Outline of an Institution for their Extension and Management,*" was printed at the mission press at Serampore in 1816; and, as it cannot come into the hands of many of our readers, we gladly copy from it the following passage, in hopes that the example may be persuasive with many of our countrymen at home:

"It is true, that when these helps are provided, namely, a correct system of orthography, a sketch of grammar, a simplified system of arithmetic, and an extended vocabulary, little is done beyond laying the foundation. Still, however, this foundation must be laid, if any superstructure of knowledge and virtue be attempted relative to the inhabitants of India. Yet, were the plan to stop here, something would have been done. A peasant, or an artificer, thus rendered capable of writing as well as reading his own language with propriety, and made acquainted with the principles of arithmetic, would be less liable to become a prey to fraud among his own countrymen, and far better able to claim for himself that protection from oppression, which it is the desire of every enlightened government to grant. But the chief advantage derivable from this plan is, its facilitating the reception of ideas which may enlarge and bless the mind in a high degree,—ideas for which India must be indebted to the west, at present the seat of science, and for the communication of which, generations yet unborn will pour benedictions on the British name.

"1. To this, then, might be added a concise, but perspicuous account of the solar system, preceded by so much of the laws of motion, of attraction, and gravity, as might be necessary to render the solar system plain and intelligible. These ideas, however, should not be communicated in the form of a treatise, but in that of simple axioms, delivered in short and perspicuous sentences. This method comes recommended by several considerations: it agrees with the mode in which doctrines are communicated in the *Hindoo Shastras*, and is therefore

congenial with the ideas of even the learned among them; it would admit of these sentences being written from dictation, and even committed to memory with advantage, as well as of their being easily retained; and, finally, the conciseness of this method would allow of a multitude of truths and facts relative to astronomy, geography, and the principal phenomena of nature, being brought before youth within a very small compass.

“2. This abstract of the solar system might be followed by a compendious view of geography on the same plan, that of comprising every particular in concise but luminous sentences. In this part it would be proper to describe Europe particularly, because of its importance in the present state of the world; and Britain might, with propriety, be allowed to occupy in the compendium, that pre-eminence among the nations which the God of Providence has given her.

“3. To these might be added a number of popular truths and facts relative to natural philosophy. In the present improved state of knowledge, a thousand things have been ascertained relative to light, heat, air, water, to meteorology, mineralogy, chemistry, and natural history, of which the ancients had but a partial knowledge, and of which the natives of the East have as yet scarcely the faintest idea. These facts, now so clearly ascertained, could be conveyed in a very short compass of language, although the process of reasoning, which enables the mind to account for them, occupies many volumes. A knowledge of the facts themselves, however, would be almost invaluable to the Hindoos, as these facts would rectify and enlarge their ideas of the various objects of nature around them; and while they, in general, delighted as well as informed those who read them, they might inflame a few minds of a superior order with an unquenchable desire to know *why* these things are so, and thus urge them to those studies, which in Europe have led to the discovery of these important facts.

“4. To this view of the solar system of the earth, and the various objects it contains, might, with great advantage, be added such a compendium of history and chronology united, as should bring them acquainted with the state of the world in past ages, and with the principal events which have occurred since the creation of the world. With the creation it should commence, describe the primitive state of man, the entrance of evil, the corruption of the antediluvian age, the flood, and the peopling of the earth anew from one family, in which the compiler should avail himself of all the light thrown on this subject by modern research and investigation; he should particularly notice the nations of the east, incorporating, in their proper place, the best accounts we now have both of India and China. He should go on to notice the call of Abraham, the giving of the decalogue, the gradual revelations of the Scriptures of Truth, the settlement of Greece, its mythology, the Trojan war, the four great monarchies, the advent of the Saviour of men, the persecutions of the Christian church, the rise of Mahometanism, the origin of the papacy, the invention of printing, of gunpowder, and the mariner’s compass, the reformation, the discovery of the passage to India by sea, and the various discoveries of modern science. Such a synopsis of history and chronology, composed on the same plan, that of comprising each event in a concise but perspicuous sentence, would exceedingly enlarge their ideas relative to the state of the world, certainly not to the disadvantage of Britain, whom God has now so exalted as to render her almost the arbitress of nations.

“5. Lastly, It would be highly proper to impart to them just ideas of themselves, relative both to body and mind, and to a future state of existence, by what may be termed a Compendium of Ethics and Morality. The complete absence of all just ideas of this kind, is the chief cause of that degradation of public morals so evident in this country.

“These various compendiums, after being written from dictation, in the manner described in the next section, might also furnish matter for reading; and when it is considered that, in addition to the sketch of grammar, the vocabulary, and the system of arithmetic, they include a view of the solar system, a synopsis of geography, a collection of facts relative to natural objects, an abstract of general history, and a compendium of ethics and morality, they will be found to

furnish sufficient matter for reading while youth are at school.”

Why should not the same idea be pursued in England, and as much knowledge conveyed to the youth of all classes at school, as the knowledge of the age, and the allotted period of schooling will admit?

[*] It may be remarked, that the conclusion to which we have thus arrived coincides exactly with the doctrine of Locke: “The great and chief end,” says he, “of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property.”—*Second Treatise concerning Government*, ch. ix. This the more certainly appears, when it is considered that by far the greater part of injuries to person committed by human beings are, in some way or other, on account of property.

[*] An acute sense of this important truth is expressed by the President Montesquieu: “C’est une experience eternelle, que tout homme qui a du pouvoir est porté à en abuser; il va jusqu’à ce qu’il trouve de limites.”—*Esp. de Loix*, II. 4.

[*] A most instructive display of these and similar artifices for the preservation of mischievous power, after the spirit of the times is felt to be hostile to it, may be seen in Father Paul’s *History of the Council of Trent*.

[*] See the writings of Kant and his followers, *passim*; see also Degerando, and others of his school, in various parts of their works.

[*] Nothing which can in any degree interfere with the rights of conscience, including whatever interpretation any man may put upon the words of Scripture, is here understood. It is the object of the legislator to encourage acts which are useful, prevent acts which are hurtful, to society. But religious hopes and fears are often applied, not to promote acts which are useful, prevent acts which are hurtful, to society; in which way, alone, they are capable of conducing to the views of the legislator; but to mere ceremonies. And cases are not wanting in which they are applied to produce acts that are hurtful, prevent those that are useful, to society. As far as religious motives are attached to the useful, instead of the useless or hurtful objects, society is benefited. It is this benefit which it is recommended to the legislator to pursue.

[*] We are happy to say, there are hopes that this part of Mr Bentham’s writings will soon be presented to the public by M. Dumont, the first of translators and redacteurs, in that happy form which he has given to other portions of that philosopher’s manuscripts.

[*] If evident fraud were committed in contracting the debt, or if the property of others obtained by loan, had evidently been dishonestly spent, or dishonestly risked, such fraud, or dishonesty, being crimes, not a debt, might justly subject a man to imprisonment, or any other sort of due punishment.