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From Prof: Smith

LECTURES

ON

GOVERNMENT.

From the author.

A

SYLLABUS OF THE LECTURES

DELIVERED TO THE SENIOR STUDENTS

IN THE

COLLEGE OF WILLIAM AND MARY,

ON

GOVERNMENT;

BY JOHN AUGUSTINE SMITH,

PRESIDENT AND PROFESSOR OF MORAL AND POLITICAL PHILOSOPHY IN THAT INSTITUTION.

To which is added,

A DISCOURSE,

BY THE SAME AUTHOR,

ON THE MANNER IN WHICH PECULIARITIES IN THE ANATOMICAL STRUCTURE AFFECT THE MORAL CHARACTER.

PRINTED FOR THE UNIVERSITY.

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PREFACE.

DURING the last winter, the author's first course of lectures on government was delivered. Knowing the difficulty which students experience in comprehending discourses altogether extemporaneous upon abstruse subjects, he made diligent inquiry for a suitable text-book. Rousseau's Social Compact, which had been used by his predecessor, was certainly objectionable; and the Review and Commentary upon Montesquieu's Spirit of Laws, which was recommended by a very eminent political character, through the medium of a friend, was soon laid aside, notwithstanding its merits, so defective* was its arrangement. Under these

* The writer, a Mr. Tracey, formerly a French senator, and author of a treatise on political œconomy, about to be published in Georgetown, D. C., seems to be aware of this, for he says, p. 143, "any one so disposed would do well to new model his (Montesquieu's) work and ours, and form for himself a connected and complete system of principles."

circumstances, the following Syllabus was, of necessity, prepared for the press.

Without this necessity, justice to himself would never have permitted the author to appear before the public, at least for the present. Government is a subject to which his attention was very lately turned, and since he has been compelled to consider it, a continued state of indisposition has prevented any intensity of application. To add to his embarrassment, the exertion which he could command, he was obliged to divide among various indispensable duties. His work therefore, the author trusts, will be received with some allowances; and should he be blessed with even that moderate portion of health which he has lately enjoyed, he hopes to render it at some future day, less unworthy of the institution from which it emanates.

In a performance like the present, harshness and inequality of style are unavoidable. Generally, heads of the lectures alone are set down, sometimes short abstracts are given, and where the question under consideration is unusually interesting, the whole is written out as delivered. To be perspicuous was the essential ob-

ject, and in this the author hopes he has not failed.

Several topics, it is proper to remark, usually connected with inquiries into the nature of government, such as crimes and punishments; liberty of the press, &c., are here not touched upon, all such subjects being disposed of in that part of the course in which Vattel is used as a text-book.

In methodizing truths which have been long known, and in tracing out principles which are universally admitted, frequent references were deemed unnecessary. The author however, must acknowledge his obligations to the writer of the articles on government in the Edinburgh Review, and to Mr. Dugald Stewart. To the last mentioned gentleman the author has paid, he is sure, the most gratifying compliment in his power, by introducing the study of metaphysics into the institution with which he is connected. For thus will the knowledge of this favourite science be speedily extended, from the shores of the Atlantic to the distant waters of the Missouri.

From the only political chair in the Union, the purest principles of republicanism should

undoubtedly be promulgated. In this respect the author trusts he will not be found wanting. On two points alone is he aware that his political orthodoxy can be called in question. On the first, the obligation of instructions, he apprehends he is in the minority; but the frequency of elections in America, renders this a mere speculation of little practical importance. On the second, the restriction of the right of suffrage to the proprietors of the soil, he is satisfied he has the concurrence of the larger and saner portion of the community. And here the author has urged his opinions to the best of his ability, convinced that upon this point depends all reasonable hope of permanence in the political establishments of his country,—since freeholders alone have every inducement to guard, without a temptation to invade the rights of their fellow-citizens.

William and Mary College, Williamsburg, Virginia, April, 1817.

LECTURES

ON

GOVERNMENT.

Origin of Government.

§ I. RATIONALITY supposes a desire for enjoyment.

§ II. Man is so constituted that he can attain this only through the instrumentality of his fellow-beings.

§ III. His own gratification consequently compels him to seek society.

§ IV. Nor is this the only cause. His infancy is long and feeble, and even in manhood his individual powers are inconsiderable; concert therefore is essential to his security.

§ V. Impelled then by his weakness and his wants, man is necessarily a gregarious if not a social animal.

§ VI. But at the same time that communion with his brethren is so important to him, man is endowed with certain malignant passions and propensities, which, if unrestrained, would render intercourse between his fellow-mortals and himself, much of the same nature as that which takes place between them and tigers.

§ VII. To control the vicious therefore, some device became necessary.

§ VIII. Accordingly each individual agreed, either tacitly or expressly, to cede the right which by nature he possessed of doing himself justice, upon condition that the physical force of the whole should, when requisite, be exerted for the protection of his person and property.

(Of course, when, from the circumstances of the case, there is not time for the interposi-

tion of the public arm, the original right of self-defence remains.)

§ IX. The security of individual rights therefore, is the object for which men entered into civil society, or in other words, for which government was instituted.

§ X. Government, consequently, is nothing more than a compact between the several members of the community for their mutual benefit and protection.

§ XI. The latter of these being secured, moral and intellectual improvement, and all the advantages of civilization, followed as necessary results.

Of the Sovereign Power.

§ XII. From the definition of government (§ X.) it follows, that society have the *right** of doing whatever the good of the whole may require; while the *power* necessary for that pur-

* This right, however, is limited by the conditions of the compact and the laws of morality.

pose, obviously results from the united strength of the individuals forming the body-politic.

§ XIII. But the *right* and the *power* of *at all times* doing that which the good of the community may demand, constitute what is meant by the term Sovereignty.

(Had the term sovereignty been always defined by those who disputed whether it is in the people or their rulers, what torrents of idle declamation and invective would have been spared. Whatever opinions, however, may have been held on this subject in the abstract, by priests* and parasites, few kings have had the temerity to *act* on the *jure divino* doctrine, or principle of legitimacy, as it is now called, and of those who have ventured, more than one has been taught that the sovereign power is *de facto* at least in the people.)

§ XIV. The sovereignty therefore, must be inherent in the people, as it is nothing more

* Vid: The Addresses of the French Clergy to Louis XVIII.

than the result of their united individual powers of *willing* and *acting*.

§ XV. Every effort to alienate or transfer this power is in reality, a *felo de se* attempt, as the instant the object was effected the society would be dissolved.

§ XVI. For such a government would not be for mutual protection and benefit, but would in fact, be an authorization of the *few*, at their pleasure, to plunder and murder the *many*.

(This is not cutting down the tree to get at the fruit as Montesquieu said, but to destroy the tree and the fruit together.)

Of Delegated Powers.

§ XVII. Society having as we have seen (§ X.) undertaken the protection of every individual of the community, must entrust this duty to some of its members, because in a state of even moderate size, the people cannot be convened for this purpose, with sufficient frequency or facility.

(This reason is conclusive; but in truth, as we shall see hereafter, most of the functions of government can be better executed by persons selected for that purpose.)

§ XVIII. Some persons must then be invested with authority.

§ XIX. Now all history proves, that such persons are certain to forget the source and end of their appointment.*

§ XX. In what manner this is to be prevented, or in other words, HOW THOSE TO WHOM AUTHORITY IS DELEGATED, ARE TO BE CONTROLLED IN THE EXERCISE OF THAT AUTHORITY, SO THAT THEY MAY CONTINUE THE SERVANTS AND NOT BECOME THE MASTERS OF THE PEOPLE, IT IS THE OBJECT

* It were unpardonable in an American not to notice the illustrious exception to this remark, which his country has afforded. But the Washingtons unfortunately, are the *oases* of history, and only mark as they break the interminable expanse of political depravity. Woe then to the nation whose freedom shall depend upon the recurrence of such a character.

OF THE ENSUING COURSE OF LECTURES TO INQUIRE.

§ XXI. Not to concede too much power is the first and most obvious means of preventing its abuse.

(The *Vis Insita* of governments appears to be sufficient for their maintenance in seasons of tranquillity; while wars and commotions confer the power which they render necessary. Machiavel is of opinion that in an extreme case a dictator should be appointed; and remarks that no mischief resulted from this in the Roman commonwealth, as long as the term for which that officer was appointed was sufficiently limited.*

Even in times of peace however, the real power of a government varies immensely, and this from its peculiar organization is more particularly the case with that of the United States. Consolidation and dismemberment, are the two extremes which we have to dread; of these the latter I think the more probable, and it is cer-

* On a point like this, Machiavel is excellent authority; for no man better knew the danger of trusting politicians.

tainly the more desirable event. But either is to be deprecated, and it is consequently the duty of every citizen of the Union to ascertain and to oppose whatever undue bias may at any time exist in the general government. Thus, perhaps, may its inevitable vacillations be rendered as harmless and as endless as those of the system which we inhabit.)

§ XXII. But still so much power must be parted with, that all attempts at restraint will be useless, unless it is divided.

§ XXIII. Now there are three distinct functions in every government: the legislative, the judicial and the executive. Let these then be always kept separate and independent.

Of the Legislative Branch of the Government.

§ XXIV. Individual protection we have seen (§ VIII.) is the end of government; now in order that all should be protected, all must obey.

§ XXV. But regulations must be prescribed before they can be observed.

§ XXVI. There must consequently be some power authorised to lay down rules of conduct, that is, enact laws which shall be obligatory upon every member of the community.

§ XXVII. But an authority which can bind every individual of the state, must be enormous, and is exceedingly liable to abuse.

(Blackstone was so struck with the immense power of a legislature, that he supposed legislation and sovereignty convertible terms; I shall endeavour hereafter to prove, that the enaction of a statute is no more an exertion of sovereignty than its explanation or enforcement.)

§ XXVIII. An effectual preventive of unwarrantable assumptions of power by legislative bodies is probably not within the reach of human ability, the modern system of representation affords a powerful, and probably the best corrective.

(That this is insufficient, however, the experience of our own country affords abundant evidence. Our legislators do not pretend, I believe, to be bound by the natural limits of their

power; (note upon § XII.) but where the constitution does not expressly interfere, their own notions of expediency* seem to be their only rule of conduct. Is it wonderful then, that we should have statutes upon subjects† with which,

* See Note [*A*] at the end.

† Under this head I class the law restraining the rate of interest, and although this doctrine may at first appear strange, a little reflection will, I think, show that it is just.

Man in a state of nature, had an undoubted right to exchange any article with which he wished to part, for any other article, which persons of adult years and sound minds were willing to give in return; in other words, to obtain for his goods what has been since called their market price. Now, it would be difficult, I suspect, to show that this right was ever conceded to the body politic, or that there is any essential difference between money and any other vendible commodity.

Were the legislature *now* to undertake to fix the price of wheat, corn or tobacco, the injustice and absurdity of the measure would be sufficiently glaring; but this is altogether the result of the progress of knowledge, for there is scarcely an article, to which, in some age or country, legislative superintendence has not been extended. The emperor Julian, attempted to repress by an edict the high price of wheat; the rate at which a certain kind of cloth should be sold, was formerly regulated in

of right, legislators can have no manner of concern? To me it appears, that our legislators

England by statute; and in Spain, poultry, and in New Holland, day-labour are, at this very time I believe, under legal restrictions. Among us, two things only, have been deemed worthy of public guardianship—baker's bread and money. Concerning the former I shall say nothing; but with regard to the latter, errors have been as universal and as obstinate as with respect to witchcraft. And what is very odd, there is between these two classes of notions, a most remarkable analogy—both consisting in a belief that particular things are exempt from the laws, by which the rest of their kind are controlled. Thus, while gravitation fixes other mortals to the earth, certain old women it has been thought, could fly; so, although the ratio of the supply to the demand, keeps down all other commodities to their just level, money it is supposed, has not only the power, but a a propensity to soar beyond this height.

From this delusion, the Dutch alone have been free, they never having had any statutory provisions to counteract the marvellous buoyancy of specie; and singular as some may consider it, interest is notoriously lower in Holland, than in any other part of Europe. Thus, this sober, matter-of-fact, trading people, have been the first to discover the true secret of preventing extortion, and of disarming fanaticism. Their principles of religious toleration were speedily adopted by other nations; but their good sense with regard to money, has hitherto

sometimes transgress not only the natural, but the written bounds of their power. Thus although the constitution of the United States says, that the state legislatures shall pass no laws "impairing the force of contracts,"* yet

found few imitators. Prejudices are, however, evidently passing away. Except in Turkey, legislators have every where found out, that *some compensation* ought to be allowed for the use of capital; whereas, every thing of the kind was formerly prohibited, under the name of usury. This is an improvement undoubtedly, and one step at a time, is and ought to be the rule of politicians; but might not a second advance be now tried without violating this golden canon?

In note [*B*] at the end of the volume, the reader will find some further remarks on this subject. They are taken from the course of lectures delivered in this college, on Political Economy, of all the sciences, next morality and government, the most important—and of the whole circle the one with which mankind at large, have the least acquaintance.

* I have heard it alleged, that this clause was put into the constitution to prevent the state legislatures from passing acts, prohibiting creditors of a certain description from recovering their debts at all. But such laws evidently annul contracts altogether; and it would be a strange mistake in the force of words, to employ the term "impair," where absolute destruction was meant. What

have statutes, termed stay laws, &c. been enacted, without scruple, whenever a supposed expediency rendered them necessary. Now, if I understand the import of the word impair, it means to produce such a change as will prevent some end from being now accomplished, with that promptitude, facility and certainty, which would formerly have attended its fulfilment. Let us apply this definition to the case in question. Every agreement contains at least two undertakings, the obligee engaging not only to do a certain thing, but to do it within a certain time or upon the happening of a certain contingency. The first promise is of itself obviously useless; if then, the legislature dispense with the second, for a week, a month, a year, or century, there being evidently no limit, if they do not thereby *impair* the force of the contract, I should be glad to know how this can be accomplished.

the framers of the constitution intended, I suppose was this, and it will be seen from the text that I consider the words as declaratory merely, that the State Legislatures should not interpose on particular occasions (for a continued interference is plainly impossible) to interrupt the ordinary administration of justice with regard to the recovery of debts.

It is contended indeed, that legislatures have a right to decide upon what terms they will interfere to compel compliance with contracts. In the first place, even if they originally had this right, it was given up upon the ratification of the federal constitution, or the clause in question is a nullity. But secondly, they never had such a right; for we have seen that the very end and object of government, was the enforcement of individual rights, it is therefore not a matter of choice whether a member of the body politic is to be put into the possession of that which belongs to him; on the contrary, the primary obligation upon rulers and one from which they can by no means be absolved, is to do effectual and *speedy* justice to all.

Ought then the immediate payment of debts to be enforced? No; because it is impossible instantly, to ascertain their existence and amount; and until these are known, the public authority can not act. Legislatures may consequently decide what steps are necessary for the establishment of these two circumstances, or to generalise the rule, they may with propriety ordain, that any forms shall be observed, which

are deemed conducive to the more perfect administration of justice; but after such as are strictly of this character have been gone through, they can not, of right, delay for a single hour, compelling compliance with agreements.)

§ XXIX. The history of Representation,—the most important discovery for human happiness next to letters, which has ever been made. A fair representation is the necessary element of a republic.

(The term republic, has been applied to governments differing so materially from each other, that I think it high time to give it a definite meaning. A republic then, may be defined that form of government, in which the legislative power is lodged in the hands of representatives, fairly chosen by the people.)

The advantages of the Representative System of Government.

§ I. The enormous power of legislation is divided among many, and is therefore less dangerous.

(From one hundred to two hundred, according to circumstances, I should esteem the best number. A legislative body of this size is rather cumbrous, undoubtedly, but it is less easily bribed, or *managed*, as it is termed. The districts which elect should be sufficiently extensive to insure adequate talents, but at the same time so circumscribed, that the representative can readily know the wishes and opinions of his constituents in the first instance, and inform them in the second, of the views and motives which have governed his conduct.)

§ II. The laws which emanate from representatives, are more likely to be agreeable to the people, and consequently will be more cheerfully obeyed.

§ III. To this obedience the people will be further prompted by the arguments and influence of the representative upon his return among them.

§ IV. An extensive country can be better governed upon the representative system than

other, and in the present state of the world ample resources are necessary for the preservation of a state.

§ V. Merit and talents are more likely to obtain their just reward in governments which are free, than in those which are despotic.

(The position is correct, but the doctrine must not be pushed too far. Party-spirit in republics, as well as favoritism in monarchies, has its influence; and intrigue, I fear, is peculiar to no form of civil polity. The truth is, that he who in a popular government finds himself in the minority, is very apt to remain in a private, or at least in a subordinate station, whatsoever may be his talents; unless, indeed, they are sufficiently great to give his party the ascendancy.)

§ VI. The character of every government depends, in some measure, upon that of the persons by whom it is administered. In monarchies, the mischiefs arising from the personal qualities of rulers are frequently dreadful; in republics, perturbations from the same causes exist, but they are reduced to a minimum.

§ VII. In every state the feculencies will occasionally rise; in a republic they quietly sink to the bottom upon being agitated, whereas in monarchies a deposition never takes place without a previous dissolution.

(Contrast the ease with which the most important changes are effected in this country, with the violence which was employed in France, before the privileged orders would yield. The stock-jobbers in England, seem at this very time to be fully as pertinacious.*)

§ VIII. But the incalculable advantage of this form of government is, that those who make the laws, are in a short time subjected to them, equally with the rest of their fellow-citizens.

Some objections to the Representative or Republican form of Government considered.

§ I. The tardiness with which business is conducted.

* There are some very just observations on this subject, in a well written life of Oliver Ellsworth, in the Analectic Magazine for May, 1814.

(In time of war this is certainly an evil, but during peace it is not so injurious, at any rate in this country, as that tendency to excessive legislation which is so manifest among us, is thus counteracted.)

§ II. The laws which are passed by persons promiscuously chosen, are not likely to be the very best possible.

(This may be true, but they will be certainly the best to which the people will submit; and this is the only perfection, it must always be recollected, to which legislation ever can arrive.* Moreover, the beneficial effects of

* In No. 9 of the Edinburgh Review, it is mentioned, that Dr. Adam Smith having reproached Mr. Burke with modifying instead of repealing the corn-laws, Mr. B. replied, that "it was the privilege of philosophers to conceive their diagrams in geometric accuracy, but the engineer must often impair the symmetry, as well as simplicity of his machine, in order to overcome the irregularities of friction and resistance."

This admirable remark is capable of the most extensive generalization, wherever man is the subject on which we have to operate; of all speculators, therefore, the politician must least expect the complete fulfilment of his views, and may indeed consider himself as most highly

laws are rather negative than positive,* and it is by no means so difficult a matter to enact statutes for the removal of evils which are felt.

§ III. The animosities between individuals of opposite parties, which free governments always engender.

(Political contests undoubtedly deprive social intercourse of some of its pleasures, particularly where the parties are so nearly equipoised that they alternately preponderate. Where, however, the dominant sect is exempted by its strength from all fear of its opponents, a considerable degree of liberality prevails, even with regard to appointments to office. But under any circumstances, a person who will content himself with a private station, will find no difficulty in passing easily and agreeably through life.)

favoured, if allowed to benefit his fellow-mortals in any degree, and upon their own terms.

* This alludes to the following magnificent theorem of Adam Smith, "that an exemption from war and excessive taxation, combined with a tolerable administration of justice, will carry a nation to the greatest perfection of which it is capable."

§ IV. Republican governments are said not to hold out a sufficient number of harmless lures to ambitious characters.

(There is certainly some force in this remark, and the want of a *waste-gate*, to draw off turbulent spirits, has, if I am not mistaken, caused more than one political movement in our country.)

§ V. Bad appointments to office, in as much as popular feelings and influential characters must be gratified, even where both are somewhat unreasonable.

(This is true, and it is very certain that despots are under no obligation of paying an undue deference to public opinion or private wishes, but has it been found from experience, that they actually make better selections than republican rulers?)

§ VI. Want of stability.

(All governments, it has been justly remarked, depend for their support on public opinion, and of the many circumstances which influence that opinion, antiquity is one of the most important. The philosopher himself is not

altogether devoid of that feeling of respect which age inspires, but in mankind at large, so strong is the propensity to venerate establishments which are old, that this sentiment alone has been found capable of supporting systems the most absurd and the most vicious. If such be its preservative virtue in the craziest and most rotten constitutions; what might it not achieve in sound and vigorous establishments—in establishments founded on the most enlarged views, aud securing every practicable political happiness? Unfortunately, however, it is in institutions of this very description, that this powerful principle has been hitherto disregarded, and mutability, I am constrained to acknowledge, has always been, and I fear is always likely to be, the bane of republicanism.* Our politicians seem deter-

* In this respect, we Virginians have now (March 1817,) something to boast of, for our constitution, which was formed the moment we declared ourselves independent, has remained to this day unaltered. It has, however, encountered its perils. During the levelling rage of the French revolution, our form of government was thought too aristocratic, because it restricted the right of suffrage to freeholders; and more recently it was discovered, that the present order of things was not sufficiently propitious to the pseudo system of banking,

mined never to learn that all governments are necessarily imperfect both in theory and practice. Imperfect in theory, because they are the contrivances of such very fallible beings as men; and still more imperfect in practice, because they are intended to coerce elements, too obdurate to be controlled, too discordant to be assimilated. Would republicans be warned by experience, would they be taught by reason, they would no longer attempt unattainable good. They would recollect that the effect of all great political changes is primarily bad, and ultimately doubtful; and that human sagacity must ever be foiled, where the conditions of the problem to be solved are infinitely multifarious and ever varying. They would remember that the body politic possesses a *vis medi-*

which the calamities and distresses of the war engendered. The attacks which originated from the first of these causes, were baffled with comparative ease, but those which arose from the second (such are the virtue and consistency of politicians) were much more furious, and had indeed well nigh proved successful. Our ark has however happily withstood not only the fury of the winds, but the more dangerous sapping of the *rot*,—and long may it float, triumphant in spite of dabblers in rights, and dealers in pelf!

catrix, which compensates any trifling defect in a system which is allowed to be permanent. When then a constitution fulfilled tolerably the ends for which it was formed, they would not touch it, but would permit the hallowing hand of time to consecrate in the eyes of the community, the instrument of so much good. Thus would it become the pride and the glory of the people to transmit undefiled to their children and to their children's children, so inestimable an inheritance; and then at last might the philanthropist begin to hope, that man is not for ever destined to be the slave of his fellow-worm.*)

The Provisions upon this subject, in the State and Federal Constitutions.

(The framers of these compacts were, I think, the best *practical* politicians this world has ever seen. They were accordingly fully sensible of

* For some admirable remarks connected with this subject, consult Stewart on the Mind, vol. 1. ch. iv. sect. viii. It is almost unnecessary, however, to quote this work, since it is the text-book of the junior class in this college.

the evil which we are now considering, and took every means in their power for its prevention. These were)

§ I. Lodging the legislative authority in two houses rather than in one.

§ II. Prohibiting persons under a certain age from being eligible to either of these houses.*

§ III. Electing for a term of years.

* This I esteem a very important proviso. All very young men are exceedingly fond of *improving* upon what their seniors or predecessors have done. This seems to be more particularly the case with the unfledged members of the bar, who form the bulk of our junior and more active politicians. Would these young gentlemen only recollect, that every change is not necessarily for the better; that partial alterations, though in themselves good, may yet prove injurious, by not harmonizing with the other parts of the system, and that frivolous amendments are, to say the least, useless.

The fly upon the cupola of St. Paul's, readily detected imperfections which might doubtless have been removed; but it required something beyond microscopic eyes and talents to suggest substantial improvements in such an edifice.

§ IV. Exempting during his continuance in office, the legislator from the control of his constituents.

(Upon this last point a difference of opinion, I know exists, but if it be admitted, that any construction of an act which leads to an absurdity, is to be rejected, the doctrine which I have advanced appears to me incontrovertible. For is it not absurd to say, that the community is bound to submit to a law, which, strictly speaking, is no law? Yet such is the consequence of asserting that representatives are bound of *right*, when they can and do disobey in *fact*.

Again, how can it be contended that, while our constitutions give authority, unconditional as far as constituents are concerned, that this authority is not to be exercised? Nor is it for a short time only that this absolute power is conferred, when electors would take care, it might be supposed, to choose some person whose views corresponded with their own; but for four and six years in the case of senators, does this entire exemption from control continue. Was it not certain, (as has frequently happened) that in this long period congressional

senators would oppose the state legislatures, their constituents? Why then no intimation on the subject of instructions? Nothing was easier than to have put in some saving clause, and as nothing of the kind was done, nothing of the kind, we must infer, was intended. Nay, so far from this, the long term of service for which one branch of the general legislature particularly, is elected, is inexplicable upon any other supposition except that it was wished thereby to prevent the government from being affected by every fleeting sentiment of the people. If then, we allow that the persons who drew up the state and federal constitutions were men of common honesty, and consequently, that they endeavoured to express their real meaning; and if we further allow that they were men of common intelligence, and consequently, that they knew what they did express, we must admit they never designed that instructions should be implicitly complied with.

But it may be said that this was wrong; that senators in congress more particularly, on account of the ease and certainty with which the wishes of their constituents may be collected, ought to have been held subservient to those

constituents. Let us then examine the *absolute* obligation of instructions independently of our institutions.

To avoid confusion it will be most convenient to discuss the question under two heads.

1st. Whether this obligation results from the very nature of the trust reposed, or

2dly. Whether if a representative be not bound to obey from principle, expediency requires his unconditional compliance.

Those who contend for the affirmative, on the first point say, from the history "of representation it is clear, that originally the representative was a mere agent sent to execute that for his constituents which they could not so conveniently perform for themselves." This I admit. But because such was the system some 1500 years ago, it certainly does not necessarily follow that we must now adhere to the same plan, since some improvement was, at least, possible. The judges in England were at first mere deputies of the king,* who is even yet, I believe, supposed by

* Adam Smith says, that judges of the circuit in the time of Henry II., were a sort of itinerant *factors* for the

a legal fiction to administer justice personally, would royal instructions have now the weight which they formerly possessed? In both instances certain functions were originally discharged by substitutes who were entirely under the control of those for whom they acted. In the case of the judges the transfer of power has been complete, and there is therefore no reason why the same thing *may* not have happened with regard to legislators.

Next, the right of instruction is implied, it has been contended, in the very name representative. What does he represent? the people who elected him, and *consequently* he is to do as they would have him.

This argument, by far the strongest which I have seen, very finely illustrates what Dugald Stewart terms the "magical influence" of a word.* To dissolve this spell, and to avoid

purpose of collecting certain branches of the king's revenue. Wealth of Nations, book v. chap. 1. part II.

* That the plausibility of this argument arises altogether from the illusive power of the phrase representative, is evident. Substitute the word senator thus, the right of instruction is implied in the very name senator! The non sequitur is now manifest, yet senators are as

the confusion which might thence arise, I shall change the *terms* of the *proposition*, without, however, altering its nature. Ought then the person to whom a portion of the legislative authority is delegated, to be bound by the instructions of those who elected him?

If the legislator is bound, it must be either because the power with which he is invested is a delegated power, or because he is elected to his office, or lastly, because legislative authority is an authority *sui generis*, and is to be classed under quite a different category from all the other governmental functions. These three predicates appear to me to exhaust the subject; upon their removal then the argument will be closed as far as principle is concerned. This I believe will not be difficult.

It has been proved that *all* power is originally in the people, every authority therefore,

much representatives as the members of the lower house. The essential character of both is the same; that of legislators, and the expressions senator and representative, were adopted by the General Convention as merely distinctive appellations. The terms are in themselves unobjectionable, but we must not be misled by a name.

which is exercised in the community, is necessarily vicarious, and if on this account one officer is to be instructed, all are in the same predicament and are equally bound to obey. But who ever dreamt of the people having a right to instruct judges,* chancellors, governors,

* There is a very good reason why a district judge particularly should be bound by the instructions of his constituents, which does not apply in the case of the legislator—the decisions of the former affecting those only who instruct, whereas the votes of the latter operate upon millions who have never been consulted at all. It is true, that every section of the state *may* instruct, but this never was and never will be done in an extensive country on account of its tediousness and difficulty; whereas nothing is more easy than for a judge when riding his circuit to consult his constituents.

The phrase "constituents of a judge" may at first sound oddly, but if the principles which I have laid down are admitted, (and that they are just all republicans will agree, however they may differ about my inferences), the judicial power is as much inherent in the people as the legislative. Had judges like legislators been elected every year or two, I have no doubt the same rule would have been applied to both. I grant indeed, that there is a very wide difference between the two cases as to *expediency*, but I can see none whatever as to *principle*.

and presidents, or that if instructed it would be their duty to comply?

By a parity of reasoning it may be shewn it is not because legislators are *elected* that they are bound to yield obedience to the wishes of their constituents; and that there is nothing peculiar in legislative power, I shall take the liberty of assuming, in as much as I can not prove a negative, and no person that I know of has undertaken to establish the affirmative.

But let us examine this question in a simpler form. Legislation is evidently, in this country at least, no exertion of the sovereign power, since the constitution circumscribes while it confers legislative authority.* How then can it be contended that the people have not the

* It appears to me to involve a complete confusion of ideas to call the passing of an ordinary statute an act of sovereignty. The power from which such statutes emanate is confessedly an inferior one; (for no person, I presume, will contend that our annual assemblies are equal in authority to a convention): now, how an act can be superior to the agents from whom it springs, or how a body can be at the same time, sub-ordinate and sovereign, I confess, I can not conceive.

right of transferring the power of making laws? Such a step may be held imprudent, unsafe, but that it may be taken without the violation of any principle seems to me incontestable.

If then, the people may intrust their representatives with the absolute power of legislating, is it proper, is it expedient that this should be done? In other words, Will the end of government, that is, the good of the community, be more effectually promoted by allowing legislators a temporary independence, or by having them unceasingly under the rod of those from whom they derive their ephemeral existence?

In this shape, the question being in a great measure one of experience, is to be determined rather by facts than by reasoning. Those then who have observed that our members of assembly and of congress have evinced a disposition to abuse their trusts by running counter to the deliberate and well-known wishes of the people; that immoderately puffed up by their momentary elevation, they have shewn not merely a decent firmness of character, but an arrogance which spurned those so lately and so

soon to be again their equals; let such as have witnessed facts like these, by all means tell their representatives "ye are and have always been a stiff-necked generation, and under the yoke shall ye be bound and kept."

But those who think that frequent elections* are the true and sufficient check wherever great power is intrusted, and who are, moreover, of opinion that an undue, time-serving† compla-

* Where the term of service is too long, and particularly where the legislator, as in the British parliament, is exposed to great corrupting influence, he should undoubtedly be held subject to the instructions of his constituents; and should their desires be of such a nature that he cannot conscientiously comply with them, he should resign. This, however, is nothing more than an endeavour to correct a greater evil by a less, so as to produce something like a compensation of errors.

† It is remarked by some French author, D'Alembert I think, that two classes of animals alone are calculated to rise to great heights—those which can fly and those which can crawl. By the "creeping things" shall we be always annoyed, particularly in calms, during which, they never fail to wriggle themselves into the most elevated posts. Storms, however, they are unable to withstand, and they quickly vail to the blast which unfurls the pinions of the master spirits.

cency in those seeking or possessing elective offices, is what we have most to dread, must wish to impart some little strength to public functionaries, that they at least may stand somewhat firm, instead of reeling to and fro at every conjectural* impulse of the popular breath.

Those whose observations upon the bulk of our politicians concur with mine, will require no reasoning to convince them, that the little independence for which I am contending should be allowed to representatives. To those whose opportunities have not permitted them to form an opinion from experience, the following remarks are submitted.

Responsibility is too frequently the only motive to virtue which is felt, and this alone, in some instances will, so far as the public is

* It is diverting enough to those who take no part in the game, or who are above such considerations, to see, when any thing new or uncommon occurs, how the political small-fry scud about, nosing every rumour that they may form some guess how the current is likely to set, lest peradventure, like poor sir Francis Wronghead in the play, they may happen to say "Aye," and afterwards find out, to their great discomfiture, that they ought to have said "No."

concerned, supply the want of better principles. Destroy this check by transferring to constituents the odium which otherwise attaches to the person who gives a flagitious vote, and the ignominy is so divided as to be lost. The effects of this dilution have been severely felt in other countries (Athens and Great Britain* for example), and we have no reason to expect an exemption.

Again, if instructions are obligatory, the known sentiments of constituents must be of equal force, the transmission of the instructions being a mere piece of formality. If this doctrine is to prevail, ask a representative upon some important occasion, why he gave such a vote, did he suppose the measure which he supported proper? "Not at all," he may answer, "I was and am as confident as you are, "that the proposition originated in erroneous "views, and that it is fraught with the most "injurious consequences to our country, yet "convinced of the wishes of my constituents, "I acted accordingly." How admirable a cover

* Vid: Paley's Moral and Political Philosophy, book VI. chap. viii.

for any plan of conduct which a representative may choose to pursue!

There is one other argument which I must notice before I quit this subject, and I introduce it here, because in truth it has no relation either to the propriety or the expediency of the doctrine under consideration. Writers on logic may indeed hereafter quote it as a tolerable specimen of the argumentum ab invidiâ deductum.

Is it not very arrogant, it is demanded, in a representative, to put his individual opinion in opposition to that of thirty-five thousand of his constituents?

In the first place, I object to the doctrine in toto that general or speculative questions (for in what depends upon feeling or sentiment the case is different), are to be determined by numbers in contradiction to reason.

But 2dly, The argument is more specious than solid, for, although one district or even state may be pretty unanimous in one opinion, yet other districts and other states are generally equally decided in doctrines directly the reverse. Now unless A can shew that his constituents are more likely to be right than those

of B, the argument proves nothing, since equal and contrary forces destroy each other. But in truth, is there a regular politician in the Union who would hesitate for one moment, to maintain what he calls his principles, against half a million of the adverse party? Let us hear, therefore, no more of arrogance in the representative who votes in opposition to only a few thousands of his constituents.

What then is a legislator to do when he knows (whether instructed or not, for that I hold to be of no consequence at all), that his sentiments and those of his constituents do not accord on certain points? Let him pay thus much deference, to the opinions of those who have honoured him with their suffrages; in matters purely local, he should perhaps yield; in those of general concern, let him review with the most cautious deliberation, the facts and reasons from which his opinions have been deduced; but should these after all remain unaltered, he must follow his own judgment, or resign. For nothing, in my opinion, can ever excuse a man who shall advocate and promote a measure, which, according to the best under-

standing that God has given him, will end in the destruction of his country.*

* After all, the difference between the great majority of my opponents and myself is not so considerable as might at first be imagined. Most persons agree, that instructions are not obligatory, unless the constituents are well informed as to all the facts and reasons which can bear upon the case, unless their opinions be fully and fairly collected, &c. &c.; so that ultimately, however we may disagree in the abstract, we should concur in practice at least in ninety-nine cases out of an hundred.

The Virginia Assembly too, in their celebrated resolutions censuring Messrs. Giles and Brent, their senators in congress, acknowledged that a representative is not bound to violate the constitution, or to commit an act of moral turpitude. Now, I presume it will be admitted, that instructions are to be obeyed solely upon the ground that the instructors are more likely to be right than the instructed. But nothing is more certain than that mankind are more uniformly correct in their moral sentiments than in any other disputable cases whatever. If, therefore, instructions are to be of no avail where they are more likely to be just, a fortiori, they ought not to be held obligatory where they are much more probably erroneous.

And quere, Is it not very like requiring an act of moral turpitude to exact from a public functionary, in whom a great trust has been reposed, and whose more especial duty it is to watch over the safety of the repub-

Of the Right of Suffrage.

§ I. It has been stated (§ XXVII.) that the authority of the legislature is enormous. It is indeed, plainly paramount to any other concerned in the ordinary administration of affairs. Now this authority is virtually in the hands of those who elect the legislature. To whom then should this election be confided?

§ II. For a satisfactory answer to this question, a recurrence to first principles is necessary.

§ III. Government, it has been proved, was instituted for the good of the community, and we shall here assume that every man is

lic, the performance of a deed which he most conscientiously believes will prove fatal to his country.

Lastly, the very clogs and restrictions which this doctrine of obedience requires before it can be reduced to practice, forms an almost insuperable presumption against its correctness, in the minds of all those who are accustomed to contemplate and to admire the unity and simplicity of truth.

generally* determined in his conduct, by his particular views of his own interests, of which he is upon the whole the best judge.†

§ IV. From these premises may be deduced, first, the political creed of a republican.

(For the good of the whole must consist of the good of the several individuals composing that whole, who are by hypothesis the best judges of that good. But there never can be in any community an absolute unity‡ of interest,

* I say "generally," because I know there are exceptions. In extraordinary times, and on extraordinary occasions, there are no acts above the reach of human virtue. But government is an *every-day* affair, and consequently gives full scope for the operation of *all* the motives by which men are influenced. Of these motives, self-interest, if not the most powerful, is by far the most constant; and, like the gulf-stream, though imperceptible in a storm, is irresistible in a calm.

† These two maxims form the basis of political economy as a practical science.

‡ In matters of general concern, to which the attention of government should be principally confined, there is much greater unity of interest than might at first be imagined, and the diversity of opinion, however great in a nation, will be found to regard the means rather than the end.

the good of the majority therefore is all that can be secured. Now if the whole are the best judges of what will be to their advantage, so also, by a parity of reasoning, are the majority; and as the greater good is to be preferred to the less, the will of that majority ought to prevail —the characteristic and fundamental tenet of republicanism.)

§ V. From the same premises it will follow secondly, that a government will be well administered in proportion to the identity of interest which may prevail between the governors and governed.

§ VI. Now this identity is manifestly as great as possible where the majority governs, but where a minority, and particularly where an individual rules, the reverse is inevitable.

(For kings, like other men, love wealth and dominion. Is their sway restricted, they strive to extend it. Is their authority already despotic, the acquisition of gold to squander in fooleries or wars, immediately becomes their ruling object. Expense being boundless, this craving is insatiable. To tax, consequently, to the utmost,

is as naturally the aim and practice of monarchs, as it is the endeavour of their subjects to retain for their own enjoyment, the fruit of their own toil. Struggles then, in kingly governments, must be perpetual, since they arise from propensities which are inherent and universal.)

§ VII. But if the majority would use the power so much more beneficially, and if it be theirs *de jure* and *de facto* too, how happens it, that in almost every country of the world, the few domineer over the many?

§ VIII. This strange state of things is the effect of several concurring causes:

1st. The want of proper intelligence in the community.

2dly. The short-sighted views of influential but unprincipled men.*

3dly. The institution of standing armies.

* Tacitus remarks, that those, or their descendants, who had assisted Augustus to enslave their country, were severely punished by Tiberius for the temporary elevation which their servility had obtained.

4thly. The very general, and where it occurs, always fatal combination between church and state.

5thly. The necessarily unequal distribution of wealth.

The two first of these causes will be considered hereafter; the 3d and 4th are so completely and so justly annihilated, not only by the laws, but by the public sentiment of our country, that it is needless to notice them: how to obviate the 5th and last, I shall now proceed to inquire.

§ IX. To cure any evil, we must either remove the cause or counteract the effect.

§ X. In this particular case the former part of the alternative is impracticable, since whatever violence might be made use of to carry agrarian laws into operation, there would still be great inequality in the fortunes of different individuals.

§ XI. We may, however, moderate, although we can not altogether get rid of the malady. But even this is to be attempted by the mildest and

gentlest methods, by regulations rather negative than positive; for on no occasion, nor on any account whatever, are private rights, with regard to the acquisition, expenditure, or bequest of property, to be infringed. Nor is this necessary: for so strongly does money tend to equalize itself, that if it be not dammed up by entails, laws of primogeniture, &c. its perturbing power in the political system may be very certainly controlled.*

§ XII. Let the man of wealth be told—sir, your money procures for you advantages enough in society, without being rendered subservient to party purposes, you shall not therefore buy power; for no man shall be allowed a voice at elections, who, though less opulent, is not as independent as yourself.

* The following argument receives in our state the only confirmation of which it is capable—the fact corresponding with the reasoning. All our leading characters are, it is well known, in very moderate circumstances; nor have I ever heard of an instance in which a man's wealth procured him a seat in the legislature.

§ XIII. But is it just to disfranchise* by law, a portion of the community, because they happen to be poor?

§ XIV. In appearance it is the law, but in fact it is that very poverty which disqualifies them. (The elective franchise means, in plain En-

* To have a voice in the government is doubtless desirable, but when a person recollects how very small a portion of political happiness has been vouchsafed to mankind, he will consider himself as eminently blessed, if the country of which he happens to be a citizen, enjoys even a moderate portion of public felicity. Such a person will not investigate over scrupulously by whom affairs are conducted, and if they are but well managed, he will rest perfectly contented. If then, it should appear that the concerns of a state will be better administered where the right of suffrage is restricted to freeholders, all rational inquirers will be satisfied. Now that this *must be* the fact, the reasoning in the text proves, I think, incontrovertibly; and that it *is* the fact, I have been frequently assured by persons who had witnessed the consequences of extending the elective franchise. But in truth, a very small part of the evils to be apprehended from giving power to those who know not its value, have yet been experienced in this country. Wait until a dense population calls into action the vicious energies of the system, and then expect the consummation which it requires no prophet to foretel.

glish, a right *freely* to select those who are to be trusted with political power. Let no one who comes within this definition, be deprived of his right. But what if circumstances, from their very nature inevitable and uncontrollable, prove an effectual bar to a person's exercising this privilege, even though it be nominally allowed him? Where then is the difference as to *freedom* of choice, if the law say a poor man shall not vote at all, or if the rich man tell him he shall not vote in a particular manner?*)

§ XV. But will the poor be thus influenced by the rich?

(To doubt this implies an equal ignorance of history and of human nature. Can it be for a moment supposed that money will not be employed to purchase votes, if they are to be had for money; and is it not a palpable absurdity to imagine that any human being can be at the same time dependent on another person for his

* There is manifestly as much of election in the one case as in the other; for he who is constrained to act in a certain manner, is no more free than he who is not allowed to act at all.

subsistence, and yet thwart that person in measures upon which he has set his heart? And this too, where nothing immoral is required, and where the dependent's own interest appears to be so little concerned?)

§ XVI. But, it is often asked, is it not hard that a man should be compelled to fight for a country in which he has no vote?

(No, it is not hard. It surely is no mighty grievance for a man to be compelled to go to a muster two or three times a year, where, by the bye, it is ten to one he would be found even if there were no obligation in the case. This duty too, let it be recollected, can be always avoided by a slight excuse, or a trifling commutation.)

§ XVII. But this poor disfranchised citizen is sometimes called into the field.

(Very true, but is there nothing worth defending but the right of voting? Has not this man, and every one that is near and dear to him, been always *equally* protected with the proudest and wealthiest, and this, too free of cost? Is this nothing? And is a remote chance

of fighting once in a man's life, so very horrible a matter as to counterbalance such blessings?

Besides, voters have to fight as well as others, and have moreover to *pay* as well as to fight, which is by far the more burthensome part of the business—the difficulty in modern wars, being to raise money, not men.

The truth however is, that the whole doctrine of the intolerable hardship of military service is deduced from an entirely false view of human nature—the love of fighting being one of our inherent propensities, and one that requires to be restrained, and not excited. Let us hear therefore, no more of the injustice of compelling poor disfranchised citizens, to perform for once in their lives, a tour of military duty of a few weeks.)*

* So strong is the disposition of mankind to indulge in their favourite pastime of war, that nothing but the inordinate expensiveness of the amusement among civilized nations, causes them to have some short intervals of tranquillity. Rude tribes among whom this pleasure is cheap, never suffer from the languor of peace. The inordinate imposts which are now indispensable to the prosecution of national quarrels, will, I think, prevent any modern republic from being very warlike. It is true,

§ XVIII. But is it not plainly just, and is it not indeed the essence of republicanism, that laws should always emanate from those on whom they are to operate. Now, ninety-nine hundredths of the statutes which are passed, relate exclusively to property; and their obligation is of course, confined to those possessed of that property; the restriction of the right of voting then, is in perfect conformity with the purest principles of republicanism; it is more, it is absolutely essential to the permanence of republican institutions.

Riches from their very nature, must be in the hands of the *few;* and those few will, without some countervailing provision, sway the *many*. Now no form of civil polity can, it has been proved, be good where the minority bears rule; and of all kinds of dominion, that of a monied aristocracy is perhaps the worst. Gold

that the freer the government, the more pugnacious the citizens; but their dislike to taxation, is at least equal to their love of fighting, and they are full soon satisfied with the one, if not with the other—whereas, monarchs can enjoy the sport upon such very easy terms, it is no wonder they are seldom in a hurry for the game to be up.

has never been remarkable for its liberalizing effect upon the human heart; and wealth though it commands obedience, never insures respect. Arrogance in superiors, and hatred and contempt in inferiors, are not the elements of peace and harmony in a state; and to these are pretty certainly added oppression on the one hand, and impatience of control on the other. For in such a community the people are tantalized merely with the name of freedom, and soon become restless and uneasy. Meeting frequently moreover, in large assemblies, they feel their strength, and have an opportunity of listening to all those who affect sympathy, and who promise relief. Professions being thus eagerly caught at, and costing nothing, are poured forth in profusion. Whether this be done honestly or not, is immaterial. The storm once raised, who can guide it? Demagogue supplants demagogue, and faction succeeds faction, until the people cursed with the tyranny of despotism without its calmness, submit to the leader whom fortune may ultimately favour. Under his iron sceptre, they enjoy repose, (if repose it can be called) but liberty bids them a long farewell. Read the history of ancient

Rome, and be assured, that any state similarly organised, will speedily have its Marius, its Sylla, and its Cæsar.*

§ XIX. If then there be any conclusion in politics, on which we can securely rely, both from history, and from the laws which regulate human actions, it is this, THAT UNIVERSAL SUFFRAGE AND FREEDOM NEVER WERE AND NEVER CAN BE CO-EXISTENT.†

* The constant wars in which Rome was engaged, delayed for a considerable period, the tumults which at length destroyed her liberty. Hence Machiavel's doctrine, that wars are necessary to a republic.

† The importance rather than the difficulty of investigating the foregoing question, has been the cause of the length to which its discussion has extended. On no subject have such unwearied pains been taken to mislead the people. The case being too plain for sophistry itself to darken, recourse has been had to hollow declarations of regard for the poor but honest man, oppressed by lordlings. In this miserable cant three classes of persons have united. First, those who wish for a different order of things, that their wealth may purchase that power they can not otherwise acquire. Secondly, political adventurers whose sycophancy alone can enable them to rise: upon these no effect can be produced; the heart

§ XX. As pecuniary independence should be the necessary qualification of a voter, some test must be had recourse to, by which this independence can be ascertained.

(It is not pretended that this can be effected with mathematical precision; an approximation to the truth is all that is either desirable or practicable.)

§ XXI. The following are the requisites of such a test—its application should be easy and certain, and fraudulent evasions should be difficult.

§ XXII. Real property alone combines all these qualities; and there are other reasons of

not the head being in fault. There is however, a third set, consisting of young declaimers, who have been seduced by the fine field for tropes and figures, which error, in this case, as in many others, affords; and who are, moreover, intoxicated by the unaccustomed use of such strong words as liberty, rights, franchise, &c. &c. To these, time alone will restore their senses if they remain honest, (for on subjects of this description, our reason and our beards usually keep pace) but the sobering process I have thought, might perhaps be expedited, by a little cold philosophy.

great weight, why landed possessions should exclusively confer the right of voting.

§ XXIII. In the first place, the monied capitalist is in a great measure a citizen of the world, and can in a moment transfer himself and his wealth, to any region he may prefer; but the landholder is fixed to the soil, and his fate is inseparably connected with that of his country. The deeper interest therefore, which such a person has at stake, will render him more watchful of the public concerns.

2dly. Land pays all or nearly all the taxes; and representation and taxation should ever be in unison.

§ XXIV. I conclude then, that landed possessions alone, in our country at least, should confer a right to vote. For this purpose, however, the minimum quantity which will constitute independence, should be sufficient.

Of the Judiciary Department.

§ XXV. Judges possessing neither the direct authority of legislators, nor the powerful influ-

ence of executive officers, should have every extrinsic support.

§ XXVI. Let then their remuneration be ample, and let their tenure of office be during good behaviour, or until the age of sixty, when their functions should cease, but with a continuance for life of their salaries.

§ XXVII. Let them have also the power of declaring a law unconstitutional; and let the execution of such a law be suspended until after a re-election of all the legislature by which it was passed. After such re-election, if the law be not repealed, it is to be held constitutional, and executed accordingly.

(I know it is doubted, by many, whether judges ought to have the power here contended for; but as they never can be made even equal to the other two departments, the greater their weight, the nearer the counterpoise.

No judge moreover, as far as I can recollect, has so much as attempted to enslave his country, so futile would be the effort—and where trial by jury exists, even individual oppression is impracticable. I can see, therefore, no objec-

tion to the augmentation of an authority which may be beneficial, and never can be injurious.)

Of the Executive Department.

§ XXVIII. The power of this department without a standing army is great—with one irresistible.

§ XXIX. In the former case could the independence of the legislature be secured, there would be no danger, but this is impracticable.

(The patronage of a government which may be termed its indirect power, is at all times considerable, and frequently enormous; and to suppose that the influence resulting from this patronage will not be *used* and *felt*, is to expect more from poor human nature than it is capable of.)*

* In one of the numbers of the Edinburgh Review, it is stated that during the war, the English government had in its gift offices, of which the salaries amounted to 20,000,000*l.* annually. If to this sum be added peerages, stars, ribbons and other marks of distinction, which are more eagerly coveted by many than wealth, instead of being surprised at the arbitrary measures of that government, our admiration ought to be excited, that so much

§ XXX. The only expedients hitherto devised for the prevention of executive encroachments, are, 1st, The number of offices in the state should be as few as possible; and to these with the exception of judgeships, very moderate salaries should be attached. 2dly, The power of appointing to many of these offices may be advantageously intrusted to persons unconnected with the administration.* 3dly, The period for which a chief magistrate is elected, should be very short; and lastly, a person who had once filled the chair of state, should be incapable of being elected to the same post for some years at least.

(The want of these two last provisions I conceive to be the greatest defect in the federal constitution; a defect which would, I am satisfied, prove fatal, were it not for the number and jealousy of the state governments. The custom

of liberty and happiness remains in that country. The same cause, which as we shall presently see, could render the suspension of the habeas corpus act comparatively harmless, was sufficient to curb even this vast power.

* Courts for example, should appoint their own clerks, commissioners, &c.

has been of late established, and even now it is mere custom for the president to retire at the end of eight years. But even this term is too long. By reducing the period to four years, much good would result. Among other advantages the chances of every ambitious man's attaining the presidency would be doubled, and he would be in that proportion the less disposed to disturb the peace of the community for the sake of his own elevation. Moreover, we should have so many more influential men who would be ready to oppose any aspiring genius that might wish to enslave his country. For this remark I am indebted to Machiavel, who further observes, that from this cause the liberties of Rome were safe; until from the prolongation of high commands, the number of great men in that city was reduced. As soon as that happened, those few powerful individuals began to struggle for the supreme authority—the result every body knows.

Let it not be apprehended that upon this plan we should be unable to procure fit characters to fill the presidential chair. There are at all times, many persons in a state as competent to the management of its affairs, as those to whom

that duty is intrusted. Talents of the very first order, are by no means necessary for the government of a country, and particularly for the government of our country. Here the machine is so extremely simple, that it is sufficient if it be not deranged. Even in England, however, where there exists by far the most complex and operose system of which we have any account, very moderate abilities (the administration of Mr. Addington for example) have been found fully adequate to the guidance of the helm of state.

I speak here altogether of ordinary seasons;* extraordinary occasions never failing in a community of tolerable intelligence to call forth the talents which they render necessary.)

§ XXXI. No benefit would result from the division of the executive authority among several.

(The responsibility which should ever attach to power in this case, would be in a great measure lost. The same objection lies to an executive council.)

* The situation of England, however, was very perilous while Mr. Addington, now lord Sidmouth, was premier. Yet his measures were as successful as those of Mr. Pitt.

§ XXXII. The veto allowed our president, wrong in principle, but immaterial in practice.

§ XXXIII. By referring to § XXIII. it will be seen, that the different branches of the government are to discharge their several duties independently of each other. But these duties must be prescribed before they can be fulfilled; and this can be done only by a paramount, that is, the supreme authority.

§ XXXIV. The people therefore, in their sovereign capacity, must ordain the rules by which public functionaries are to be guided and governed. Such rules are called the constitution of a state.

§ XXXV. A constitution being an exertion of the sovereign power, and that power being unalienable, such an instrument must emanate directly from the people. Members of conventions therefore can never decide, they can only propose.

§ XXXVI. To prevent collisions and usurpations, the words of a constitution should be as clear and as precise as possible.

§ XXXVII. Still they are but *words*, and words without some power to support them are nothing.

§ XXXVIII. This power is an enlightened public opinion with which the worst form of government may be borne, and without which the best is but a name.

(It is to the irresistible weight of public opinion in England, that the inhabitants of that country are indebted for the vast portion of liberty and happiness which they have enjoyed. At no time does it appear to me, that their freedom was well defended by law, but during the suspension of the habeas corpus act by Mr. Pitt, an Englishman was as much in the power of his rulers as a Turk. What might have been the disposition of the members of the British cabinet at the time, it is not our business to inquire, admitting them to be like other men, it is important and gratifying to reflect, that so despotic a power was rendered so harmless by the virtue and the sense of the people of England.)

§ XXXIX. I need hardly add, how essential it

is that the citizens should BE WELL INSTRUCTED in a government professing to be FREE.

(According to our principles indeed, intelligence is the sole foundation of republicanism, since knowledge alone can enable a people to see their true interests. If they can not do this, if they can not judge for themselves, knaves will dupe, and their own passions and prejudices will mislead them. Hence the worse than fruitless efforts, to liberate nations unprepared for the change. Instruct them first, and their fetters will moulder at a touch. Attempt to force their bonds while they are yet darkling, you but rivet the chains, which you render more galling. Turn your eyes upon France, unhappy France, and see what bitter fruit is borne by the tree of liberty, where the soil is unfitted for its reception. May this tremendous example teach the legislators of our country, THAT SLAVERY AND VICE, ARE THE INSEPARABLE CONCOMITANTS OF IGNORANCE.)

Conclusion.

The problem then which I have endeavoured to solve was this: "How those to whom au-

"thority is delegated are to be controlled in "the exercise of that authority, so that they "may continue the servants and not become the "masters of the people?" The following canons have, I hope, been established, and by them this important question may, I think, be settled.

1st. The real power of the community must be retained by those having a visible and permanent interest in the state sufficient to render them independent.

2d. That this power must be exercised however, by functionaries elected for that purpose, directly or indirectly, by the majority of the persons above mentioned.

3d. No more authority is to be conceded even to these functionaries than is necessary.

4th. Still so much power must unavoidably be granted, that division alone can render it safe.

5th. In every government consequently, there should be three perfectly distinct, and as far as practicable, co-ordinate departments.

6th. Circumscription and distribution are as essential with regard to the indirect as with regard to the direct powers of a government.

7th. The greater the authority and the fewer the persons to whom that authority is confided, the shorter should be the tenure of office; and the sooner such persons should be compelled to re-mingle with the mass of the community.

8th. Nothing should be trusted to tradition or custom; but the duties and powers of all should in a written constitution, be as clearly ascertained and as distinctly marked as the nature of things and language will permit.

9th. All this will avail nothing without intelligence on the part of the people.

10th. And consequently, AN ENLIGHTENED PUBLIC OPINION IS THE GREAT—IT MAY BE ALMOST SAID, THE SOLE SAFEGUARD OF CIVIL LIBERTY.

END OF THE SYLLABUS.

NOTES.

Note A. Page 18.

I KNOW it is contended, that a legislature has a right to pass any act which it is thought the good of the community may require; in other words that *right* and *expediency* are convertible terms, as regards not only private individuals but public bodies. I admit the doctrine in the abstract, and will concede that whatever is really expedient is right; but I contend that the rule cannot be followed with safety, in as much as it pre-supposes that we are able to foresee *all* the consequences of our acts, which it is clear fallible beings can never do. Now a rule which conscience alone can observe, is not likely to be of any great service to us poor mortals, who are moreover, unable to exert the little judgment we may possess. In all our deliberations with regard to the course of conduct which we should pursue, self is too apt to obtrude, and passion and prejudice, we know will blind the most conscientious. What probability, then, is there, that the bulk of mankind will act correctly, so many and such powerful causes concur to mislead them, unless they are furnished with a better guide than the calculation of consequences affords? Nor are these the only sources of error—every one who has attended to the

history of his species, knows that the human mind, in viewing immediate results, employs the magnifying end of the telescope, and preposterously enough reverses the instrument, when about to appreciate effects which are remote.

There is another objection to the doctrine in question, when it is to be applied to matters of state, which alone in my mind, is quite insuperable—the very convenient pretext which it affords for every act, however flagitious. That such an use has been made of it is too well known; and as politicians have not generally shown themselves *martinets* in principle, that they will continue thus to employ it, if allowed, there can be no great doubt.

I conclude then, that the only plan which we can with propriety adopt, either in our private or public capacities, is in the first place, to satisfy ourselves that a thing is *right*, and then to consider of its expediency; but never to reverse the procedure, since if we do the chances are greatly against us that we err, however sincerely disposed we may be to fulfil our duty.

Note B. Page 20.

THE law restraining the rate of interest is absurd, impolitic and unjust.

It is absurd, because the real rate of interest depends in every country, first, upon the profit which the borrower expects to make by the employment of the money, and secondly, upon the risk and the difficulties which the lender supposes he incurs of getting back his principal and its increase.

But the advantages to be reaped from the use of money, are necessarily as uncertain as trade, for it is upon that they principally depend; and it is evident that the probability of recovery never can be precisely the same in any two cases. Now any regulation must be absurd, which attempts to fix that which from the nature of things is ever varying.

The law is impolitic, because its real is directly opposite to its intended effect.

Bank and United States stock pay from seven to eight per cent, without delay and without risk; and either of them can at a moment's warning, be converted into money without any considerable loss. Now, as six per cent. only, can be demanded of individuals in this state, (Virginia) who are seldom very punctual in their payments of interest, and can rarely or never return the principal at a short notice, many persons having money from which they wish to draw a revenue, will prefer purchasing stock of some kind. The direct operation then of the law, restraining the rate of interest, is to diminish the quantity of money to be loaned, while on the demand for that money it can obviously have no effect. But the price of every commodity depends upon the ratio between the supply and the demand—whatever therefore, decreases the former, the latter remaining unaltered, necessarily enhances that price. Now, interest is clearly nothing more than the price of the use of money.

Nor is this the only manner in which the laws against usury, affect the rate of interest. These laws impose a penalty upon those who shall infringe them; but unless they are infringed, borrowers we have seen, can not be

accommodated. The penalty then, or rather the risk of it, must be taken in the account, and its supposed value is accordingly superadded to the already usurious contract.*

Again, the infraction of a law is attended not only with risk, but with ignominy; and for this too, the unfortunate borrower must pay. Is it any wonder then, that the profits of usurers should be enormous? I know indeed, it has been contended, that there is no ignominy in the case: but I never yet heard of a man who would consent to be branded with the appellation of *shaver* without being well paid for it.

The statutes against usury are impolitic, secondly, on account of the constant temptation which they hold out to those who are not over scrupulous to disregard the laws of their country, which of itself, in a republic particularly, is no trifling consideration.

Lastly, the law is unjust, because all governments do not scruple both to break it themselves† and to authorise

* The argument here is so very plain, that even facts can not strengthen it, I conceive.—They are not wanting however. In France in 1766, and in Livonia in 1786, according to Storck, attempts were made to reduce the rate of interest one per cent. by the imposition of a penalty. In the one country, five per cent. had been the ordinary rate; in the other six; and in both, one per cent. was added to compensate for the risk arising from the law; so that instead of bringing interest to four per cent. as Louis wished, he raised it to six—and Catharine raised it to seven per cent.

† The state and general governments, have both authorised loans at eight per cent.

certain corporations to do the same. Bank interest in this state, though nominally six, being in fact, 6 $\frac{40}{100}$ nearly per cent.

If the legislature will interfere at all, let the rate of interest be fixed from time to time, at one and a half per cent. above what government stock pays; since experience has proved that to be a sufficient compensation for the extra trouble and risk attending loans to individuals.

Let it not be inferred from what I have said, that I think a person at liberty to demand an exorbitant interest, even if there were no law on the subject. In that case morality would, as it does now, when the law cannot apply, forbid extortion; as it is, no conscientious citizen will transgress a regulation enjoined by competent authority, unless indeed, an outrageous attempt should be made to deprive him of some natural and unalienable right, that of expatriation under certain circumstances, for example.

A great though collateral evil, arising from the law restraining the rate of interest, is the unceasing demand it occasions for banks. For the number of persons in every community who wish to borrow is great, and as at present they can be accommodated through the instrumentality of these institutions alone, there is a loud clamour for their multiplication. Repeal the law, and the rage for banking would be greatly mitigated, if not entirely removed.

A

DISCOURSE,

ON THE MANNER IN WHICH

Peculiarities in the Anatomical Structure affect the Moral Character.

ORIGINALLY PRONOUNCED IN THE

COLLEGE OF PHYSICIANS AND SURGEONS,

IN THE CITY OF NEW YORK,

November, 1813.

"I have seen men, women, and children, so formed by *Na-*
"*ture*, that they could bear bastinadoing better than I can a fil-
"lip of the finger."—*Montaigne in his Essays, vol.* 1. *page* 173.
London, 1811.

TO

HIS EARLY, HIS PRESENT, HIS CONSTANT
FRIEND,

JOHN SYNG DORSEY, M. D. & P.

THE

FOLLOWING DISCOURSE

IS

INSCRIBED BY

THE AUTHOR.

PREFACE.

THAT our virtues and our vices are, in a great measure, constitutional, every observer of mankind must have remarked. To trace to its source so curious a circumstance, is surely within the legitimate bounds of philosophy, though such inquiries have by some been supposed to savour of materialism. Nothing however, can be more unfounded than this opinion. That the body and the mind act reciprocally and powerfully on each other no person can doubt, and the general admission must go as far to disprove the independent existence of mind as its details can possibly do. But in truth, neither Anatomy, nor any other science with which I am acquainted affords any *positive* arguments in favour of the materialists, whose tenets, whether true or false, depend for their support upon reasoning, entirely negative in its character.

My own opinions upon this subject are so well known, that any declaration of them is unnecessary; but I thought it right to premise thus much, lest I might be charged with having unwarily given some countenance to a doctrine which appears to me not only absurd, but which goes to degrade man to a level with "brute matter."

DISCOURSE.

GENTLEMEN,

UNQUESTIONABLY the most remarkable phenomenon which the study of mankind presents to the contemplation of the philosopher, is the astonishing fact, that of the myriads of human beings who inhabit this earth, no two can be found precisely alike. Something in the character, habits or pursuits of every individual, marks and distinguishes him from his fellow-men.

Whence can this wonderful diversity proceed? Naturalists tell us, that although man was designed by nature to inhabit every region, from the frigid to the torrid zone; yet that climate produces great changes upon him as well as upon all other animals subjected for a series of generations to its influence; and that the feeble and relaxed Hindoo must necessarily

differ materially from the robust and hardy New-Englander.

Metaphysicians contend that the human mind at the period of birth, is like a smooth mass of ductile wax, void of character and shape, but capable of receiving any impressions which may be made upon it; that these impressions will consequently be either good or bad, uniform or discordant, according to the skill or ignorance of those who undertake their formation. That man in short, is the creature of circumstance, the child of accident, and is virtuous or vicious, great or insignificant, as fortune may have smiled or frowned upon his birth.

Political writers admitting the argument of the metaphysicians, assert, that of all the circumstances which give a stamp to the human character, civil institutions, and manners and customs which depend upon them, are the most important. That it is impossible there should be any similarity between the vagrant tribes of the desert, and the over refined inhabitants of London and Paris, and between the crouching slave of the east, and the independent citizen of the west.

The effects of climate upon mankind, I do

not propose now to consider, but shall content myself with observing, that its action upon the mind must be through the medium of the organs of the body.

If the mind were originally as unformed as some metaphysicians suppose, and if all impressions made upon it, or in other words, all our ideas are derived exclusively from the senses,* it would seem to follow that the intellect of man and other animals, should be in proportion to the perfection of these senses. But this is by no means the case, for we are exceeded in at least three of the five by many animals, nor is there one of these inlets of knowledge in which we are not surpassed by some of the inferior orders of creation. The contemptible leather-wing-bat for instance, excels us in the two most important; for in this animal the senses of seeing and feeling are vastly more exquisite than in us. Moreover, although men differ more in their intellectual powers than in

* Metaphysical arguments with regard to the origin of our ideas would be here entirely out of place. On this subject I concur with Mr. Dugald Stewart; but at the time this Lecture was written (1813) I was quite a novice on the science of Mind.

their physical strength; yet except in some rare instances of deformity or defect, we all see, hear, taste, feel and smell equally well. Lastly, it frequently happens, that our senses, in consequence of disease, acquire an extraordinary degree of acuteness; in Hysteria for instance, which is so far from being followed by any augmentation of intellectual power, that on the contrary the mind under such circumstances is obviously and notoriously weakened.

But all the considerations urged by these several classes of reasoners are totally unable to explain whence it happens, that persons born in the same climate, brought up by the same tutors, living under the same government, in short, placed as far as possible, under precisely the same circumstances, should be found to differ so uniformly, and occasionally so widely in their characters and dispositions. Let us then call the science of Anatomy to our aid, and see if that will not enable us if not to solve the problem, at least to make some approximation to its solution. In the following discourse therefore, I mean to show in what manner peculiarities in the anatomical structure affect the moral character.

Such an inquiry, gentlemen, is beset with difficulties so formidable, that many of you I fear, consider them as insuperable. For in the first place, it must be admitted, that we are entirely ignorant in what way mind and matter act upon each other. In the next place, as according to my system every thing must depend upon the manner in which the several organs of the body perform their functions, what these functions are should be well understood; but all of them are unseen, and some of them are unknown. All this is true, but it proves only that our knowledge of the human frame is not so complete as could be wished. Yet the freaks of nature, disease, accident and experiment, have furnished us with numerous facts, which may be made to bear on the subject of our inquiry. Every man's own experience must indeed have afforded him some. Who, for instance, has not felt the fretfulness and impatience which arise from long fasting, and then enjoyed the kindly and beneficent sensations produced by a good dinner and a cheerful glass of wine? But, independently of such diurnal and petty variations, every person at all observant must have remarked those great and per-

manent alterations which gradually take place in his acquaintances and in himself. The ancients were so convinced of this, that they supposed a change to take place every seven years. These they denominated the climacterics, and they fixed upon the number 7 probably from their superstitious veneration for odd numbers. For the same reason they considered 63, that is, 9 times 7, as the grand climacteric.

Such a division is much too artificial to be correct; but it is evident there are three periods of our existence at which considerable revolutions are effected in our characters. The first of these is accomplished in males about the age of sixteen. In females it takes place sooner; in both earlier or later according to the forwardness of the person.

Twenty-one years is fixed upon by our laws as the second; but this I think is too early, and twenty-five I should state as the period at which the human faculties arrive at perfection. The third and last change commences about forty, and prepares us for that termination which awaits all animated nature.

The first of these revolutions is much more obvious than either of the others, particularly

the last, which disease frequently brings about prematurely, and death as often prevents altogether. The first, too, is accompanied by external signs which sufficiently mark it, but the last are known only by their effects. They all take place gradually, because the organs which produce them come slowly into action, and acquire by almost imperceptible degrees their influence in the system. Were it otherwise, were the blood for instance, to be suddenly diverted from the brain to the lungs, they would be unable to withstand the shock, and disease or death would frequently be the consequence. Such an effect does occasionally take place, and is vulgarly expressed by saying "such a person grows too fast."

Were the several organs of the body to retain the same relative influence in manhood as in childhood, then would men "be but children of a larger growth." And this does sometimes happen, for if those parts of the body which I shall presently point out as destined to effect this change, are not called into action, the person actually does retain, whatsoever his bulk may be, the character of a child all his life.

What then are the organs which produce such great alterations in us, and consequently so powerfully influence our characters? They are the brain, the lungs, the liver, and the sexual organs. These are the principal, and to these my observations will be chiefly directed, although others must be incidentally noticed. For in a machine so complicated as the human body, where all the parts are intimately connected and mutually dependent, each must necessarily affect the others, and thus modify the ultimate result in proportion to its own importance in the general scale. But the forces which many of the minor parts exert are not yet sufficiently ascertained to be appreciated. Future observations may detect them, and the genius of a medical Laplace will then apply them to the solution of whatever now appears paradoxical or incongruous in the human character.

As the effect which any organ produces in the body is in the compound ratio of its relative bulk and the activity of its circulation,* I

* The latter of these circumstances is much the more important of the two; hence, sanguineness of tempera-

shall first point out the condition of the several important parts above mentioned with regard to these two particulars, and show how changes in them with respect to these circumstances do actually produce the moral revolutions before mentioned. I shall then show that it is upon the completeness of these changes, or in other words, upon the influence which the one or other of these parts ultimately acquires and maintains in the system, that the character of the individual depends. But these circumstances must necessarily vary, at different times, in the same individual, and never can be exactly alike in any two; hence we see at once the cause not only of the endless diversity among men, but why the same person differs occasionally so widely from himself.

In children then, to begin with them, the

ment and narrowness of chest, are occasionally combined. But the intensity of action which takes place in the lungs in these cases, strongly predisposes such persons to pulmonic diseases, particulary consumption.

Combinations of an opposite description, that is, of bulkiness and inertness, which might at first be thought exceptions to the doctrine stated in the text, are thus easily and satisfactorily explained.

sexual organs receiving no more blood than is necessary for their support, are perfectly passive. The liver is large, but the circulation in it is languid, the bile which it pours out, though abundant, being thin and watery, which shows that the action of the gland is imperfect. The lungs merely enable the blood to go through the changes which are necessary for the support of life. The overwhelming power of the brain now annihilates that of every other part. This influence it derives, first, from its size, for it has three or four times the relative size in children which it has in adults; and secondly, from the rapidity of its circulation, the pulse beating nearly one-third faster now than in the later periods of life. The arteries also, are at this time much more numerous and much more active; hence the great heat of children, which serves as a constant stimulus to their vascular and nervous systems.

Such being very generally the peculiarities in the anatomical structure of children, much greater uniformity of character is to be expected, and (whatever the partiality of parents may induce them to think to the contrary), is actually observable among them than among

adults. As their muscles are perpetually stimulated into action by an excess of nervous energy, children must be for ever in motion. The same excess renders them so excessively irritable, that derangements which in adults produce little or no sensation (as tickling or acrid matters in the bowels), in them bring on convulsions. Their irritability renders them passionate, but their passions, like all their other emotions, are of short duration. From the same cause they are strongly acted upon by every object which strikes their senses, and each in its turn effaces all former impressions; hence, though violent, they are placable, though ardent, versatile, and though warm, unsteady in their attachments.

The brain and tongue being equally affected, a perpetual train of ideas passes through the former, to which the latter as incessantly gives utterance. As one train of thought can never keep possession of the sensorium for any length of time, children are incapable of much reflexion. Fully occupied with the affair of the moment, they are little tormented with hopes and fears about to-morrow. They cannot be said to be sanguine, and are entirely exempt

from hypochondria. From a sense of weakness, they are usually timorous.

Such are the characteristics of children when healthy, and such the causes. When puny and delicate, they frequently exhibit marks of premature intelligence, particularly as regards observation and reflexion, and people remark, "what a pity it is so smart a child should be so sickly." But we now see that it is to this very feebleness of body that such children are indebted for their superiority; for the circulation in the brain being thereby rendered uncommonly languid, that viscus as in the adult is more upon a par with the rest of the system. Should the health of such children be restored, with their returning vigour, the brain resumes its wonted superiority, and quickly destroys their pretensions to unusual intellectual powers. But should this not be the case, and should the precocity be very remarkable, such children are like unsound fruits which exhibit the earliest signs of ripeness, but never arrive at maturity, —an early death uniformly blasting the ill-founded hopes which such cases have inspired.

As soon as the brain acquires its full and proper size, which it does very early in life, the

blood is determined to other organs. Thus as we advance in years, the cerebral influence gradually diminishes, until in some instances, no more of it remains than is barely sufficient to carry on the operations of the animal œconomy. Occasionally, however, the power of this viscus continues through life too great, (although it is always to a greater or less degree modified by that of some other part.) Persons thus circumstanced, are distinguished by many of the characteristics of children. They are restless, captious, irrascible and violent. Ready to engage in any pursuit, and always eager, but easily diverted from one object to another; perpetually tormented by a desire to be in action, they are always in full chase, but like unbroken dogs, they pursue feathers and shadows, as keenly as the most substantial game. Of gratitude they are incapable, and of friendship they know only the name; their animosities, though more real, are sometimes equally transitory, for the interest of the moment regulates all. They are so credulous as to be duped by every designing knave, and are not in general remarkable for courage, either active or passive. Such are the effects of great permanent excitement

in the brain, should the stimulation go beyond this, mania is the consequence.

That an undue determination of blood to the head does produce the moral effects which I have mentioned, I think we have complete and absolute proof from experiments which unfortunately are much too frequently repeated in our own country. Alcohol, in whatever form it is taken, acts entirely by accelerating the arterial circulation, and thus giving a temporary supremacy to the brain: the effects of this are so precisely those which I have attributed to that state of the system, that I confess nothing it appears to me can be more decisive.

At about sixteen years of age, the head, for the reasons before mentioned, no longer requiring so large a supply of blood, this fluid is gradually diverted from it to the chest and sexual organs. The former of these then begins to expand—the lungs have thus a freer motion, and the blood is more completely decarbonised. The pulse beats slower, but fuller and stronger; the muscles become firmer in their texture, and more energetic in their action, and all the functions of the animal œconomy are performed with a new facility and vigour.

The sexual organs are now roused from their torpor, the voice in males becomes hoarse, the thyroid cartilage projecting; hair makes its appearance on the chin and other parts of the body, and the breasts, more particularly in females, are tumefied.

These are the physical changes which take place at this period—their moral effects are no less remarkable. For now the imagination just called, if not into existence, at least into more vivid action, spreads a fairy-land before us, over which nascent hope, like a prism, sheds an alluring but deceptive glare. Delighted with the new and extatic sensations which now thrill through every fibre, we hug them to our bosoms and fondly persuade ourselves that we are embracing realities. In females more particularly, these illusions are sometimes so strong, that the spell is not broken until their happiness is irretrievably ruined by an imprudent marriage, or a still more disastrous step. Even in our own sex, whose firmer nerves are less easily excited, there are few of us so cold blooded at this period of our lives, as not to lay schemes of happiness which can never be realized. And in the evening of our days, when our feelings

are sobered by time, or as too often happens, soured by misfortune, we look back with mingled emotions of surprise and regret upon those dreams of the morning, wonder at our own folly, and according to our dispositions either rail at or pity the rising generation for indulging in the same delusions.

Such are the effects produced by the organs under consideration, when their action is too intense. But the reverse of this may happen, and the motion of the blood in the lungs may continue through life, too slow and languid:—when this occurs, and when no particular determination of that fluid takes place to any other part of the body, when you have combined with this state of the circulation full chests and stout frames, muscles large but flabby, skins loose and covering quantities of fat resembling blubber, countenances heavy, eyes inanimate, and motions listless, the following is the moral character of the person. His appetites are grovelling, his disposition cold, sordid and selfish. Of love he is incapable, and marriage is a matter of convenience or calculation. Alike insensible to mental disquietudes or bodily ills, he suffers misfortunes without complaining, and pain, if

it be slight, without wincing. Destitute of fortitude and of courage to induce him to fight, his circulation must be quickened, and valour thus excited is usually called Dutch courage.

A little more energy in the lungs combined with muscles unbraced, but not flaccid, a fat, abundant, but not excessive, soft, but not gelatinous, produces your good sort of good-natured people. The dispositions of such persons are mild, amiable, and contented. They take little part in the bustle of the crowd, satisfied with their lot whatever it may be. As they make no exertion to maintain the station in which fortune may have placed them, they are elbowed out by the more pushing, and usually leave the world worse than they came into it. They are capable, however, when strongly excited, of great temporary exertion; but the effort over, they relapse into their former indolence. As all their appetites are moderate, they are usually correct in their conduct if left to themselves; but having little firmness, (although by no means deficient in courage), they are easily persuaded to engage in schemes of which they do not approve, and to participate in vices for which they have no relish.

Give the lungs yet more power, superadd considerable activity in the cerebral circulation, combine with these firm and vigorous muscles unencumbered with fat, and the following are the characteristics of such persons:—They are bold, restless, and irrascible; warm friends, or violent enemies; but their attachments are more durable than their animosities; scorning dissimulation, and incapable of bearing malice, reconciliation with or without a battle soon ends their quarrels. They are brave in the extreme, partly because to whatever danger they are exposed, they never calculate upon being killed.*

But the courage of such persons is apt to degenerate into rashness, for in truth, they are on no occasion much given to deliberating, but dash on, confident of success and heedless of consequences.†

* The celebrated Earl of Peterborough, who was, I believe, as brave a man as ever lived, used to say, that convince him that he did actually run a risk of being killed, and he would be as great a coward as any body.

† A very curious circumstance is to be observed with regard to these persons, that though possessed of courage in so remarkable a degree, they have very little

As their passions and propensities are always strong, their moral habits are rarely correct. Perpetually urged on by their warm and generous feelings, and acting always from the impulse of the moment, they are frequently hurried into little improprieties, which the bulk of mankind avoiding without difficulty, laugh at without mercy. Persons of this temperament are ill adapted for the ordinary rou-

passive resolution, and of all others bear surgical operations the worst. The late Mr. Birch of London, told me that having occasion to perform some slight surgical operation on Belcher, he observed with surprise, how ill he bore it. This celebrated pugilist was, in all probability, of the temperament I am now describing, for he was a man of great intrepidity. It is in all likelihood, from the same cause that the Irish, though perhaps individually, the bravest people in Europe, are so notorious for their unmanly complaints when on the operation-table. The moment the knife touches them, they "cry "out murder with a yelping note," as every attendant of the London Hospitals must have witnessed.

The French on the contrary, I know not why, are as remarkable for their resolution. A Portuguese surgeon once said to me, "That a person might, at his ease, cut a Frenchman for the stone." Females have been long and justly celebrated for their superior fortitude, both mental and corporeal.

tine of life, for they are very generally thoughtless, erratic, and extravagant. Of all others, they require the strictest discipline, to which, however, they are not at all disposed to submit; but it is all-important to them that their minds should take the proper direction; for right or wrong, they rush on with equal ardour and impetuosity, and either plunge into the most degrading vices, or soar to the highest excellence of which our nature is capable.

Next to these come those in whom the action of the lungs is unmodified by the influence of the brain. Sanguineness of disposition, without energy of character or vigour of intellect, distinguishes such persons. Of all human beings, they seem to me to be the happiest. Perpetually engaged in some pursuit to which they are enthusiastically devoted, they pass their lives, confident that they are on the eve of attaining the object of their wishes. They are never damped by disappointment; but if foiled for the hundredth time, they begin anew with redoubled ardour, convinced that they have discovered the cause of their former failures, and that *now* they shall certainly succeed. No matter how frivolous the rest of the world may

consider their schemes, they themselves esteem them of great importance; and whether they are collecting shells, stones, flowers, or insects, they are as much in earnest as if engaged in the profoundest and most useful speculations. Their confidence of ultimate success gives them great advantages over philosophers, who have usually much of distrust mingled with their hopes. Doubt, these speculators never know. Is wealth their object? however poverty stricken in reality, the mines of Potosi are ever present to their view, and as they think just within their grasp; is celebrity their aim? however contemned by the present generation, posterity they are sure will more justly appreciate their merit, and place them in the exalted niche in the temple of fame, so undoubtedly their due. Occasionally these persons are versatile in their schemes, and if agriculturists, one year they are to make a fortune by turnips, another by potatoes, a third by clover, and so on. If at any time you tax them with these inconsistencies, they will tell you it is very true, that they have been all their lives mistaken until now, but that they are certain they are right at last.

Should they become devoted to one object, and should this be, as it usually is, unattainable, such as perpetual motion, transmutation of metals, &c., they frequently fall into mental derangement. To this, indeed, the excessive action in their lungs always predisposes them, and should this action be from any cause much augmented, fatuity at least, upon certain subjects, is the inevitable consequence. This unfortunately, too frequently happens even in those who have not had the original predisposition. Such is the condition of persons affected with consumption, whose hopes of recovery are always in proportion to the ravages of the disease. When the determination of blood to the lungs is slight, that is, at the commencement of the complaint, they judge rightly of their situation and are aware of their danger. But let the disease become fixed, and as it advances, that is, in proportion to the intensity of the action of the lungs, do their fears diminish, and conviction of ultimate recovery increase, until the very day which, in their estimation, is to restore their health puts a period to their existence!

Although from the dreadful frequency of

this disease, probably every person who hears me has seen such instances; but Mr. Cooper relates one in his lectures which is so perfectly apposite that I will mention it:—A physician in London who was a lecturer on the Practice of Physic, and had frequently warned his pupils of this peculiarity in consumptive patients, became himself the subject of the disease. But he was no more conscious of his situation than others. He had been persuaded by his friends to retire into the country. The very morning of his death he told his wife that it was his intention to return to town on that day, in order to go on with his lectures, and show his friends how groundless their fears had been, and how firmly his health was established.

Nothing can afford a more complete illustration of the effects produced upon the system by increased action in the lungs, than such a case. But we have other proofs. Every person must have felt in close foggy weather, when the air is almost unfit for respiration, how heavy and listless he is; but let a change take place, let his lungs be stimulated by a clear elastic air, his imagination immediately brightens up, and all his faculties seem renovated.

Another strong proof of the correctness of the preceding opinions is furnished by children affected with the croup or hives. The first symptom of this disease is an uncommon brilliancy of the countenance, the eyes seem perfectly to illuminate it, and the child is most unusually playful. All these are the effects of the increased determination of blood to the lungs, they last until the complaint is either removed or becomes suffocating.

I cannot leave the organs of the chest without noticing, that mankind have by universal consent, attributed certain qualities to the heart. Thus we say, that persons have good, bad, affectionate, or hard hearts, as the case may be. The passions have certainly great influence over the heart, for when violent and long continued, they frequently produce death, by causing diseases in it; a fact for which we are indebted to the mournful events of the French revolution: but thereare no circumstances within my knowledge, to induce a belief that the heart has any agency in determining the character of the person, further than by hurrying or retarding the circulation. Intimately connected with the lungs, and co-operating with them in producing

the effects which I have mentioned, are the sexual organs. The extent of their agency is more easily ascertained than that of any of the other important parts of the body, because they are frequently removed in our sex before they come into action at all, and sometimes after that event. In this way it has been proved, that man is indebted for his hoarse voice and his beard to the stimulating fluid which these organs secrete and pour into the general circulation. The same cause thickens, as is well known, the necks of some of the inferior animals. To some of them as well as to men, it imparts a strong disagreeable odour, and renders them fierce and intractable. To this source is to be traced the most ungovernable passion to which we are subject; for, to this fluid, love, however refined or sublimated, owes its existence. A singular case demonstrative of this, occurred a few years ago, in London. A female child was born there, to all appearance resembling other girls; but when she arrived at the age of puberty no change whatever took place, and she continued to grow on without showing the least signs of womanhood. Of love she had no more idea than a blind person has of colours. A sister be-

ing married, she could not conceive her motive for so doing, and wondered particularly at her preference for a male bed-fellow. Upon dissection after death, she was found to want those two little bodies, termed by anatomists ovaria.

The action of the sexual system seems to depend very much upon that of the pulmonary organs; hence consumptive women are so apt to conceive, and hence also persons of sanguine temperaments are by far the most susceptible of love. The disposition to this passion, however, becomes weakened early in life, and after twenty-five or thirty, we are tolerably exempt from any violent freaks of it. For about this time the blood begins to take a new determination, and consequently those tumultuous emotions which have for several years agitated the system, gradually subside. Other propensities ultimately succeed, but there is generally a well marked interval, which separates the irregular and ungovernable desires of youth, from the more moderate and steady pursuits of maturer years. This calm the vulgar express (for it is so obvious in some instances that even the vulgar notice it) by saying, " such a person has sown his wild oats;" meaning, the person has

seen his folly, and intends to amend his conduct. This change, to all appearance a moral one merely, is at least as much corporeal as mental. For every part of the body having now attained its full size, receives its just proportion of blood. And it is to be particularly noted, that it is during this period of our lives only, that this fluid is equably diffused through the system. So long as this state of things continues, though all the passions may be strong, none can predominate.

But this exact equilibrium cannot last for any length of time, and is speedily destroyed by accident or disease. Independently however, of fortuitous causes, between thirty-five and forty* the blood is gradually diverted from the chest, the larger arterial trunks grow rigid, and many of the smaller twigs are obliterated. The heart now acts with diminished force and frequency, and the nerves lose their excitability. The brain of course receives less blood and fewer impressions, and there is no longer consequently the same rapid succession of ideas;

* It may now be readily understood why consumptions are so rare before fifteen, and after thirty-five.

accordingly at this age we begin to evince more pertinacity of opinion,* and greater steadiness of purpose.†

Another very important change marks the period of life we are now considering. The superiority which the arteries have heretofore

* "It was remarked," says Hume, "that no physician in Europe who had reached forty years of age, ever, to the end of his life, adopted Harvey's doctrine of the circulation of the blood.

† The reasons stated in the text account in part very satisfactorily, I think, for the well known aversion of elderly persons to alter their opinions. Whether the brain itself undergoes any change, in consequence of which it falls with less facility into *new trains of action*, is more than I can say. My own conjectures are in the affirmative, and with conjectures we must be satisfied, the cerebral physiology being confessedly an absolute terrâ incognitâ. That this organ does act *in some manner* I am as confident as consciousness can make me, but beyond the simple fact I am in utter darkness. The word *act*, therefore, I beg it may be recollected, I use in the vaguest sense imaginable, considering it perfectly visionary to talk about contractions, undulations or vibrations in the nervous system. *How* this system produces its effects may, I think, be safely pronounced, without the ken of human intellect, and therefore not to be meddled with by philosophers.

enjoyed, is now transferred to the veins; or, in the language of the schools, a venous plethora henceforward prevails. Thus while the influence of the other parts of the body is decreasing, that of the liver is augmenting—they being supplied with blood exclusively by arteries, while this, the largest gland in the body, is principally furnished by a vein. Hence it is that despondency, timidity and distrust, are so frequently the accompaniments of age.

That the gloomy and depressing passions arise from affections of the liver and spleen, the very name hypochondria implies; and modern observation confirms the fact upon which the ancients founded the denomination. In many persons, from disease or original conformation, the power of the liver is antedated, and the disposition which ought to be peculiar to advanced years, is found in the second, though never in the first period of life.

Where the influence of this viscus is considerable, but not very great, where there is combined with it adequate vigour in the cerebral circulation, muscles plump but without superfluous fat, a countenance neither sallow nor ruddy, but a compound of both, the following

are the principal features of a person's character who is thus constituted. He is cold, cautious and calculating. Correct in his moral habits, partly because he is little tempted to be otherwise. None of his passions are easily excited, and all, with the exception of anger, are under good controul; but when roused he is violent, and once thoroughly offended, the same tomb receives his animosities and his ashes. To quickness of intellect he has no pretensions, but an idea once fixed in his mind is nearly indelible; his memory, of course, is strong. He has great perseverance, or even obstinacy, in pursuing whatever he undertakes; but engages in nothing without due consideration. His temper is suspicious, and in all his transactions, he trusts no one further than he is obliged; in addition to this, feeling few or no attachments himself, he neither believes in nor possesses friends. His conduct through life is governed by long-sighted views of interest, and he is either patriot or slave, republican or royalist, as he conceives most conducive to his interest. Convince him that it is proper he should expose his life, and he will do so; but he has not that inherent love of fighting which so frequent-

ly accompanies the sanguine temperament.—Persons of the latter disposition answer better for soldiers, but those of the former (when they have the requisite strength of mind) make the best officers, for they are cool and collected, careful to avoid mistakes themselves, and ready to take advantage of those of their adversaries.

Give the liver the same degree of influence, but deprive the brain of its power, the skin of its blood, the muscles of their plumpness and their fat, and you form the most contemptible being that inhabits this earth. He is poor, weak, mean and malicious; devoid of every noble sentiment, of every generous feeling. Envious of those by whom he thinks his interests are thwarted, from under some covert (for such persons are universally cowards) he darts his tiny weapon at the object of his hatred. But he has neither skill to direct, nor strength to give it force, and but for the gall with which it is tipt, it would fall harmless to the ground; as it is, the skin is raised, and a slight smart is the consequence. This might tempt you in the irritation of the moment, to crush the miserable insect if within your reach—but if it escape at

the time, why let it go, its own malignity will be its best punishment.

Next come those in whom the action is intense in both the brain and the liver. This state of the circulation forms men of strong minds and gloomy imaginations, who are incapable of enjoying present good for fear of approaching evil. Such a man was the celebrated Cowper. When this temperament is very exquisite, the unhappy objects are always upon the verge of insanity; with which, like the unfortunate person just mentioned, they frequently become affected.

Where the strong action in the liver is unmodified by that of the brain, the person is one of your ordinary hypochondriacs, who is tormented with a thousand ridiculous fears and fancies, which have no foundation except in his own imagination.

Thus, gentlemen, have I endeavoured to show in what manner peculiarities in the physical structure affect the moral character. In doing this, I have carefully avoided entering into minute details,* for in disquisitions of this

* Those who wish for further information may consult Rapports du Physique et du Moral de l'Homme, par

nature, an excess of refinement is always fatal. Lest, therefore, I might be thought fanciful, I have adhered to views which are general, and to characters which are broadly marked, leaving in a great degree, the particular application† of the principles which have been established to those who are fond of speculating upon the moral phenomena by which they are surrounded. After all, however, it may be thought by some that I have pushed my doctrines too far, and such may, perhaps, be the fact; but to me it appears, that the different organs in the body

M. le Senateur Cabanis, a work to which I am under considerable obligations.

† This application, however, is not very easy, as unmixed specimens of the temperaments which I have described are rarely to be met with. In general, there is such *a play of affinities*, that it is exceedingly difficult to assign to each agent its just proportion of influence. What enhances the difficulty is, that although one part maintains its supremacy in ordinary, every now and then another is enabled from accidental causes to usurp its prerogative. Hence consumptive patients, for example, are liable to occasional fits of despondency, and where the liver has partaken largely of the disease, there have been instances in which the usual fatuity has not occurred at all.

always *tend* to produce the effects which I have ascribed to them. Where this tendency is weak, moral agents may overcome it, where it is strong, they will, as experience has too often proved, be found ineffectual. Hence we see, THAT FOR MANY ERRORS, BLEEDING, BLISTERING, AND CATHARTICS, NOT REASON, SENSE, AND LOGIC, ARE THE PROPER CORRECTIVES.