

THE  
WORKS C+

OF

JOHN ADAMS,

SECOND PRESIDENT OF THE UNITED STATES:

WITH

A LIFE OF THE AUTHOR,

NOTES AND ILLUSTRATIONS,

BY

HIS GRANDSON

CHARLES FRANCIS ADAMS.

VOL. VI.

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WORKS  
ON  
GOVERNMENT.

VOL. VI.

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A

# DEFENCE

OF THE

## CONSTITUTIONS OF GOVERNMENT

OF THE

UNITED STATES OF AMERICA.

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### CHAPTER FIRST.

MARCHAMONT NEDHAM.

THE RIGHT CONSTITUTION OF A COMMONWEALTH EXAMINED.

The English nation, for their improvements in the theory of government, has, at least, more merit with the human race than any other among the moderns. The late most beautiful and liberal speculations of many writers, in various parts of Europe, are manifestly derived from English sources. Americans, too, ought for ever to acknowledge their obligations to English writers, or rather have as good a right to indulge a pride in the recollection of them as the inhabitants of the three kingdoms. The original plantation of our country was occasioned, her continual growth has been promoted, and her present liberties have been established by these generous theories.

There have been three periods in the history of England, in which the principles of government have been anxiously studied,

and very valuable productions published, which, at this day, if they are not wholly forgotten in their native country, are perhaps more frequently read abroad than at home.

The first of these periods was that of the Reformation, as early as the writings of Machiavel himself, who is called the great restorer of the true politics. The "Shorte Treatise of Politicke Power, and of the True Obedience which Subjects owe to Kyngs and other Civile Governors, with an Exhortation to all True Natural Englishemen, compyled by John Poynt, D. D.," was printed in 1556, and contains all the essential principles of liberty, which were afterwards dilated on by Sidney and Locke. This writer is clearly for a mixed government, in three equiponderant branches, as appears by these words:—

"In some countreyes they were content to be governed and have the lawe executed by one king or judge; in some places by many of the best sorte; in some places by the people of the lowest sorte; and in some places also by the king, nobilitie, and the people all together. And these diverse kyndes of states, or policies, had their distincte names; as where one ruled, a monarchie; where many of the best, aristocratie; and where the multitude, democratie; and where all together, that is a king, the nobilitie, and commons, a mixte state; and which men by long continuance have judged to be the best sort of all. For where that mixte state was exercised, there did the commonwealthe longest continue."

The second period was the Interregnum; and indeed the whole interval between 1640 and 1660. In the course of those twenty years, not only Ponnet and others were reprinted, but Harrington, Milton, the *Vindiciae contra Tyrannos*, and a multitude of others, came upon the stage.

The third period was the Revolution in 1688, which produced Sidney, Locke, Hoadley, Trenchard, Gordon, Plato Redivivus, who is also clear for three equipollent branches in the mixture, and others without number. The discourses of Sidney were indeed written before, but the same causes produced his writings and the Revolution.

Americans should make collections of all these speculations, to be preserved as the most precious relics of antiquity, both for curiosity and use. There is one indispensable rule to be observed in the perusal of all of them; and that is, to consider the period

in which they were written, the circumstances of the times, and the personal character as well as the political situation of the writer. Such a precaution as this deserves particular attention in examining a work, printed first in the *Mercurius Politicus*, a periodical paper published in defence of the commonwealth, and reprinted in 1656, by Marchamont Nedham, under the title of "The Excellency of a Free State, or the Right Constitution of a Commonwealth."<sup>1</sup> The nation had not only a numerous nobility and clergy at that time disgusted, and a vast body of the other gentlemen, as well as of the common people, desirous of the restoration of the exiled royal family, but many writers explicitly espoused the cause of simple monarchy and absolute power. Among whom was Hobbes, a man, however unhappy in his temper, or detestable for his principles, equal in genius and learning to any of his contemporaries. Others were employed in ridiculing the doctrine, that laws, and not men, should govern. It was contended, that to say "that laws do or can govern, is to amuse ourselves with a form of speech, as when we say time, or age, or death, does such a thing. That the government is not in the law, but in the person whose will gives a being to that law. That the perfection of monarchy consists in governing by a nobility, weighty enough to keep the people under, yet not tall enough, in any particular person, to measure with the prince; and by a moderate army, kept up under the notion of guards and garrisons, which may be sufficient to strangle all seditions in the cradle; by councils, not such as are coördinate with the prince, but purely of advice and despatch, with power only to persuade, not limit, the prince's will."\* In such a situation, writers on the side of liberty thought themselves obliged to consider what was then practicable, not abstractedly what was the best. They felt the

\* See the political pamphlets of that day, written on the side of monarchy.

<sup>1</sup> This work was reprinted in London, in 1767, under the direction of Thomas Hollis, in a thin octavo, containing one hundred and seventy-six pages. The copy found in the author's library bears the following inscription:—

"Mr. Brand Hollis requests the favor of his friend, Mr. Adams, to accept benevolently this book, to be deposited among his republican tracts, which, after the pomp and pageantry of monarchy, 'the trappings of which would maintain a moderate republic,' will relish well.

"*Chesterfield Street*, 19 January, 1787."

It is not improbable that it was the presentation of the work at this time that occasioned the elaborate review of it, which constitutes the most vigorous part of the present work.

necessity of leaving the monarchical and aristocratical orders out of their schemes of government, because all the friends of those orders were their enemies, and of addressing themselves wholly to the democratical party, because they alone were their friends; at least there appears no other hypothesis on which to account for the crude conceptions of Milton and Nedham. The latter, in his preface, discovers his apprehensions and feelings, too clearly to be mistaken, in these words:—“I believe none will be offended with this following discourse, but those that are enemies to public welfare. Let such be offended still; it is not for their sake that I publish this ensuing treatise, but for your sakes that have been *noble patriots, fellow soldiers*; and *sufferers* for the liberties and freedoms of your country.” As M. Turgot’s idea of a commonwealth, in which “all authority is to be collected into one centre,” and that centre the nation, is supposed to be precisely the project of Marchamont Nedham, and probably derived from his book, and as “The Excellency of a Free State” is a valuable morsel of antiquity well known in America, where it has many partisans, it may be worth while to examine it, especially as it contains every semblance of argument which can possibly be urged in favor of the system, as it is not only the popular idea of a republic both in France and England, but is generally intended by the words *republic, commonwealth, and popular state*, when used by English writers, even those of the most sense, taste, and learning.

Marchamont Nedham lays it down as a fundamental principle and an undeniable rule, “that the people, (that is, such as shall be successively chosen to represent the people,) are the best keepers of their own liberties, and that for many reasons. First, because they never think of usurping over other men’s rights, but mind which way to preserve their own.”

Our first attention should be turned to the proposition itself, — “The people are the best keepers of their own liberties.”

But who are the people?

“Such as shall be successively chosen to represent them.”

Here is a confusion both of words and ideas, which, though it may pass with the generality of readers in a fugitive pamphlet, or with a majority of auditors in a popular harangue, ought, for that very reason, to be as carefully avoided in politics as it is in philosophy or mathematics. If by *the people* is meant the whole

body of a great nation, it should never be forgotten, that they can never act, consult, or reason together, because they cannot march five hundred miles, nor spare the time, nor find a space to meet; and, therefore, the proposition, that they are the best keepers of their own liberties, is not true. They are the worst conceivable; they are no keepers at all. They can neither act, judge, think, or will, as a body politic or corporation. If by *the people* is meant all the inhabitants of a single city, they are not in a general assembly, at all times, the best keepers of their own liberties, nor perhaps at any time, unless you separate from them the executive and judicial power, and temper their authority in legislation with the maturer counsels of the one and the few. If it is meant by *the people*, as our author explains himself, a representative assembly, "such as shall be successively chosen to represent the people," still they are not the best keepers of the people's liberties or their own, if you give them all the power, legislative, executive, and judicial. They would invade the liberties of the people, at least the majority of them would invade the liberties of the minority, sooner and oftener than an absolute monarchy, such as that of France, Spain, or Russia, or than a well-checked aristocracy, like Venice, Bern, or Holland.

An excellent writer has said, somewhat incautiously, that "a people will never oppress themselves, or invade their own rights." This compliment, if applied to human nature, or to mankind, or to any nation or people in being or in memory, is more than has been merited. If it should be admitted that a people will not unanimously agree to oppress themselves, it is as much as is ever, and more than is always, true. All kinds of experience show, that great numbers of individuals do oppress great numbers of other individuals; that parties often, if not always, oppress other parties; and majorities almost universally minorities. All that this observation can mean then, consistently with any color of fact, is, that the people will never unanimously agree to oppress themselves. But if one party agrees to oppress another, or the majority the minority, the people still oppress themselves, for one part of them oppress another.

"The people never think of usurping over other men's rights."

What can this mean? Does it mean that the people never *unanimously* think of usurping over other men's rights? This would be trifling; for there would, by the supposition, be no

other men's rights to usurp. But if the people never, jointly nor severally, think of usurping the rights of others, what occasion can there be for any government at all? Are there no robberies, burglaries, murders, adulteries, thefts, nor cheats? Is not every crime a usurpation over other men's rights? Is not a great part, I will not say the greatest part, of men detected every day in some disposition or other, stronger or weaker, more or less, to usurp over other men's rights? There are some few, indeed, whose whole lives and conversations show that, in every thought, word, and action, they conscientiously respect the rights of others. There is a larger body still, who, in the general tenor of their thoughts and actions, discover similar principles and feelings, yet frequently err. If we should extend our candor so far as to own, that the majority of men are generally under the dominion of benevolence and good intentions, yet, it must be confessed, that a vast majority frequently transgress; and, what is more directly to the point, not only a majority, but almost all, confine their benevolence to their families, relations, personal friends, parish, village, city, county, province, and that very few, indeed, extend it impartially to the whole community. Now, grant but this truth, and the question is decided. If a majority are capable of preferring their own private interest, or that of their families, counties, and party, to that of the nation collectively, some provision must be made in the constitution, in favor of justice, to compel all to respect the common right, the public good, the universal law, in preference to all private and partial considerations.

The proposition of our author, then, should be reversed, and it should have been said, that they mind so much their own, that they never think enough of others. Suppose a nation, rich and poor, high and low, ten millions in number, all assembled together; not more than one or two millions will have lands, houses, or any personal property; if we take into the account the women and children, or even if we leave them out of the question, a great majority of every nation is wholly destitute of property, except a small quantity of clothes, and a few trifles of other movables. Would Mr. Nedham be responsible that, if all were to be decided by a vote of the majority, the eight or nine millions who have no property, would not think of usurping over the rights of the one or two millions who have? Property is surely

a right of mankind as really as liberty. Perhaps, at first, prejudice, habit, shame or fear, principle or religion, would restrain the poor from attacking the rich, and the idle from usurping on the industrious; but the time would not be long before courage and enterprise would come, and pretexts be invented by degrees, to countenance the majority in dividing all the property among them, or at least, in sharing it equally with its present possessors. Debts would be abolished first; taxes laid heavy on the rich, and not at all on the others; and at last a downright equal division of every thing be demanded, and voted. What would be the consequence of this? The idle, the vicious, the intemperate, would rush into the utmost extravagance of debauchery, sell and spend all their share, and then demand a new division of those who purchased from them. The moment the idea is admitted into society, that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence. If "THOU SHALT NOT COVET," and "THOU SHALT NOT STEAL," were not commandments of Heaven, they must be made inviolable precepts in every society, before it can be civilized or made free.

If the first part of the proposition, namely, that "the people never think of usurping over other men's rights," cannot be admitted, is the second, namely, "they mind which way to preserve their own," better founded?

There is in every nation and people under heaven a large proportion of persons who take no rational and prudent precautions to preserve what they have, much less to acquire more. Indolence is the natural character of man, to such a degree that nothing but the necessities of hunger, thirst, and other wants equally pressing, can stimulate him to action, until education is introduced in civilized societies, and the strongest motives of ambition to excel in arts, trades, and professions, are established in the minds of all men. Until this emulation is introduced, the lazy savage holds property in too little estimation to give himself trouble for the preservation or acquisition of it. In societies the most cultivated and polished, vanity, fashion, and folly prevail over every thought of ways to preserve their own. They seem rather to study what means of luxury, dissipation, and extravagance they can invent to get rid of it.

"The case is far otherwise among kings and grandees," says

our author, "as all nations in the world have felt to some purpose."

That is, in other words, kings and grandees think of usurping over other men's rights, but do not mind which way to preserve their own. It is very easy to flatter the democratical portion of society, by making such distinctions between them and the monarchical and aristocratical; but flattery is as base an artifice, and as pernicious a vice, when offered to the people, as when given to the others. There is no reason to believe the one much honester or wiser than the other; they are all of the same clay; their minds and bodies are alike. The two latter have more knowledge and sagacity, derived from education, and more advantages for acquiring wisdom and virtue. As to usurping others' rights, they are all three equally guilty when unlimited in power. No wise man will trust either with an opportunity; and every judicious legislator will set all three to watch and control each other. We may appeal to every page of history we have hitherto turned over, for proofs irrefragable, that the people, when they have been unchecked, have been as unjust, tyrannical, brutal, barbarous, and cruel, as any king or senate possessed of uncontrollable power. The majority has eternally, and without one exception, usurped over the rights of the minority.

"They naturally move," says Nedham, "within the circle of domination, as in their proper centre."

When writers on legislation have recourse to poetry, their images may be beautiful, but they prove nothing. This, however, has neither the merit of a brilliant figure, nor of a convincing argument. The populace, the rabble, the *canaille*, move as naturally in the circle of domination, whenever they dare, as the nobles or a king; nay, although it may give pain, truth and experience force us to add, that even the middling people, when uncontrolled, have moved in the same circle; and have not only tyrannized over all above and all below, but the majority among themselves has tyrannized over the minority.

"And count it no less security, than wisdom and policy, to brave it over the people."

Declamatory flourishes, although they may furnish a mob with watchwords, afford no reasonable conviction to the understanding. What is meant by braving it? In the history of Holland you will see the people braving it over the De Witts; and in that

of Florence, Siena, Bologna, Pistoia, and the rest, over many others.\*

“Cæsar, Crassus, and another, made a contract with each other, that nothing should be done without the concurrence of all three: *Societatem iniere, ne quid ageretur in republica, quod displicuisset ulli e tribus.*”

Nedham could not have selected a less fortunate example for his purpose, since there never was a more arrant creature of the people than Cæsar; no, not even Catiline, Wat Tyler, Massaniello, or Shays. The people created Cæsar on the ruins of the senate, and on purpose to usurp over the rights of others. But this example, among innumerable others, is very apposite to our purpose. It happens universally, when the people in a body, or by a single representative assembly, attempt to exercise all the powers of government, they always create three or four idols, who make a bargain with each other first, to do nothing which shall displease any one; these hold this agreement, until one thinks himself able to disembarass himself of the other two; then they quarrel, and the strongest becomes single tyrant. But why is the name of Pompey omitted, who was the third of this triumvirate? Because it would have been too unpopular; it would have too easily confuted his argument, and have turned it against himself, to have said that this association was between Pompey, Cæsar, and Crassus, against Cato, the senate, the constitution, and liberty, which was the fact.

Can you find a people who will never be divided in opinion? who will be always unanimous? The people of Rome were divided, as all other people ever have been, and will be, into a variety of parties and factions. Pompey, Crassus, and Cæsar, at the head of different parties, were jealous of each other. Their divisions strengthened the senate and its friends, and furnished means and opportunities of defeating many of their ambitious designs. Cæsar perceived it, and paid his court both to Pompey and Crassus, in order to hinder them from joining the senate against him. He separately represented the advantage which their enemies derived from their misunderstandings, and the ease with which, if united, they might concert among themselves all affairs of the republic, gratify every friend, and disappoint every

\* Read the *Harangue*, vol. ii. p. 67. In this work vol. v. p. 55.

enemy.\* The other example, of Augustus, Lepidus, and Antony, is equally unfortunate. Both are demonstrations that the people did think of usurping others' rights, and that they did not mind any way to preserve their own. The senate was now annihilated, many of them murdered. Augustus, Lepidus, and Antony were popular demagogues, who agreed together to fleece the flock between them, until the most cunning of the three destroyed the other two, fleeced the sheep alone, and transmitted the shears to a line of tyrants.

How can this writer say, then, that, "while the government remained untouched in the people's hands, every particular man lived safe?" The direct contrary is true. Every man lived safe, only while the senate remained as a check and balance to the people; the moment that control was destroyed, no man was safe. While the government remained untouched in the various orders, the consuls, senate, and people, mutually balancing each other, it might be said, with some truth, that no man could be undone, unless a true and satisfactory reason was rendered to the world for his destruction. But as soon as the senate was destroyed, and the government came untouched into the people's hands, no man lived safe but the triumvirs and their tools; any man might be, and multitudes of the best men were, undone, without rendering any reason to the world for their destruction, but the will, the fear, or the revenge of some tyrant. These popular leaders, in our author's own language, "saved and destroyed, depressed and advanced whom they pleased, with a wet finger."

The second argument to prove that the people, in their successive single assemblies, are the best keepers of their own liberties, is, —

\* "Because it is ever the people's care to see that authority be so constituted, that it shall be rather a burden than benefit to those that undertake it; and be qualified with such slender advantages of profit or pleasure, that men shall reap little by the enjoyment. The happy consequence whereof is this, that none but honest, generous, and public spirits will then desire to be in authority, and that only for the common good. Hence it was that, in the infancy of the Roman liberty, there was no canvassing of voices;

\* Dio. Cass. lib. xxxvii. c. 54, 55. Plutarch in Pomp. Cæsar, and Crassus.

but single and plain-hearted men were called, entreated, and, in a manner, forced with importunity to the helm of government, in regard of that great trouble and pains that followed the employment. Thus Cincinnatus was fetched out of the field from his plough, and placed (much against his will) in the sublime dignity of dictator. So the noble Camillus, and Fabius, and Curius, were, with much ado, drawn from the recreation of gardening to the trouble of governing; and, the consul-year being over, they returned with much gladness again to their private employment."

The first question which would arise in the mind of an intelligent and attentive reader would be, whether this were burlesque, and a republic travesty? But as the principle of this second reason is very pleasing to a large body of narrow spirits in every society, and as it has been adopted by some respectable authorities, without sufficient consideration, it may be proper to give it a serious investigation.

The people have, in some countries and seasons, made their services irksome, and it is popular with some to make authority a burden. But what has been the consequence to the people? Their service has been deserted, and they have been betrayed. Those very persons who have flattered the meanness of the stingy, by offering to serve them gratis, and by purchasing their suffrages, have carried the liberties and properties of their constituents to market, and sold them for very handsome private profit to the monarchical and aristocratical portions of society. And so long as the rule of making their service a burthen is persisted in, so long will the people be served with the same kind of address and fidelity, by hypocritical pretences to disinterested benevolence and patriotism, until their confidence is gained, their affections secured, and their enthusiasm excited, and by knavish bargain and sale of their cause and interest afterwards. But, although there is always among the people a party who are justly chargeable with meanness and avarice, envy and ingratitude, and this party has sometimes been a majority, who have literally made their service burdensome, yet this is not the general character of the people. A more universal fault is too much affection, confidence, and gratitude; not to such as really serve them, whether with or against their inclinations, but to those who flatter their inclinations, and gain their hearts. Honest and

generous spirits will disdain to deceive the people; and if the public service is wilfully rendered burdensome, they will really be averse to be in it; but hypocrites enough will be found, who will pretend to be also loth to serve, and feign a reluctant consent for the public good, while they mean to plunder in every way they can conceal.

There are conjunctures when it is the duty of a good citizen to hazard and sacrifice all for his country. But, in ordinary times, it is equally the duty and interest of the community not to suffer it. Every wise and free people, like the Romans, will establish the maxim, to suffer no generous action for the public to go unrewarded. Can our author be supposed to be sincere, in recommending it as a principle of policy to any nation to render her service in the army, navy, or in council, a burden, an unpleasant employment, to all her citizens? Would he depend upon finding human spirits enough to fill public offices, who would be sufficiently elevated in patriotism and general benevolence to sacrifice their ease, health, time, parents, wives, children, and every comfort, convenience, and elegance of life, for the public good? Is there any religion or morality that requires this? which permits the many to live in affluence and ease, while it obliges a few to live in misery for their sakes? The people are fond of calling public men their servants, and some are not able to conceive them to be servants, without making them slaves, and treating them as planters treat their negroes. But, good masters, have a care how you use your power; you may be tyrants as well as public officers. It seems, according to our author himself, that honesty and generosity of spirit, and the passion for the public good, were not motives strong enough to induce his heroes to desire to be in public life. They must be called, entreated, and forced. By single and plain-hearted men, he means the same, no doubt, with those described by the other expressions, honest, generous, and public spirits. Cincinnatus, Camillus, Fabius, and Curius, were men as simple and as generous as any; and these all, by his own account, had a strong aversion to the public service. Either these great characters must be supposed to have practised the *Nolo Episcopari*, to have held up a fictitious aversion for what they really desired, or we must allow their reluctance to have been sincere. If counterfeit, these examples do not deserve our imitation; if sincere, they will

never be followed by men enough to carry on the business of the world.

The glory of these Roman characters cannot be obscured, nor ought the admiration of their sublime virtues to be diminished; but such examples are as rare among statesmen, as Homers and Miltons are among poets. A free people of common sense will not depend upon finding a sufficient number of such characters at any one time, still less a succession of them for any long duration, for the support of their liberties. To make a law that armies should be led, senates counselled, negotiations conducted, by none but such characters, would be to decree that the business of the world should come to a full stand. And it must have stood as still in those periods of the Roman history as at this hour; for such characters were nearly as scarce then as they are now. The parallels of Lysander, Pericles, Themistocles, and Cæsar, are much easier to find in history, than those of Camillus, Fabius, and Curius. If the latter were with much difficulty drawn from their gardens to government, and returned with pleasure at the end of the consular year to their rural amusements, the former are as ardent to continue in the public service; and if the public will not legally reward them, they plunder the public to reward themselves. The father of Themistocles had more aversion to public life than Cincinnatus; and to moderate the propensity of his son, who ardently aspired to the highest offices of the state, pointed to the old galleys rolling in the docks. "There," says he, "see the old statesmen, worn out in the service of their country, thus always neglected when no longer of use!"\* Yet the son's ardor was not abated, though he was not one of those honest spirits that aimed only at the public good. Pericles, too, though his fortune was small, and the honest emoluments of his office very moderate, discovered no such aversion to the service; on the contrary, he entered into an emulation in prodigality with Cimon, who was rich, in order equally to dazzle the eyes of the multitude. To make himself the soul of the republic, and master of the affections of the populace, to enable them to attend the public assemblies and theatrical representations for his purposes, he lavished his donations; yet he was so far from being honest and generous, and

\* Plutarch.

aiming solely at the public good, that he availed himself of the riches of the state to supply his extravagance of expense, and made it an invariable maxim to sacrifice every thing to his own ambition. When the public finances were exhausted, to avoid accounting for the public money, he involved his country in a war with Sparta.

But we must not rely upon these general observations alone; let us descend to a particular consideration of our author's examples, in every one of which he is very unfortunate. The retirement of Cincinnatus to the country was not his choice, but his necessity. Cæso, his son, had offended the people by an outrageous opposition to their honest struggles for liberty, and had been fined for a crime; the father, rather than let his bondsmen suffer, paid the forfeiture of his recognizance, reduced himself to poverty, and the necessity of retiring to his spade or plough.<sup>1</sup> Did the people entreat and force him back to Rome? No. It was the senate in opposition to the people, who dreaded his high aristocratical principles, his powerful connections, and personal resentments. Nor did he discover the least reluctance to the service ordained him by the senate, but accepted it without hesitation. All this appears in Livy, clearly contradictory to every sentiment of our author.\* At another time, when disputes ran so high between the tribunes and the senate that seditions were apprehended, the senators exerted themselves in the centuries for the election of Cincinnatus, to the great alarm and terror of the people.† Cincinnatus, in short, although his moral character and private life were irreproachable among the plebeians, appears to have owed his appointments to office, not to them, but the senate; and not for popular qualities, but for aristocratical ones, and the determined opposition of himself and his whole family to the people. He appears to have been forced into service by no party; but to have been as willing, as he was an able, instrument of the senate.

\* *Plebis concursus ingens fuit; sed ea nequaquam tam læta Quinctium vidit, et imperii nissium, et virum in ipso imperio vehementiorem rata.* Liv. lib. iii. c. 26.

† *Summo patrum studio, L. Quinctius Cincinnatus, pater Cæsonis, consul creatur, qui magistratum statim occiperet. Percussa erat plebs, consulem habitura iratum, potentem favore Patrum, virtute suâ, tribus liberis, &c.*

<sup>1</sup> Niebuhr dismisses the whole story of Cincinnatus found at his plough, as a fable.

In order to see the inaptitude of this example in another point of view, let the question be asked, What would have been the fortune of Cincinnatus, if Nedham's "right constitution" had then been the government of Rome? The answer must be, that he would have lost his election, most probably even into the representative assembly; most certainly he would never have been consul, dictator, or commander of armies, because he was unpopular. This example, then, is no argument in favor of our author, but a strong one against him.

If we recollect the character and actions of Curius, we shall find them equally conclusive in favor of balanced government, and against our author's plan. Manius Curius Dentatus, in the year of Rome 462, obtained as consul a double triumph, for forcing the Samnites to sue for peace. This nation, having their country laid waste, sent their principal men as ambassadors, to offer presents to Curius for his credit with the senate, in order to their obtaining favorable terms of peace. They found him sitting on a stool before the fire, in his little house in the country, and eating his dinner out of a wooden dish. They opened their deputation, and offered him the gold and silver. He answered them politely, but refused the presents.\* He then added somewhat, which at this day does not appear so very polished: "I think it glorious to command the owners of gold, not to possess it myself."

And which passion do you think is the worst, the love of gold, or this pride and ambition? His whole estate was seven acres of land, and he said once in assembly, "that a man who was not contented with seven acres of land, was a pernicious citizen." As we pass, it may be proper to remark the difference of times and circumstances. How few in America could escape the censure of pernicious citizens, if Curius's rule were established. Is there one of our yeomen contented with seven acres? How many are discontented with seventy times seven! Examples, then, drawn from times of extreme poverty, and a state of a very narrow territory, should be applied to our circumstances with great discretion. As long as the aristocracy lasted, a few of those rigid characters appeared from time to time in the Roman senate. Cato was one to the last, and went expressly to visit

\* Val. Max. iv. 5. Cic. *De Senec.* 16. Senec. *Epist.* v. Cic. *pro Plancio*, 25. Plin. *Nat.* xviii. 4.

the house of Curius, in the country of the Sabines; was never weary of viewing it, contemplating the virtues of its ancient owner, and desiring warmly to imitate them.

But, though declamatory writers might call the conduct of Curius "exactissima Romanæ frugalitatis norma," it was not the general character, even of the senators, at that time. Avarice raged like a fiery furnace in the minds of creditors, most of whom were patricians; and equal avarice and injustice in the minds of plebeians, who, instead of aiming at moderating the laws against debtors, would be content with nothing short of a total abolition of debts. Only two years after this, namely, in 465, so tenacious were the patricians and senators of all the rigor of their power over debtors, that Veturius, the son of a consul, who had been reduced by poverty to borrow money at an exorbitant interest, was delivered up to his creditor; and that infamous usurer, C. Plotius, exacted from him all the services of a slave, and the senate would grant no relief; and when he attempted to subject his slave to a brutal passion, which the laws did not tolerate, and scourged him with rods because he would not submit, all the punishment which the consuls and senate would impose on Plotius was imprisonment. This anecdote proves that the indifference to wealth was far from being general, either among patricians or plebeians; and that it was confined to a few patrician families, whose tenaciousness of the maxims and manners of their ancestors, *proudly* transmitted it from age to age.

In 477, Curius was consul a second time, when the plague, and a war with Pyrrhus, had lasted so long as to threaten the final ruin of the nation, and obliged the centuries to choose a severe character, not because he was beloved, but because his virtues and abilities alone could save the state. The austere character of the consul was accompanied by correspondent austerities, in this time of calamity, in the censors, who degraded several knights and senators, and among the rest, Rufinus, who had been twice consul and once dictator, for extravagance and luxury. Pyrrhus was defeated, and Curius again triumphed; and because a continuance of the war with Pyrrhus was expected, he was again elected consul, in 478. In 480, he was censor. After all, he was so little beloved, that an accusation was brought against him for having converted the public spoils to his own use,

and he was not acquitted till he had sworn that no part of them had entered his house but a wooden bowl, which he used in sacrifice. All these sublime virtues and magnanimous actions of Curius, make nothing in favor of Nedham. He was a patrician, a senator, and a consul; he had been taught by aristocratical ancestors, formed in an aristocratical school, and was full of aristocratical pride. He does not appear to have been a popular man, either among the senators in general,<sup>1</sup> or the plebeians. Rufinus, his rival, with his plate and luxury, appears, by his being appointed dictator, to have been more beloved, notwithstanding that the censors, on the prevalence of Curius's party, in a time of distress, were able to disgrace him.

It was in 479 that the senate received an embassy from Ptolemy Philadelphus, King of Egypt, and sent four of the principal men in Rome, Q. Fabius Gurges, C. Fabius Pistor, Numer. Fabius Pistor, and Q. Ogulnius, ambassadors to Egypt, to return the compliment. Q. Fabius, who was at the head of the embassy, was prince of the senate, and on his return, reported their commission to the senate; said that the king had received them in the most obliging and honorable manner; that he had sent them magnificent presents on their arrival, which they had desired him to excuse them from accepting; that at a feast, before they took leave, the king had ordered crowns of gold to be given them, which they placed upon his statues the next day; that on the day of their departure, the king had given them presents far more magnificent than the former, reproaching them in a most obliging manner, for not having accepted them; these they had accepted, with most profound respect, not to offend the king, but that, on their arrival in Rome, they had deposited them in the public treasury; that Ptolemy had received the alliance of the Roman people with joy. The senate were much pleased, and gave thanks to the ambassadors for having rendered the manners of the Romans venerable to foreigners by their sincere disinterestedness; but decreed that *the rich presents deposited in the treasury should be restored to them*, and the people expressed

<sup>1</sup> There is great difficulty in understanding the position of Curius, from the absence of all accounts of the period. Niebuhr considers his unpopularity with the senators to grow out of his advocacy of a further assignment of lands to the people, which formed one of the principal subjects of party divisions in early Roman times. In that case the preference of Rufinus is not surprising.

their satisfaction in this decree. These presents were undoubtedly immensely rich; but where was the people's care to make the service a burden? Thanks of the senate are no burdens; immense presents in gold and silver, voted out of the treasury into the hands of the ambassadors, were no "slender advantages of profit or pleasure," at a time when the nation was extremely poor, and no individual in it very rich. But, moreover, three of these ambassadors were Fabii, of one of those few simple, frugal, aristocratical families, who neither made advantage of the law in favor of creditors, to make great profits out of the people by exorbitant usury on one hand, nor gave largesses to the people to bribe their affection on the other; so that, although they were respected and esteemed by all, they were not hated nor much beloved by any; and such is the fate of men of such simple manners at this day in all countries. Our author's great mistake lies in his quoting examples from a balanced government, as proofs in favor of a government without a balance. The senate and people were at this time checks on each other's avarice; the people were the electors into office, but none, till very lately, could be chosen but patricians; none of the senators, who enriched themselves by plundering the public of lands or goods, or by extravagant usury from the people, could expect their votes to be consuls or other magistrates; and there was no commerce or other means of enriching themselves; all, therefore, who were ambitious of serving in magistracies, were obliged to be poor. To this constant check and balance between the senate and people the production and the continuance of these frugal and simple patrician characters and families appear to be owing.

If our author meant another affair of 453, it is still less to his purpose, or rather still more conclusively against him. It was so far from being true, in the year 454, the most simple and frugal period of Roman history, that "none but honest, generous, and public spirits desired to be in authority, and that only for the common good," and that there "was no canvassing for voices," that the most illustrious Romans offered themselves as candidates for the consulship; and it was only the distress and imminent danger of the city from the Etrurians and Samnites, and a universal alarm, that induced the citizens to cast their eyes on Fabius, who did not stand. When he saw the suffrages run for him, he arose and spoke: "Why should he be solicited, an old

man, exhausted with labors, and satiated with rewards, to take the command? That neither the strength of his body or mind were the same. He dreaded the caprice of fortune. Some divinity might think his success too great, too constant, too much for any mortal. He had succeeded to the glory of his ancestors, and he saw himself with joy succeeded by others. That great honors were not wanting at Rome to valor, nor valor to honors.\* It was extreme age, not the "slender advantages of honors," that occasioned Fabius's disinclination, as it did that of Cincinnatus on another occasion. This refusal, however, only augmented the desire of having him. Fabius then required the law to be read, which forbade the reelection of a consul before ten years. The tribunes proposed that it should be dispensed with, as all such laws in favor of rotations ever are when the people wish it. Fabius asked why laws were made, if they were to be broken or dispensed with by those who made them; and declared that the laws governed no longer, but were governed by men.† The centuries, however, persevered, and Fabius was chosen. "May the gods make your choice successful!" says the old hero; "dispose of me as you will, but grant me one favor, Decius for my colleague, a person worthy of his father and of you, and one who will live in perfect harmony with me."

There is no such stinginess of honors on the part of the people, nor any such reluctance to the service for want of them, as our author pretends; it was old age and respect to the law only. And one would think the sentiments and language of Fabius sufficiently aristocratical; his glory, and the glory of his ancestors and posterity, seem to be uppermost in his thoughts. And that disinterest was not so prevalent in general appears this very year; for a great number of citizens were cited by the ædiles, to take their trials for possessing more land than the law permitted. All this rigor was necessary to check the avidity of the citizens. But do you suppose Americans would make or sub-

\* Quid se jam senem, ac perfunctum laboribus laborumque præmiis, sollicitarent? Nec corporis, nec animi vigorem remanere eundem; et fortunam ipsam vereri, ne cui deorum nimia jam in se, et constantior, quam velint humanæ res, videatur. Et se gloriæ seniorum succrevisse, et ad gloriam suam con surgentes alios lætum adspicere. Nec honores magnos viris fortissimis Romæ, nec honoribus deesse fortes viros. Liv.

† Jam regi leges, non regere.

mit to a law to limit to a small number, or to any number, the acres of land which a man might possess?

Fabius fought, conquered, and returned to Rome, to preside in the election of the new consuls; and there appear circumstances which show that the great zeal for him was chiefly aristocratical. The first centuries, all aristocratics, continued him. Appius Claudius, of consular dignity, and surely not one of our author's "honest, generous, and public spirits," nor one of his "single and plain-hearted men," but a warm, interested, and ambitious man, offered himself a candidate, and employed all his credit, and that of all the nobility, to be chosen consul with Fabius; less, as he said, for his private interest, than for the honor of the whole body of the patricians, whom he was determined to reëstablish in the possession of both consulships. Fabius declined, as the year before; but all the nobility surrounded his seat, and *entreated* him, to be sure; but to do what? Why, to rescue the consulship from the dregs and filth of the people, to restore the dignity of consul and the order of patricians to their ancient aristocratical splendor. Fabius appears, indeed, to have been urged into the office of consul; but by whom? By the patricians, and to keep out a plebeian. The senate and people were checking each other; struggling together for a point, which the patricians could carry in no way but by violating the laws, and forcing old Fabius into power. The tribunes had once given way, from the danger of the times; but this year they were not so disposed. The patricians were still eager to repeat the irregularity; but Fabius, although he declared he should be glad to assist them in obtaining two patrician consuls, yet he would not violate the law so far as to nominate himself; and no other patrician had interest enough to keep out L. Volumnius, the plebeian, who was chosen with Appius Claudius. Thus facts and events, which were evidently created by a struggle between two orders in a balanced government, are adduced as proofs in favor of a government with only one order, and without a balance.

Such severe frugality, such perfect disinterestedness in public characters, appear only, or at least most frequently, in aristocratical governments. Whenever the constitution becomes democratical, such austerities disappear entirely, or at least lose their influence, and the suffrages of the people; and if an unmixed

and unchecked people ever choose such men, it is only in times of distress and danger, when they think no others can save them. As soon as the danger is over, they neglect these, and choose others more plausible and indulgent.

There is so much pleasure in the contemplation of these characters, that we ought by no means to forget Camillus. This great character was never a popular one. To the senate and the patricians he owed his great employments, and seems to have been selected for the purpose of opposing the people.

The popular leaders had no aversion, for themselves or their families, to public honors and offices with all their burdens. In 358, P. Licinius Calvus, the first of the plebeian order who had ever been elected military tribune, was about to be reëlected, when he arose and said, "Romans, you behold only the shadow of Licinius. My strength, hearing, memory, are all gone, and the energy of my mind is no more. Suffer me to present my son to you, (and he held him by the hand,) the living image of him whom you honored first of all the plebeians with the office of military tribune. I devote him, educated in my principles, to the commonwealth, and shall be much obliged to you if you will grant him the honor in my stead." Accordingly, the son was elected. The military tribunes acted with great ardor and bravery, but were defeated, and Rome was in a panic, very artfully augmented by the patricians, to give a pretext for taking the command out of plebeian hands. Camillus was created dictator by the senate, and carried on the war with such prudence, ability, and success, that he saw the richest city of Italy, that of Veii, was upon the point of falling into his hands with immense spoils. He now felt himself embarrassed. If he divided the spoils with a sparing hand among the soldiery, he would draw upon himself their indignation, and that of the plebeians in general. If he distributed them too generously, he should offend the senate; for, with all the boasted love of poverty of those times, the senate and people, the patricians and plebeians, as bodies, were perpetually wrangling about spoils, booty, and conquered lands; which further shows, that the real moderation was confined to a very few individuals or families.

Camillus, to spare himself reproach and envy, dictator as he was, wrote to the senate "that, by the favor of the gods, his own exertions, and the patience of the soldiers, Veii would soon be

in his hands, and, therefore, he desired their directions what to do with the spoils." The senate were of two opinions: Licinius was for giving notice to all the citizens, that they might go and share in the plunder; Appius Claudius would have it all brought into the public treasury, or appropriated to the payment of the soldiers, which would ease the people of taxes. Licinius replied, that if that money should be brought to the treasury, it would be the cause of eternal complaints, murmurs, and seditions. The latter advice prevailed, and the plunder was indiscriminate; for the city of Veii, after a ten years' siege, in which many commanders had been employed, was at last taken by Camillus by stratagem; and the opulence of it appeared so great, that the dictator was terrified at his own good fortune and that of his country. He prayed the gods, if it must be qualified with any disgrace, that it might fall upon him, not the commonwealth. This piety and patriotism, however, did not always govern Camillus. His triumph betrayed an extravagance of vanity more than bordering on profaneness; he had the arrogance and presumption to harness four white horses in his chariot, a color peculiar to Jupiter and the Sun, an ambition more than Roman, more than human. Here the people were very angry with Camillus, for having too little reverence for religion. The next moment they were still more incensed against him, for having too much; for he reminded them of the vow he had made, to consecrate a tenth part of the spoils to Apollo. The people, in short, did not love Camillus; and the senate adored him, because he opposed the multitude on all occasions, without any reserve, and appeared the most ardent and active in resisting their caprices. It was easier to conquer enemies than to please citizens.\* This mighty aristocratic grew so unpopular, that one of the tribunes accused him before the people of applying part of the spoils of Veii to his own use; and finding, upon consulting his friends, that he had no chance of acquittal, he went into voluntary banishment at Ardea. But he prayed to the gods to make his ungrateful country regret his absence. He was tried in his absence, and condemned in a fine.

Had Nedham's constitution existed at Rome, would Camillus have taken Veii, or been made dictator, or employed at all?

\* *Excellentibus ingeniis citius defuerit ars quâ civem regant, quam quâ hostem superent.* Liv. ii. 43.

Certainly not. Characters much more plausible would have run him down, or have obliged him to imitate all their indulgences.

In all these examples, of Cincinnatus, Curius, Fabius, and Camillus, &c., our author quotes examples of virtues which grew up only in a few aristocratical families, were cultivated by the emulation between the two orders in the state, and by their struggles to check and balance each other, to prove the excellence of a state where there is but one order, no emulation, and no balance. This is like the conduct of a poet, who should enumerate the cheerful rays and refulgent glories of the sun in a description of the beauties of midnight.

Whether *succession* is or is not the grand preservative against corruption, the United States of America have adopted this author's idea in this "reason,"<sup>1</sup> so far as to make the governor and senate, as well as the house of representatives, annually elective. They have, therefore, a clear claim to his congratulations. They are that happy nation. They ought to rejoice in the wisdom and justice of their trustees; for certain limits and bounds are fixed to the powers in being, by a declared succession the supreme authority annually in the hands of the people.

It is still, however, problematical, whether this succession will be the grand preservative against corruption, or the grand inlet to it. The elections of governors and senators are so guarded, that there is room to hope; but, if we recollect the experience of past ages and other nations, there are grounds to fear. The experiment is made, and will have fair play. If corruption breaks in, a remedy must be provided; and what that remedy must be, is well enough known to every man who thinks.

Our author's examples are taken from the Romans, after the abolition of monarchy, while the government was an aristocracy, in the hands of a senate, balanced only by the tribunes. It is most certainly true, that a standing authority in the hands of one, the few, or the many, has an impetuous propensity to corruption; and it is to control this tendency that three orders, equal

<sup>1</sup> "A third reason why the people, in their supreme assemblies successively chosen, are the best keepers of their liberty is, because, as motion in bodies natural, so succession in civil, is the grand preventive of corruption." Nedham, p. 4.

and independent of each other, are contended for in the legislature. While power was in the hands of a senate, according to our author, the people were ever in danger of losing their liberty. It would be nearer the truth to say, that the people had no liberty, or a very imperfect and uncertain liberty; none at all before the institution of the tribunes, and but an imperfect share afterwards; because the tribunes were an unequal balance to the senate; and so, on the other side, were the consuls. "Sometimes in danger from kingly aspirers." But whose fault was that? The senate had a sufficient abhorrence of such conspiracies. It was the people who encouraged the ambition of particular persons to aspire, and who became their partisans. Mælius would have been made a king by the people, if they had not been checked by the senate; and so would Manlius. To be convinced of this, it is necessary only to recollect the story.

Spurius Mælius, a rich citizen of the Equestrian order, in the year before Christ 437, and of Rome the three hundred and fifteenth, a time of scarcity and famine, aspired to the consulship. He bought a large quantity of corn in Etruria, and distributed it among the people. Becoming, by his liberality, the darling of the populace, they attended his train wherever he went, and promised him the consulship. Sensible, however, that the senators, with the whole Quinctian family at their head, would oppose him, he must use force; and, as ambition is insatiable, and cannot be contented with what is attainable, he conceived that to obtain the sovereignty would cost him no more trouble than the consulship. The election came on, and as he had not concerted all his measures, T. Quinctius Capitolinus and Agrippa Menenius Lanatus were chosen by the influence of the senate. L. Minucius was continued *præfectus annonæ*, or superintendent of provisions. His office obliged him to do in public the same that Mælius affected to do in private; so that the same kind of people frequented the houses of both. From them he learned the transactions at Mælius's, and informed the senate that arms were carried into his house, where he held assemblies, made harangues, and was taking measures to make himself king; and that the tribunes, corrupted by money, had divided among them the measures necessary to secure the success of the enterprise. Quinctius Capitolinus proposed a dictator, and Quinctius Cincinnatus (for the Quinctian family were omnipotent) was appointed. The

earnest entreaties and warm remonstrances of the whole senate prevailed on him to accept the trust, after having long refused it, not from any reluctance to public service, but on account of his great age, which made him believe himself incapable of it. Imploping the gods not to suffer his age to be a detriment to the public, he consented to be nominated, and immediately appointed Ahala master of the horse, appeared suddenly in the forum, with his lictors, rods, and axes, ascended the tribunal with all the ensigns of the sovereign authority, and sent his master of horse to summon Mælius before him. Mælius endeavored, in his first surprise to escape; a lictor seized him. Mælius complained that he was to be sacrificed to the intrigues of the senate for the good he had done the people. The people grew tumultuous. His partisans encouraged each other, and took him by force from the lictor. Mælius threw himself into the crowd. Servius followed him, run him through with his sword, and returned, covered with his blood, to give an account to the dictator of what he had done. "You have done well," said Cincinnatus; "continue to defend your country with the same courage as you have now delivered it, — *Macte virtute esto, liberata republica.*"

The people being in great commotion, the dictator calls an assembly, and pronounces Mælius justly killed. With all our admiration for the moderation and modesty, the simplicity and sublimity of his character, it must be confessed that there is in the harangue of Cincinnatus more of the aristocratical jealousy of kings and oligarchies, and even more of contempt of the people, than of a soul devoted to equal liberty, or possessed of understanding to comprehend it. It is the speech of a simple aristocratic, possessed of a great soul. It was a city in which, such was its aristocratical jealousy of monarchy and oligarchy, Brutus had punished his son; Collatinus Tarquinius, in mere hatred of his name, had been obliged to abdicate the consulship and banish himself; Spurius Cassius had been put to death for intending to be king; and the decemvirs had been punished with confiscation, exile, and death, for their oligarchy. In such a city of aristocratics, Mælius had conceived a hope of being a king. "Et quis homo?" says Cincinnatus; and who was Mælius? "*quanquam nullam nobilitatem, nullos honores, nulla merita cuiquam ad dominationem pandere viam; sed tamen Claudios, Cassios, consulatibus, decemviratibus, suis majorumque honori-*

bus, splendore familiarum sustulisse animos, quo nefas fuerit."\* Mælius, therefore, was not only a traitor but a monster; his estate must be confiscated, his house pulled down, and the spot called Æquimelium, as a monument of the crime and the punishment; † and his corn distributed to the populace, *very cheap*, in order to appease them. This whole story is a demonstration of the oppression of the people under the aristocracy; of the extreme jealousy of that aristocracy of kings, of an oligarchy, and of popular power; of the constant secret wishes of the people to set up a king to defend them against the nobles, and of their readiness to fall in with the views of any rich man who flattered them, and set him up as a monarch; but it is a most unfortunate instance for Nedham. It was not the people who defended the

\* "Who is this man? without nobility, without honors, without merit, to open for him a way to the monarchy! Claudius, indeed, and Cassius, had their souls elevated to ambition by their consulships and decemvirates, by the honors of their ancestors, and the splendor of their families." Is there an old maiden aunt Eleanor, of seventy years of age, in any family, whose brain is more replete with the haughty ideas of blood, than that of the magnanimous Cincinnatus appears in this speech? Riches are held in vast contempt! The equestrian order is no honor nor nobility; that, too, is held in sovereign disdain! Beneficence and charity, in a most exalted degree, at a time when his brother aristocrats were griping the people to death by the most cruel severities, and the most sordid and avaricious usury, were no merit in Mælius; but consulships, decemvirates, honors, and the splendor of family, have his most profound admiration and veneration! Every circumstance of this appears in this speech; and such was the real character of the man. And whoever celebrates or commemorates Cincinnatus as a patron of liberty, either knows not his character, or understands not the nature of liberty.

This judgment passed upon Cincinnatus is entirely confirmed by Niebuhr, as follows:—

"It is obvious that Cincinnatus has undeservedly been deified by posterity. In the time of the decemvirs and tyrants, he did nothing; and twenty years after this occurrence, he acted completely in the interest of a faction, and shed the innocent blood of Mælius." *Lectures on the History of Rome*, edited by Dr. L. Schmitz, vol. i. p. 157.

† *Livii Hist. lib. iv. cc. 18–16.*

"It is a melancholy reflection, that a man like Cincinnatus, a hoary veteran, now at the goal of a virtuous and illustrious life, should have lent himself, as is probable, to the commission of a murder, in the service of a faction; yet such we must deem to have been his conduct. Nowhere have characters been more cruel; nowhere has the voice of conscience against the views of faction been so defied, and yet, consistently with great virtues, as in aristocratic republics; and not those of antiquity only. Men, otherwise of spotless conduct, have frequently shed the purest and noblest blood, influenced by fanaticism, and often without any resentment, in the service of party. The seditious demagogue was often less sanguinary; but usually, if he murdered, he was less purely a fanatic than the former; because he acted more for his own, and less for the interests of his order. Yet the former were only the nobler beasts of prey."

Niebuhr, *Roman History*, translated by F. A. Walter, vol. ii. p. 192.

republic against the design of Mælius; but the senate, who defended it against both Mælius and the people. Had Rome been then governed by Marchamont Nedham's "Right Constitution of a Commonwealth," Mælius would infallibly have been made a king, and have transmitted his crown to his heirs. The necessity of an independent senate, as a check upon the people, is most apparent in this instance. If the people had been unchecked, or if they had only had the right of choosing a house of representatives unchecked, they would, in either case, have crowned Mælius.

At the critical moment, when the Gauls had approached the capitol with such silence as not to awaken the sentinels or even the dogs, M. Manlius, who had been consul three years before, was awakened by the cry of the geese, which, by the sanctity of their consecration to Juno, had escaped with their lives in an extreme scarcity of provisions. He hastened to the wall, and beat down one of the enemy who had already laid hold of the battlement, and whose fall from the precipice carried down several others who followed him. With stones and darts the Romans precipitated all the rest to the bottom of the rock. Manlius the next day received in a public assembly his praises and rewards. Officers and soldiers, to testify their gratitude, gave him their rations for one day, both in corn and wine, half a pound of corn and a quarter of a pint of wine. "*Ingens caritatis argumentum, cum se quisque victu suo fraudans, detractum corpori atque usibus necessariis ad honorem unius viri conferret,*" says Livy; and in the year of Rome 365, the commonwealth gave to Manlius a house upon the capitol, as a monument of his valor and his country's gratitude.

In the year of Rome 370, fifty-five years after the execution of Mælius, and five years after the defence of the capitol from the attack of Brennus, Manlius is suspected of ambition. Those who had hitherto excited, or been excited by the people to faction, had been plebeians. Manlius was a patrician of one of the most illustrious families. He had been consul, and acquired immortal glory by his military exploits and by saving the capitol; he was, in short, the rival of Camillus, who had obtained two signal victories over the Gauls, and from the new birth of the city had been always in office, either as dictator or military tribune; and even when he was only tribune, his colleagues con-

sidered him as their superior, and held it an honor to receive his orders as their chief. In short, by his own reputation, the support of the Quinctian family, and the enthusiastic attachment to him he had inspired into the nation, he was, in fact and effect, to all intents and purposes, king in Rome, without the name, but under the various titles of consul, dictator, or military tribune. "He treats," said Manlius, "even those created with powers equal to his own, not as his colleagues, but officers and substitutes to execute his orders." The aristocratical Livy, and all the other aristocrats of Rome, accuse Manlius of envy. They say he could not bear such glory in a man whom he believed no worthier than himself. He despised all the rest of the nobility. The virtues, services, and honors of Camillus alone excited his haughtiness and self-sufficiency, and tortured his jealousy and pride. He was enraged to see him always at the head of affairs, and commanding armies. It is certain that this practice of continuing Camillus always at the head was inconsistent with the spirit of the constitution, by which a rotation was established, and the consuls who had the command of armies could remain in office but one year. But this is the nature of an aristocratical assembly as well as of a democratical one. Some eminent spirit, assisted by three or four families connected with him, gains an ascendancy, and excites an enthusiasm, and then the spirit and letter too of the constitution is made to give way to him. In the case before us, when Camillus could not be consul, he must be military tribune; and when he could not be military tribune, he must be dictator.

Manlius is charged with envy, and with vain speeches. "Camillus could not have recovered Rome from the Gauls if I had not saved the capitol and citadel." This was literally true; but aristocratical historians must brand the character of Manlius in order to depress the people, and extol and adore that of Camillus in order to elevate the senate and the nobles. But there is no solid reason to believe that Manlius envied Camillus, more than that Camillus and the Quinctian family were both envious and jealous of Manlius. The house upon the capitol was what the Quinctian family could not bear.

The truth is, an aristocratical despotism then ruled in Rome, and oppressed the people to a cruel decree; and one is tempted to say, that Manlius was a better man than Camillus or Cincin-

natus, though not so secret, designing, and profound a politician, let the torrent of aristocratical history and philosophy roll as it will. There were two parties, one of the nobles, and another of the people; Manlius, from superior humanity and equity, embraced the weaker; Camillus, and the Quinctii, from family pride like that of Lycurgus, domineered over the stronger party, of which they were in full possession. Manlius threw himself into the scale of the people; he entered into close intimacy and strict union with the tribunes; he spoke contemptuously of the senate, and flattered the multitude. "Jam aurâ, non consilio ferri, famæque magnæ malle quam bonæ esse," says the aristocrat Livy. But let us examine his actions, not receive implicitly the epithets of partial historians. The Roman laws allowed exorbitant interest for the loan of money; an insolvent debtor, by the decree of the judge, was put into the hands of his creditor as his slave, and might be scourged, pinched, or put to death, at discretion; the most execrable aristocratical law that ever existed among men; a law so diabolical, that an attempt to get rid of it at almost any rate was a virtue. The city had been burnt, and every man obliged to rebuild his house. Not only the poorest citizen, but persons in middle life, had been obliged to contract debts. Manlius, seeing the rigor with which debts were exacted, felt more commiseration than his peers for the people. Seeing a centurion, who had distinguished himself by a great number of gallant actions in the field, adjudged as a slave to his creditor, his indignation as well as his compassion, were aroused; he inveighed against the pride of the patricians, cruelty of the usurers, deplored the misery of the people, and expatiated on the merit of his brave companion in war; surely no public oration was ever better founded; he paid the centurion's debt, and set him at liberty, with much ostentation to be sure, and strong expressions of vanity, but this was allowable by the custom and manners of the age. The centurion too displayed his own merit and services, as well as his gratitude to his deliverer. Manlius went further; he caused the principal part of his own patrimony to be sold, "in order, Romans," said he, "that I may not suffer any of you, whilst I have any thing left, to be adjudged to your creditors, and made slaves." This, no doubt, made him very popular; but, in the warmth of his democratical zeal, he had been transported upon some occasion

to say in his own house, that the senators had concealed, or appropriated to their own use, the gold intended for the ransom of the city from the Gauls, alluding, probably, to the fact; for that gold had been deposited under the pedestal of Jupiter's statue. Manlius, perhaps, thought that this gold would be better employed to pay the debts of the people. The senate recalled the dictator, who repaired to the forum attended by all the senators, ascended his tribunal, and ordered his lictor to cite Manlius before him. Manlius advanced with the people; on one side was the senate with their clients, and Camillus at their head; and on the other, the people, headed by Manlius; and each party ready for battle at the word of command. And such a war will, sooner or later, be kindled in every state, where the two parties of poor and rich, patricians and plebeians, nobles and commons, senate and people, call them by what names you will, have not a third power, in an independent executive, to intervene, moderate, and balance them. The artful dictator interrogated Manlius only on the story of the gold. Manlius was embarrassed, for the superstition of the people would have approved of the apparent piety of the senate in dedicating that treasure to Jupiter, though it was probably only policy to hide it. He evaded the question, and descanted on the artifice of the senate in making a war the pretext for creating a dictator, while their real design was to employ that terrible authority against him and the people. The dictator ordered him to prison. The people were deeply affected; but the authority was thought to be legal, and the Romans had prescribed bounds to themselves, through which they dared not break. The authority of the dictator and senate held them in such respect, that neither the tribunes nor the people ventured to raise their eyes or open their mouths. They put on mourning, however, and let their hair and beards grow, and surrounded the prison with continual crowds, manifesting every sign of grief and affliction. They publicly said, that the dictator's triumph was over the people, not the Volsci, and that all that was wanting was to have Manlius dragged before his chariot. Every thing discovered symptoms of an immediate revolt.

Here comes in a trait of aristocratical cunning, *ad captandum vulgus*, much more gross than any that had been practised by Manlius. To soften the people, the senate became generous all

at once, ordered a colony of two thousand citizens to be sent out, assigning each of them two acres and a half of land. Though this was a largess, it was confined to too small a number, and was too moderate to take off all Manlius's friends. The artifice was perceived, and when the abdication of the dictatorship of Cossus had removed the fears of the people and set their tongues at liberty, it had small effect in appeasing the people, who reproached one another with ingratitude to their defenders, for whom they expressed great zeal at first, but always abandoned in time of danger; witness Cassius and Mælius. The people passed whole nights round the prison, and threatened to break down the gates. The senate set Manlius at liberty to prevent the people from doing it.

The next year, 371, dissensions were renewed with more acrimony than ever. Manlius, whose spirit was not accustomed to humiliation, was exasperated at his imprisonment; Cossus not having dared to proceed with the decision of Cincinnatus against Mælius, and even the senate having been compelled to give way to the discontent of the people, he was animated to attempt a reformation of the constitution. "How long," said he to the people, "will you be ignorant of your own strength, of which nature has not thought fit that beasts themselves should be ignorant? Count your number and that of your adversaries; show them war, and you will have peace. Let them see that you are prepared, and they will immediately grant what you ask; determine to be bold in undertaking, or resolve to suffer the utmost injuries. How long will you fix your eyes upon me? Must I repeat the fate of Cassius and Mælius? I hope the gods will avert such a misfortune from me. But those gods will not descend from heaven to defend me. You must remove the danger from me. Shall your resistance to the senate always end in submission to the yoke? That disposition is not natural to you; it is the habit of suffering them to ride you, which they have made their right and inheritance. Why are you so courageous against your enemies abroad, and so soft and timorous in defence of your liberty at home? Yet you have hitherto always obtained what you demanded. It is now time to undertake greater things. You will find less difficulty in giving the senators a master, than it has cost you to defend yourselves against them, while they have had the power and the will to lord it over you. *Dictators*

*and consuls must be abolished, if you would have the people raise their heads. Unite with me ; prevent debtors from suffering the rigors of those odious laws. I declare myself the patron and protector of the people. If you are for exalting your chief by any more splendid title, or illustrious dignity, you will only augment his power for your support, and to obtain your desires."* Ego me patronum profiteor plebis. Vos, si, quo insigni magis imperii honorisve nomine vestrum appellabitis ducem, eo utemini potentiore ad obtinenda ea quæ vultis. This is a manifest intention of introducing a balance of three branches.

In this oration are all the principles of the English constitution. The authority and power of the people to demolish one form of government and erect another, according to their own judgment or will, is clearly asserted. The necessity of abolishing the dictators and consuls, and giving to one chief magistrate the power to control the senate and protect the people, is pointed out. The senate is not proposed to be abolished, nor the assemblies of the people, nor their tribunes ; but the abolition of cruel debtors' laws and redress of all the people's grievances is to be the consequence. The aristocracy was at that time a cruel tyranny ; the people felt it ; Manlius acknowledged it. Both saw the necessity of new-modelling the constitution and introducing the three branches of Romulus and Lycurgus, with better and clearer limitations ; and both were desirous of attempting it.

If, in reading history, the glosses and reflections of historians are taken implicitly, a mistaken judgment will often be formed. Rome was an aristocracy, and Livy an aristocratical writer. The constitution of government, the principles, prejudices, and manners of the times, should never be a moment out of sight. If we believe the Romans, Manlius was actuated only by envy and ambition ; but if we consider his actions, and the form of government at the time, we should be very apt to pronounce him both a greater and a better man than Camillus. To speak candidly, there was a rivalry between the Manlian and the Quinctian families, and the struggle was, which should be the first family and who the first man. And such a struggle exists, not only in every empire, monarchy, republic, but in every city, town, and village in the world. But a philosopher might find as good reason to say that Manlius was sacrificed to the envy,

jealousy, and ambition of Camillus and the Quinctii, as that his popular endeavors for the plebeians sprung from envy of Camillus, and ambition to be the first man. Both were heads of parties, and had all the passions incident to such a situation. But if a judgment must be pronounced, which was the best man and citizen, there are very strong arguments in favor of Manlius.

The name of king was abhorred by the Romans. But who and what had made it so? Brutus, and his brother aristocrats, at the expulsion of Tarquin, by appointing religious execrations to be pronounced in the name of the whole state and for all succeeding ages against such as should dare to aspire to the throne. In this way, any word or any thing may be made unpopular at any time and in any nation. The senate were now able to set up the popular cry, that Manlius aspired to the throne; this revived all the religious horror which their established execrations had made an habitual part of their natures, and turned an ignorant, superstitious populace against the best friend and the only friend they had in the republic. The senate first talked of assassination and another Ahala; but, to be very gentle, they ordered "the magistrates to take care that the commonwealth sustained no prejudice from the pernicious designs of Manlius." This was worse than private assassination; it was an assassination by the senate. It was judgment, sentence, and execution, without trial. The timid, staring people were intimidated, and even the tribunes caught the panic, and offered to take the odium off the senate, and cite Manlius before the tribunal of the people themselves, and accuse him in form. It is impossible not to suspect, nay, fully to believe, that these tribunes were bribed secretly by the senators. They not only abandoned him with whom they had coöperated, but they betrayed the people, their constituents, in the most infamous manner. They said, that in the present disposition, Manlius could not be openly attacked, without interesting the people in his defence; that violent measures would excite a civil war; that it was necessary to separate the interests of Manlius from those of the people. They themselves would cite him before the tribunal of the people, and accuse him in form. Nothing, said the tribunes, is less agreeable to the people than a king. As soon as the multitude sees that your aim is not against them; that from protectors they are become judges; that their tribunes are the accusers, and that *a patrician is accused* for hav-

ing aspired at the tyranny, no interest will be so dear to them as that of their liberty. Their liberty! The liberty of plebeians at that time! What a prostitution of sacred terms! Yet, gross as was this artifice, it laid fast hold of those blind prejudices which patricians and aristocrats had inspired, and duped effectually a stupid populace. Manlius was cited by the tribunes before the people. In a mourning habit he appeared, without a single senator, relation, or friend, or even his own brothers, to express concern for his fate. And no wonder; a senator, and a person of consular dignity, was never known to have been so universally abandoned. But nothing can be more false than the reflections of historians upon this occasion. "So much did the love of liberty and the fear of being enslaved prevail in the hearts of the Romans over all the ties of blood and nature!" It was not love of liberty, but absolute fear, which seized the people. The senate had already condemned him by their vote, and given their consuls dictatorial power against Manlius and his friends. The tribunes themselves were corrupted with bribes or fear; and no man dared expose himself to aristocratical vengeance, unprotected by the tribunes.

To prove that it was fear, and not patriotism, that restrained his relations and friends, we need only recollect another instance. When Appius Claudius, the decemvir, was imprisoned for treason, much more clear than that of Manlius, and for conduct as wicked, brutal, and cruel, as Manlius's appears virtuous, generous, and humane, the whole Claudian family, even C. Claudius, his professed enemy, appeared as suppliants before the judges, imploring mercy for their relation. His friends were not afraid. Why? Because Claudius was an enemy and hater of the people, and, therefore, popular with most of the patricians. His crimes were aristocratical crimes, therefore, not only almost venial, but almost virtues. Manlius's offence was, love of the people; and democratical misdemeanors are the most unpardonable of all that can be committed or conceived in a government where the demon of aristocracy domineers. Livy himself betrays a consciousness of the insufficiency of the evidence to prove Manlius's guilt. He says he can discover no proof, nor any other charge of any crime of treason, "*regni crimen*," except some assemblies of people, seditious speeches, generosity to debtors, and the false insinuation of the concealment of the gold.

But here we see what the people are when they meet in one assembly with the senators. They dare not vote against the opinion or will of the nobles and patricians. The aristocratical part of mankind ever did, and ever will, overawe the people, and carry what votes they please in general, when they meet together with the democratical part, either in a collective or representative assembly. Thus it happened here. Superstition decided. While in sight of the capitol, their religious reverence for the abode of Jupiter, saved and inhabited by Manlius, was a counterbalance to their fears and veneration for the senators descended from the gods. The people could not condemn him in sight of the capitol. The tribunes, knowing what was in them, adjourned to another place the next day. The capitol out of sight, and the senators present, condemned their deliverer; and he died a sacrifice to the rancorous envy of his peers in the senate, the consulate, and patrician order, who could not bear the sight of so splendid a distinction and elevation above themselves in any one of their order, as Manlius's house upon the capitol, and his title of Capitolinus. "Homines prope quadringentos produxisse dicitur, quibus sine fœnore expensas pecunias tulisset, quorum bona venire, quos duci addictos prohibuisset. Ad hæc, decora quoque belli non commemorasse tantùm, sed protulisse etiam conspicienda; spolia hostium cæсорum ad triginta, dona imperatorum ad quadraginta, in quibus insignes duas murales coronas, civicas octo. Ad hæc servatos ex hostibus cives produxisse; inter quos, C. Servilium magistrum equitum absentem nominatum; et, quum ea quoque quæ bello gesta essent, pro fastigio rerum, oratione etiam magnificâ facta dictis æquando, memorasset, nudasse pectus insigne cicatricibus bello acceptis; et identidem, Capitolium spectans, Jovem deosque alios devocasse ad auxilium fortunarum suarum; precatusque esse, ut, quam mentem sibi Capitolinam arcem protegenti ad salutem populi Romani dedissent, eam populo Romano in suo discrimine darent; et orasse singulos universosque, ut capitolium atque arcem intuentes, ut ad deos immortales versi, de se judicarent."

By removing the assembly from the Campus Martius, where the people were assembled in centuries, (*centuriatim*,) to the Grove, (*Petelinum Lucum*,) from whence the capitol could not be seen, *obstinatis animis triste judicium*, with gloomy obstinacy the fatal sentence was passed, and the tribunes cast him down

from the Tarpeian rock. "Such was the catastrophe," says Livy, "of a man who, if he had not lived in a free city, would have merited fame." He should have said, if he had not lived in a simple aristocracy, and alarmed the envy of his fellow aristocrats by superior merit, services, and rewards, especially that most conspicuous mark, his house upon the capitol, and his new title,<sup>1</sup> or agnomen, Capitolinus, which mortal envy could not bear.

He was no sooner dead, than the people repented and regretted him. A sudden plague that broke out was considered as a judgment from Heaven upon the nation, for having polluted the capitol with the blood of its deliverer.

The history of Manlius is an unanswerable argument against a simple aristocracy; it is a proof that no man's liberty or life is safe in such a government; the more virtue and merit he has, the more in danger, the more certain his destruction.<sup>2</sup> It is a good argument against a standing sovereign and supreme authority in an hereditary aristocracy: so far Nedham quotes it pertinently, and applies it justly. But, when the same example is cited to prove that the people in one supreme assembly, successively chosen, are the best keepers of their liberty, so far from proving the proposition, it proves the contrary, because Camillus, the Quinctii, and Manlius will all be chosen into that one assembly by the people; the same emulation and rivalry, the same jealousy and envy, the same struggles of families and individuals for the first place, will arise between them. One of them will have the rich and great for his followers, another the poor; hence will arise two, or three, or more parties, which will never cease to struggle till war and bloodshed decide which is the strongest. Whilst the struggle continues, the laws are trampled on, and the rights of the citizens invaded by all parties in turn; and when it is decided, the leader of the victorious army is emperor and despot.

Nedham had forgotten the example of Cassius, which would have been equally apposite to prove a simple aristocracy a bad government, and equally improper to prove that the people, in

<sup>1</sup> This seems to be a mistake, as the title was not original with him in his family.

<sup>2</sup> This view of the career and fate of Manlius is much more clearly and strongly taken than that in the first volume. (See volume iv. p. 533.) It is very much the same with that since adopted by Niebuhr. *Lectures*, edited by Dr. Schmitz, vol. i. p. 280.

their supreme assemblies, successively chosen, are the best keepers of their liberty. It is also equally proper to prove the contrary, and to show that such a simple democracy is as dangerous as a simple aristocracy. These examples all show that the natural principles of the English constitution were constantly at work among the Roman people; that nature herself was constantly calling out for two masters to control the senate, one in a king or single person, possessed of the executive power, and the other in an equal representation of the people, possessed of a negative on all the laws, and especially on the disposal of the public money. As these examples are great illustrations of our argument, and illustrious proofs of the superior excellence of the American constitutions, we will examine the story of Cassius before we come to that of the decemvirs.

The first notice that is taken of Cassius is in the year 252, when he was consul, gained considerable advantages over the Sabines, and received the honor of a triumph. In 256, he was chosen by Lartius, the first dictator, general of the horse, and commanded a division of the army with success against the Latins. In the year 261, disputes ran so high between patricians and plebeians, that no candidate appeared for the consulship, and several refused; the vessel was in such a storm, that nobody would accept the helm. The people who remained in the city at last nominated Posthumus Cominius, and Spurius Cassius, who were believed equally agreeable to plebeians and patricians. The first thing they did was to propose the affair of the debts to the senate. A violent opposition ensued, headed by Appius, who constantly insisted that all the favor shown the populace only made them the more insolent, and that nothing but inflexible severity could reduce them to their duty. The younger senators all blindly adopted this opinion. Nothing passed in several tumultuous assemblies, but altercations and mutual reproaches. The ancient senators were all inclined to peace. Agrippa, who had observed a sagacious medium, neither flattering the pride of the great, nor favoring the license of the people, being one of the new senators whom Brutus had chosen after the expulsion of Tarquin, supported the opinion, that the good of the state required the reëstablishment of concord among the citizens. Sent by the senate to treat with the people retired to the sacred mountain, he spoke his celebrated fable of the

Belly and the Members. The people, at this conference, insisted that, as by the creation of dictators with unlimited authority, the law which admitted appeals to the people from the decrees of any magistrate whatever, was eluded, and in a manner made void, tribunes should be created, a new species of magistrates, whose sole duty should be the conservation of their rights. The affair of Coriolanus happened in this interval, between the first consulate of Sp. Cassius, in 261, and the second, in 268; in which, probably, he had acted in favor of the people, in establishing the tribunate, and in defending them against Coriolanus, Appius Claudius, and the other oligarchic senators. This year, 268, he marched against the Volsci and Hernici, who made peace, and the consul obtained the honor of a triumph.

Cassius, after his triumph, represented to the senate, that "the people merited some reward for the services they had rendered the commonwealth, for defending the public liberty, and subjecting new countries to the Roman power; that the lands acquired by their arms belonged to the public, though some patricians had appropriated them to themselves; that an equitable distribution of these lands would enable the poor plebeians to bring up children for the benefit of the commonwealth; and that such a division alone could establish that equality which ought to subsist between the citizens of the same state." He associated in this privilege the Latins settled at Rome, who had obtained the freedom of the city. "Tum primum lex agraria promulgata est."\* This law, which had at least a great appearance of equity, would have relieved the misery of the people, and no doubt rendered Cassius popular. The Romans never granted peace to their enemies until they had taken some of their territory from them. Part of such conquests were sold to defray the expense of the war; another portion was distributed among the poor plebeians. Some cantons were farmed out for the public; rapacious patricians, solely intent upon enriching themselves, took possession of some; and these lands, unjustly usurped by the rich, Cassius was for having distributed anew in favor of the plebeians.<sup>1</sup>

\* Liv. *Hist.* l. ii. c. 41.

<sup>1</sup> Niebuhr has thrown great light upon the subject of the agrarian laws since this was written; but his views, instead of weakening, very much corroborate the argument of the text.

The aristocratical pride, avarice, and ambition, were all incensed, and the senators greatly alarmed. The people discovered symptoms, that they had begun to think themselves of the same species with their rulers; and one patrician of consular dignity, dared to encourage them in such presumptuous and aspiring thoughts. Some device or other must be invented to dupe the people and ruin their leader. Virginius, the consul, soon hit upon an expedient. Rabuleius, the tribune, asked him in assembly what he thought of this law? He answered, he would willingly consent that the lands should be distributed among the Roman people, provided the Latins had no share. *Divide et impera*. This distinction, without the least appearance of equity, was addressed simply to the popular hatred between the Romans and Latins, and the bait was greedily swallowed. The people were highly pleased with the consul, and began to despise Cassius, and to suspect him of ambition to be king. He continued his friendly intentions towards the people, and proposed in senate to reimburse, as it was but just, out of the public treasury, the money which the poor citizens had paid for the corn, of which Gelo, King of Syracuse, had made the commonwealth a present during the scarcity. But even this was now represented by the senate, and suspected by the people, to be only soliciting popular favor; and, although the people felt every hour the necessity of a king to protect them against the tyranny of the senate, yet they had been gulled by patrician artifice into an oath against kings, and, although they felt the want of such a magistrate, they had not sense enough to see it. The agrarian law was opposed in the senate by Appius and Sempronius, and evaded by the appointment of ten commissioners to survey the lands.

The next year Cassius was cited before the people, and accused by the quæstors of having taken secret measures for opening a way to the sovereignty; of having provided arms, and received money from the Latins and Hernici; and of having made a very great party among the most robust of their youth, who were continually seen in his train.

The people heard the quæstors, but gave no attention to Cassius's answer and defence. No consideration for his children, his relations and friends, who appeared in great numbers to support him; no remembrance of his great actions, by which he had raised himself to the first dignities; nor three consulships and

two triumphs, which had rendered him very illustrious, could delay his condemnation; so unpardonable a crime with the Romans, was the slightest suspicion of aspiring at regal power!<sup>1</sup> So ignorant, so unjust, so ungrateful, and so stupid, were that very body of plebeians, who were continually suffering the cruel tyranny of patricians, and continually soliciting protectors against it! Without regarding any moderation or proportion, the blind tools of the hatred and vengeance of their enemies, they condemned Cassius to die, and the quæstors instantly carried him to the Tarpeian rock, which fronted the forum, and threw him down, in the presence of the whole people. His house was demolished, and his estate sold to purchase a statue to Ceres; and the faction of the great grew more powerful and haughty, and rose in their contempt for the plebeians, who lost courage in proportion, and soon reproached themselves with injustice, as well as imprudence, in the condemnation of the zealous defender of their interests. They found themselves cheated in all things. The consuls neither executed the senate's decree for distributing the lands, nor were the ten commissioners elected. They complained, with great truth, that the senate did not act with sincerity; and accused the tribunes of the last year of betraying their interests. The tribunes of this year warmly demanded the execution of the decree, to elude which a new war was invented. The patricians preserved their aristocratical tyranny for many centuries, by keeping up continually some quarrel with foreigners, and by frequently creating dictators. The patricians, in the assemblies by centuries, had an immense advantage over the plebeians. The consuls were here chosen by the patricians, as Cassius and Manlius were murdered by assemblies in centuries. In 270, Cæso Fabius, one of Cassius's accusers, was chosen consul, though very unpopular. In 271, the other of Cassius's accusers was chosen consul.

In these contests the steadiness of the patricians is as remark-

<sup>1</sup> "Cassius was a very important man; otherwise he would not have been thrice consul, which for those times was something unheard of. With the exception of P. Valerius Poplicola, no one had been so often invested with the consulship. The manner in which Cassius concluded his treaties affords proof of a great soul; it is, therefore, very possible that he had the purest intentions of wisdom and justice. A great man, unquestionably, he was, whether he was guilty or not guilty, and the faction which condemned him was detestable." Niebuhr, *Lectures*, edited by Dr. Schmitz, vol. i. p. 159.

able as the inconstancy of the plebeians; the sagacity of the former as obvious as the stupidity of the latter; and the cruelty of the former as conspicuous as the ingratitude of the latter. Prejudice, passion, and superstition, appear to have altogether governed the plebeians, without the least appearance of their being rational creatures, or moral agents; such was their total ignorance of arts and letters, all the little advantages of education which then existed being monopolized by the patricians. The aristocracy appears in precisely the same character, in all these anecdotes, as we before saw it in Venice, Poland, Bern, and elsewhere. The same indispensable necessity appears in all of them, in order to preserve even the appearance of equity and liberty, to give the patricians a master in the first executive magistrate, and another master in a house of commons; I say, master; for each of the three branches must be, in its turn, both master and servant, governing and being governed by turns.

To understand how the people were duped upon these occasions, and particularly how Manlius was condemned to death, we must recollect that the tribunes cited him before the people, not in their curiæ, but centuries. The centuries were formed on an artful idea, to make power accompany wealth. The people were divided into classes, according to the proportion of the fortunes; each class was divided into centuries; but the number of centuries in the different classes was so unequal, that those of the first, or richest class, made a majority of the whole, and when the centuries of this class were unanimous they decided the question. By this institution the rich were masters of the legislature.

## STATE OF THE CLASSES AND CENTURIES.

Class.		Roman Valuation.		Sterling			No. of Centuries
				£.	s.		
1	—	100,000	=	322	18	—	98
2	—	75,000	=	242	3	—	21
3	—	50,000	=	161	9	—	21
4	—	25,000	=	80	14	—	21
5	—	11,000	=	35	10	—	31
6	—		=			—	1
							—
							Total, 193 from
							98 sub.
							—
							95
							Majority of the first class, 3

So that by citing Manlius before the people by centuries, the senate were sure of a vote for his destruction, and the people had not sense to see it, or spirit to alter it.

Nedham, thus far, appears to reason fairly and conclusively, when he adduces the examples of Mælius and Manlius, and he might have added Cassius, to prove that the people are ever in danger of losing their liberty; and, indeed, he might have advanced that they never have any liberty, where they are governed by one senate. But these examples do not prove what he alleges them to prove, namely, — “that the people, in their supreme assemblies, successively chosen, are the best keepers of their liberty;” because such an assembly is subject to every danger of a standing, hereditary senate; and more, the first vote divides it into two parties, and the majority is omnipotent, and the minority defenceless. He should have adduced these examples to prove the necessity of separating the executive, legislative, and judicial, and of dividing the legislature into three branches, making the executive one of them, and independent of the other two. This is the only scientific government; the only plan which takes into consideration all the principles in nature, and provides for all cases that occur.

He is equally right, and equally wrong, in the application of his other examples. “The people,” says he, “were sometimes in danger of a surprise by a grandee cabinet or junto, as that upstart tyranny of the decemviri, where ten men made a shift to enslave the senate as well as the people.” It is no wonder that Cassius, Mælius, and Manlius, were sacrificed to the passions of the senate, for until the year of Rome 300, the Romans had no certain laws; so that the consuls and senators, acting as judges, were absolute arbiters of the fate of the citizens. Terentillus, a tribune, had proposed an ordinance that laws should be instituted, as rules of right, both in public and private affairs. The senate had eluded and postponed, by various artifices, the law of Terentillus until this year, 300, when the tribunes solicited the execution of it with great spirit; and the senate, weary of contention, or apprehensive of greater danger, at length decreed, “That ambassadors should be sent to Athens, and to the Greek cities in Italy, to collect such laws as they should find most conformable to the constitution of the Roman commonwealth; and that at their return, the consuls should

deliberate with the senate upon the choice of legislators, of the power to be confided to them, and the time they were to continue in office." Sp. Posthumius, Servius Sulpicius, and A. Manlius, three persons of consular dignity, were appointed deputies. Three galleys were prepared by the public, of a magnificence that might do honor to the Roman people.

In the year 302, the ambassadors were returned, and Appius Claudius, whose ancestors had always been haughty aristocrats, was chosen consul, with T. Genucius for his colleague. The senate assembled and resolved that decemviri should be elected out of the principal senators, whose authority should continue a year; that they should govern the commonwealth with all the power which the consuls then had, and as the kings had formerly exercised, and without any appeal from their judgments; that all other magistracies, and even the tribuneship, should be abolished. This decree was received by the people with loud acclamations. An assembly, by centuries, was immediately held, and the new magistrates created, and the old ones all abdicated their offices. Thus the constitution was wholly changed, and all authority transferred to one centre, the decemvirs. It was soon exercised like all other authorities in one centre. We see here the effect of two powers, without a third. The people from hatred to the consuls, and the senate from hatred to the tribunes, unite at once in a total abolition of the constitution.

The constitution of the decemvirs was precisely Nedham's idea; it was annually eligible; it was the people's government in their successive assemblies; but we find that an annual power, without any limits, was a great temptation. The decemvirs were all senators of consular dignity, and therefore, in the opinion of the people themselves, the most eminent for talents and virtues; yet their virtues were not sufficient to secure an honest use of their unbounded power. They took many precautions to preserve their own moderation, as well as to avoid exciting jealousy in their fellow-citizens; only one had the rods and axes, the others had nothing to distinguish them but a single officer, called *Accensus*, who walked before each of them. Their president continued only one day; and they succeeded each other daily till the end of the year.

It is much to our purpose to enlarge upon this example; because, instead of being an argument for Nedham's inconcin-

nate system, it is full proof against it. The course of passions and events, in this case, were precisely the same as will take place in every simple government of the people, by a succession of their representatives, in a single assembly; and whether that assembly consists of ten members, or five hundred, it will make no difference. In the morning, the decemviri all went to their tribunal, where they took cognizance of all causes and affairs, public and private; justice was administered with all possible equity; and everybody departed with perfect satisfaction. Nothing could be so charming as the regard they professed for the interests of the people, and the protection which the meanest found against the oppression of the great. It was now generally affirmed that there was no occasion for tribunes, consuls, prætors, or any other magistrates. The wisdom, equity, moderation, and humanity of the new government, was admired and extolled. What peace, what tranquillity, what happiness were enjoyed by the public and by individuals! what a consolation! what glory to the decemvirs! Appius Claudius, especially, engrossed the whole glory of the administration in the minds of the people. He acquired so decided an ascendancy over his colleagues, and so irresistible an influence with the people, that the whole authority seemed centred in him. He had the art to distinguish himself, peculiarly, in whatever he transacted, in concert with his colleagues. His mildness and affability, his kind condescension to the meanest and weakest of the citizens, and his polite attention in saluting them all by their names, gained him all hearts. Let it be remembered he had, till this year, been the open enemy of the plebeians. As his temper was naturally violent and cruel, his hatred to the people had arisen to ferocity. On a sudden he was become another man; humane, popular, obliging, wholly devoted to please the multitude and acquire their affections. Everybody delighted in the government of the decemvirs, and a perfect union prevailed among themselves. They completed their body of laws, and caused it to be engraved on ten tables. They were ratified by the senate, confirmed by the people in the *comitia centuriata*, engraven on pillars of brass, and placed in the forum.

The year was upon the point of expiring; and as the consuls and senators found themselves delivered by the new government from the persecutions of the tribunes, and the people from what

they equally hated, the authority of the consuls, both parties agreed in the propriety of choosing ten successors. It was pretended that some further laws might be still wanting; that a year was too short to complete so great a work; and that to carry the whole into full effect, the independent authority of the same magistracy would be necessary. That which must happen upon all annual elections of such a government in one centre, happened in this case. The city was in a greater and more universal ferment than had ever been known. Senators, the most distinguished by age and merit, demanded the office; no doubt to prevent factious and turbulent spirits from obtaining it. Appius, who secretly intended to have himself continued, seeing those great persons, who had passed through all dignities, so eager in pursuit of this, was alarmed. The people, charmed with his past conduct while decemvir, openly clamored to continue him in preference to all others. He affected at first a reluctance, and even a repugnance, at the thought of accepting a second time an employment so laborious, and so capable of exciting jealousy and envy against him. To get rid of his colleagues, and to stimulate them to refuse the office, he declared upon all occasions that, as they had discharged their duty with fidelity, by their assiduity and anxious care for a whole year, it was but just to allow them repose and appoint them successors. The more aversion he discovered, the more he was solicited. The desires and wishes of the whole city, the unanimous and earnest solicitations of the multitude, were at length, with pain and reluctance, complied with. He exceeded all his competitors in artifice. He embraced one, took another by the hand, and walked publicly in the forum, in company with the *Dulii* and *Icili*, the two families who were the principals of the people and the pillars of the tribunate. His colleagues, who had been hitherto his dupes, knowing these popular condescensions to be contrary to his character, which was naturally arrogant, began to open their eyes; but not daring to oppose him openly, they opposed their own address to his management. As he was the youngest among them, they chose him president, whose office it was to nominate the candidates to offices, relying upon his modesty not to name himself; a thing without example, except among the tribunes. But modesty and decency were found in him but feeble barriers against ambition. He not only caused himself to be elected, but excluded all his

colleagues of the last year, and filled up the nine other places with his own tools, three of whom were plebeians. The senate and whole patrician body were astonished at this, as it was thought by them contrary to his own glory and that of his ancestors, as well as to his haughty character. This popular trait entirely gained him the multitude. It would be tedious to relate the manner in which they continued their power from year to year, with the most hardened impudence on their part, the most silly acquiescence of the people, and the fears of the senate and patricians. Their tyranny and cruelty became at length intolerable; and the blood of Virginia, on a father's dagger, was alone sufficient to arouse a stupid people from their lethargy.

Is it not absurd in Nedham to adduce this example, in support of the government of the people by their successive representatives annually chosen? Were not the decemvirs the people's representatives? and were not their elections annual? and would not the same consequences have happened, if the number had been one hundred, or five hundred, or a thousand, instead of ten? "O, but the people of Rome should not have continued them in power from year to year." How will you hinder the people from continuing them in power? If the people have the choice, they may continue the same men; and we certainly know they will; no bonds can restrain them. Without the liberty of choice, the deputies would not be the people's representatives. If the people make a law that the same man shall never serve two years, the people can and will repeal that law; if the people impose upon themselves an oath, they will soon say and believe they can dispense with that oath. In short, the people will have the men whom they love best for the moment, and the men whom they love best will make any law to gratify their present humor. Nay, more, the people ought to be represented by the men who have their hearts and confidence, for these alone can ever know their wants and desires. But these men ought to have some check to restrain them and the people too when those desires are for forbidden fruit—for injustice, cruelty, and the ruin of the minority. And that the desires of the majority of the people are often for injustice and inhumanity against the minority, is demonstrated by every page of the history of the whole world.

We come next to the examples of continuing power in particular persons. The Romans were swallowed up, by continuing

power too long in the hands of the triumvirates of emperors or generals. The first of these were Cæsar, Pompey, and Crassus. But who continued the power of Cæsar? If the people continued it, the argument arising from the example is against a civil government of the people, or by their successive representative assemblies. Was it the senate, was it the standing permanent power in the constitution, that conferred this continuance of power on Cæsar? By no means. It is again necessary to recollect the story, that we may not be imposed on. No military station existed in Italy, lest some general might overawe the republic. Italy, however, was understood to extend only from Tarentum to the Arnus and the Rubicon. Cisalpine Gaul was not reputed to be in Italy, and might be held by a military officer and an army. Cæsar, from a deliberate and sagacious ambition, procured from the people an unprecedented prolongation of his appointments for five years; but the distribution of the provinces was still the prerogative of the senate, by the Sempronian law. Cæsar had ever been at variance with a majority of the senate. In the office of prætor he had been suspended by them. In his present office of consul, he had set them at open defiance. He had no hopes of obtaining from them the prolongation of his power and the command of a province. He knew that the very proposal of giving him the command of Cisalpine Gaul for a number of years would have shocked them. In order to carry his point, he must set aside the authority of the senate, and destroy the only check, the only appearance of a balance, remaining in the constitution. A tool of his, the tribune Vatinius, moved *the people* to set aside the law of Sempronius, and, by their own unlimited power, name Cæsar as pro-consul of Cisalpine Gaul and Illyricum for five years, with an army of several legions. The senate were alarmed, and in vain opposed. The people voted it. The senate saw that all was lost; and Cato cried, "You have placed a king with his guards in your citadel." Cæsar boasted, that he had prevailed both in obtaining the consulate and the command, not by the concession of the senate, but in direct opposition to their will. He was well aware of their malice, he said. Though he had a consummate command of his temper, and the profoundest dissimulation, while in pursuit of his point, his exuberant vanity braved the world when he had carried it. He now openly insulted the senate, and no longer

concealed his connection with Pompey and Crassus, whom he had overreached to concur in his appointment. Thus, one of the clearest and strongest examples in history, to show the necessity of a balance between an independent senate and an independent people, is adduced by Nedham in favor of his indigested plan, which has no balance at all. The other example of Augustus, Antony, and Lepidus, is not worth considering particularly; for the trial between them was but a struggle of arms, by military policy alone, without any mixture of civil or political debates or negotiations.

The fourth reason is, "because a succession of supreme powers destroys faction;" which is defined to be "an adhering to an interest distinct from the true interest of the state."

In this particular, one may venture to differ altogether from our author, and deny the fact, that a succession of sovereign authority in one assembly, by popular elections, destroys faction. We may affirm the contrary; that a standing authority in an absolute monarch, or an hereditary aristocracy, is less friendly to the monster than a simple popular government; and that it is only in a mixed government, of three independent orders, of the one, the few, and the many, and three separate powers, the legislative, executive, and judicial, that all sorts of factions, those of the poor and the rich, those of the gentlemen and common people, those of the one, the few, and the many, can at all times be quelled. The reason given by our author is enough to prove this. "Those who are factious, must have time to improve their sleights and projects, in disguising their designs, drawing in instruments, and worming out their opposites." In order to judge of this, let us put two suppositions: 1. Either the succession must be by periodical elections, simply; or, 2, by periodical elections in rotation. And, in either case, the means and opportunities of improving address and systems, concealing or feigning designs, making friends and escaping enemies, are greater in a succession of popular elections, than in a standing aristocracy or simple monarchy, and infinitely greater than in a mixed government. When the monster Faction is watched and guarded by Cerberus with his three heads, and a sop is thrown to him to corrupt or appease him, one mouth alone will devour it, and the other two will give the alarm.

But to return to our first case, a succession in one assembly, by

simple annual elections. Elections are the best possible schools of political art and address. One may appeal to any man who has equal experience in elections and in courts, whether address and art, and even real political knowledge, is not to be acquired more easily, and in a shorter time, in the former than in the latter. A king of France once asked his most able and honest ambassador, D'Ossat, where he had learned that wonderful dexterity with which he penetrated into the bosoms of men of all nations and characters, unravelled every plait in the human soul, and every intricacy of affairs and events? The cardinal answered, "Sire, I learned it all in my youth, at the election of a parish officer." It is a common observation in England, that their greatest statesmen, and their favorite Chatham among the rest, were formed by attendance on elections. The human heart is nowhere so open and so close by turns. Every argument is there exhausted; every passion, prejudice, imagination, superstition, and caprice, is easily and surely learned among these scenes. One would suspect that Shakspeare had been an electioneering agent. When these elections are in a single city, like Rome, there will be always two sets of candidates. If one set succeeds one year, the other will endeavor to succeed the next. This will make the whole year a scene of faction and intrigue, and every citizen, except, perhaps, a very few, who will not meddle on either side, a partisan or factious man. If the elections are in a large country, like England, for example, or one of the United States of America, where various cities, towns, boroughs, and corporations, are to be represented, each scene of election will have two or more candidates, and two or more parties, each of which will study its sleights and projects, disguise its designs, draw in tools, and worm out enemies. We must remember, that every party, and every individual, is now struggling for a share in the executive and judicial power, as well as legislative, for a share in the distribution of all honors, offices, rewards, and profits. Every flattery and menace, every passion and prejudice of every voter will be applied to; every trick and bribe that can be bestowed, and will be accepted, will be used; and, what is horrible to think of, that candidate, or that agent, who has fewest scruples; who will propagate lies and slanders with most confidence and secrecy; who will wheedle, flatter, and cajole; who will debauch the people by treats, feasts, and diversions, with the least hesitation; and bribe with the most

impudent front, which can consist with hypocritical concealment, will draw in tools and worm out enemies the fastest. Unsullied honor, sterling integrity, real virtue, will stand a very unequal chance. When vice, folly, impudence, and knavery have carried an election one year, they will acquire, in the course of it, fresh influence and power to succeed the next. In the course of the year, the delegate in an assembly that disposes of all commissions, contracts, and pensions, has many opportunities to reward his friends among his own constituents, and to punish his enemies. The son or other relation of one friend has a commission given him in the army, another in the navy, a third a benefice in the church, a fourth in the customs, a fifth in the excise; shares in loans and contracts are distributed among his friends, by which they are enabled to increase their own and his dependents and partisans, or, in other words, to draw in more instruments and parties, and worm out their opposites. All this is so easy to comprehend, so obvious to sight, and so certainly known in universal experience, that it is astonishing that our author should have ventured to assert, that such a government kills the canker-worm Faction.

But to consider the subject in one other point of view, let us introduce the idea of a rotation, by which is here meant, not merely vacating a seat, which the electors may fill again with the same subject, but a fundamental law, that no man shall serve in the sovereign assembly more than one year, or two or three years, or one in three, or three in six, &c.; for example, suppose England, or any one of the United States, governed by one sovereign assembly, annually elected, with a fundamental law, that no member should serve more than three years in six; what would be the consequence? In the first place, it is obvious that this is a violation of the rights of mankind; it is an abridgment of the rights both of electors and candidates. There is no right clearer, and few of more importance, than that the people should be at liberty to choose the ablest and best men, and that men of the greatest merit should exercise the most important employments; yet, upon the present supposition, the people voluntarily resign this right, and shackle their own choice. This year the people choose those members who are the ablest, wealthiest, best qualified, and have most of their confidence and affection. In the course of the three years they increase their

number of friends, and consequently their influence and power, by their administration, yet at the end of three years they must all return to private life, and be succeeded by another set, who have less wisdom, wealth, and virtue, and less of the confidence and affection of the people. Will either they or the people bear this? Will they not repeal the fundamental law, and be applauded by the nation, at least by their own friends and constituents, who are the majority, for so doing? But supposing so unnatural and improbable a thing, as that they should yet respect the law, what will be the consequence? They will, in effect, nominate their successors, and govern still. Their friends are the majority, their successors will be all taken from their party, and the mortified minority will see themselves the dupes. Those men who have the most weight, influence, or power, whether by merit, wealth, or birth, will govern, whether they stay at home or go to parliament. Such a rotation, then, will only increase and multiply factions.

Our author's examples must be again examined. "What made the Roman kings factious, but a continuation of power in their persons and families?" If it is admitted that they were factious, as Tarquin no doubt was, it is certain that the nobles about them were much more so; and their factious actions were chiefly occasioned by the eternal jealousy and envy, rivalry and ambition, of the great families that were nearest to them. But the effect was produced by their powers being undefined, unlimited by law, and unchecked by constitutional power, not by its prolongation. The power of the king, and the power of the senate, were continued; and neither was checked, for the people had not a power adequate to the purpose of checking either, much less both; both grew factious, but the senate most so, and drove away the king, that they might have the exclusive power of being factious, and without the least regard to the liberty of the people.

"After the Romans became a commonwealth, was it not for the same reason that the senate fell into such heats and fits among themselves?" It may be truly answered, that it was not the continuation of power in the senate, but the powers being unlimited, that made it factious. A power without a check is a faction. The senate itself was a faction from the first moment after the expulsion of the kings. But if the

senate had been annually chosen by the people, and held the same unlimited power, their factions, heats, and fits, would have been much earlier, and more violent. "Did not Appius Claudius and his junto by the same means lord it over the senate?" It was, again, the illimitation of his power that enabled him to lord it. It was granted only for one year. And who continued it? The people. And who can hinder the people, when they have no check, from continuing power? Who ought to hinder them? But if Appius's unchecked power had grown up from step to step, by a series of popular elections, he would not have lorded it less; he might have possessed Virginia, and have murdered her father with impunity. Continuation of power, in the same persons and families, will as certainly take place in a simple democracy, or a democracy by representation, as in an hereditary aristocracy or monarchy. This evil, if it be one, will not be avoided nor remedied, but increased and aggravated, by our author's plan of government. The continuation will be certain; but it will be accomplished by corruption, which is worse than a continuation by birth; and if corruption cannot effect the continuation, sedition and rebellion will be recurred to; for a degraded, disappointed, rich and illustrious family would at any time annihilate heaven and earth, if it could, rather than fail of carrying its point.

It is our author's peculiar misfortune, that all his examples prove his system to be wrong. "Whence was it that Sylla and Marius caused so many proscriptions, cruelties, and combustions, in Rome, but by an extraordinary continuation of power in themselves?" Continuation of power in Marius, &c. enabled him to commit cruelties, to be sure; but who continued him in power? was it the senate or the people? By the enthusiasm of the people for Marius, he had surrounded himself with assassins, who considered the patricians, nobles, and senate, as enemies to their cause, and enabled him and his faction to become masters of the commonwealth. The better sort of people, the really honest and virtuous republicans, were discouraged and deterred from frequenting the public assemblies. He had recourse to violence, in the elections of tribunes, that he might carry the choice of a prostituted tool of his own, Apuleius, against the senate and nobles; and because their candidate, Nonius, was chosen, though now vested with a sacred character, Marius's creatures murdered

him. No man had courage to propose an inquiry into the cause of his death. Apuleius, to gratify his party, proposed new laws, to distribute lands to the poor citizens and to the veteran soldiers, to purchase more lands for the same purpose, to remit the price of corn already distributed from the public granaries, and to distribute still more, gratis, at the public expense, to the people. In vain did the quæstor and the senate represent that there would be an end of industry, order, and government. Apuleius, to extend the power of the popular assemblies, and remove every check from his own and Marius's designs, brought forward new laws;—1. That the acts of the tribes should have the force of laws; 2. That it should be treason to interrupt a tribune; 3. That the senate should be compelled to take an oath to confirm every act of the tribes in five days. The power of the senate was thus entirely suppressed; their branch of the legislature was reduced to a mere form, and even the form they were not at liberty to refuse. Marius, though he was at the bottom of this measure at first, by the most abandoned hypocrisy declared himself in senate against taking the oath, in order to ruin Metellus and all the other honest men; and, as soon as he had accomplished this, he took the oath, and compelled the rest to do the same. It was by flattery, bribery, artifice, and violence, that Marius and Apuleius prevailed with the people to continue their power, in opposition to all that the senate could do to prevent it. What would have been the consequence, then, if there had been no senate? Would not the majority of the people in the tribes have continued their power, against all that could have been done by the minority? Would not still more of the public lands, money, and grain, have been lavished upon proper instruments among the majority, and the minority have been compelled to pay the expense?

Our author affects to say, that the "senate and people continued the powers of Pompey and Cæsar." But Cæsar himself knew it was the people, and not the senate; and if the senate continued Pompey, it was because Cæsar and the people laid them under the necessity of doing it in their own defence. Would Cæsar have had less "command in Gallia," if the people, or their successive assemblies, had been possessed of all power? It is most obvious, that a majority of the people, in that case, would have continued Cæsar as long as he desired,

and have given him as much power as he wished ; so that every step of our author's progress demonstrates his system to be false. It is idle to say, that a continuation of power increases influence, and spreads corruption, unless you point out a way to prevent such a continuance of power. To give all power to the people's successive single representative assemblies, is to make the continuance of power, with all its increasing influence and corruption, certain and inevitable. You may as wisely preach to the winds, as gravely exhort a triumphant majority to lay down their power.

It is undoubtedly honorable in any man, who has acquired a great influence, unbounded confidence, and unlimited power, to resign it voluntarily ; and odious to take advantage of such an opportunity to destroy a free government. But it would be madness in a legislator to frame his policy upon a supposition that such magnanimity would often appear. It is his business to contrive his plan in such a manner, that such unlimited influence, confidence, and power, shall never be obtained by any man. The laws alone can be trusted with unlimited confidence ; those laws, which alone can secure equity between all and every one ;\* which are the bond of that dignity which we enjoy in the commonwealth ; the foundation of liberty, and the fountain of equity ; the mind, the soul, the counsel, and judgment of the city ; whose ministers are the magistrates, whose interpreters the judges, whose servants are all men who mean to be free.† Those laws, which are right reason, derived from the Divinity, commanding honesty, and forbidding iniquity ; which are silent magistrates, where the magistrates are only speaking laws ; which, as they are founded on eternal morals, are emanations of the Divine mind.‡

If "the life of liberty, and the only remedy against self-inte-

\* Quod æquabile inter omnes, atque unum omnibus esse potest. Cic. *pro Cæcin.* cap. 25.

† Hoc vinculum est hujus dignitatis, quâ fruimur in republicâ, hoc fundamentum libertatis, hic fons sequitatis. Mens, et animus, et consilium, et sententia civitatis, posita est in legibus. Ut corpora nostra sine mente ; sic civitas sine lege, suis partibus, ut nervis ac sanguine et membris, uti non potest. Legum ministri, magistratus ; legum interpretes, judices ; legum denique idcirco omnes servi sumus, ut liberi esse possimus. Cic. *pro Cluent.* 146.

‡ Lex nihil aliud est, nisi recta et a numine Decorum tracta ratio, imperans honesta, prohibens contraria. Cic. xi. *in Anton.* 28. Illa Divina mens summa lex est. *De Leg.* ii. 5. Magistratum legem esse loquentem ; legem autem mutum magistratum. *De Leg.* iii. 1.

rest lies in succession of powers and persons," the United States of America have taken the most effectual measures to secure that life and that remedy, in establishing annual elections of their governors, senators, and representatives. This will probably be allowed to be as perfect an establishment of a succession of powers and persons as human laws can make; but in what manner annual elections of governors and senators will operate, remains to be ascertained. It should always be remembered, that this is not the first experiment that was ever made in the world of elections to great offices of state; how they have hitherto operated in every great nation, and what has been their end, is very well known. Mankind have universally discovered that chance was preferable to a corrupt choice, and have trusted Providence rather than themselves. First magistrates and senators had better be made hereditary at once, than that the people should be universally debauched and bribed, go to loggerheads, and fly to arms regularly every year. Thank Heaven! Americans understand calling conventions; and if the time should come, as it is very possible it may, when hereditary descent shall become a less evil than annual fraud and violence, such a convention may still prevent the first magistrate from becoming absolute as well as hereditary. But if this argument of our author is considered as he intended it, as a proof that a succession of powers and persons in one assembly is the most perfect commonwealth, it is totally fallacious.

Though we allow benevolence and generous affections to exist in the human breast, yet every moral theorist will admit the selfish passions in the generality of men to be the strongest. There are few who love the public better than themselves, though all may have some affection for the public. We are not, indeed, commanded to love our neighbor better than ourselves. Self-interest, private avidity, ambition, and avarice, will exist in every state of society, and under every form of government. A succession of powers and persons, by frequent elections, will not lessen these passions in any case, in a governor, senator, or representative; nor will the apprehension of an approaching election restrain them from indulgence if they have the power. The only remedy is to take away the power, by controlling the selfish avidity of the governor, by the senate and house; of the senate, by the governor and house; and of the

house, by the governor and senate. Of all possible forms of government, a sovereignty in one assembly, successively chosen by the people, is perhaps the best calculated to facilitate the gratification of self-love, and the pursuit of the private interest of a few individuals; a few eminent conspicuous characters will be continued in their seats in the sovereign assembly, from one election to another, whatever changes are made in the seats around them; by superior art, address, and opulence, by more splendid birth, reputations, and connections, they will be able to intrigue with the people and their leaders, out of doors, until they worm out most of their opposers, and introduce their friends; to this end, they will bestow all offices, contracts, privileges in commerce, and other emoluments, on the latter and their connections, and throw every vexation and disappointment in the way of the former, until they establish such a system of hopes and fears throughout the state, as shall enable them to carry a majority in every fresh election of the house. The judges will be appointed by them and their party, and of consequence, will be obsequious enough to their inclinations. The whole judicial authority, as well as the executive, will be employed, perverted and prostituted to the purposes of electioneering. No justice will be attainable, nor will innocence or virtue be safe, in the judicial courts, but for the friends of the prevailing leaders; legal prosecutions will be instituted and carried on against opposers, to their vexation and ruin; and as they have the public purse at command, as well as the executive and judicial power, the public money will be expended in the same way. No favors will be attainable but by those who will court the ruling demagogues in the house, by voting for their friends and instruments; and pensions and pecuniary rewards and gratifications, as well as honors and offices of every kind, will be voted to friends and partisans. The leading minds and most influential characters among the clergy will be courted, and the views of the youth in this department will be turned upon those men, and the road to promotion and employment in the church will be obstructed against such as will not worship the general idol. Capital characters among the physicians will not be forgotten, and the means of acquiring reputation and practice in the healing art will be to get the state trumpeters on the side of youth. The bar, too, will be made so subservient, that a young gentleman will have no chance to

obtain a character or clients, but by falling in with the views of the judges and their creators. Even the theatres, and actors and actresses, must become politicians, and convert the public pleasures into engines of popularity for the governing members of the house. The press, that great barrier and bulwark of the rights of mankind, when it is protected in its freedom by law, can now no longer be free; if the authors, writers, and printers, will not accept of the hire that will be offered them, they must submit to the ruin that will be denounced against them. The presses, with much secrecy and concealment, will be made the vehicles of calumny against the minority, and of panegyric and empirical applauses of the leaders of the majority, and no remedy can possibly be obtained. In one word, the whole system of affairs, and every conceivable motive of hope and fear, will be employed to promote the private interests of a few, and their obsequious majority; and there is no remedy but in arms. Accordingly we find in all the Italian republics the minority always were driven to arms in despair.

“The attaining of particular ends requires length of time; designs must lie long in fermentation to gain the opportunity to bring matters to perfection.” It is true; but less time will be necessary in this case, in general, than even in a simple hereditary monarchy or aristocracy.

An aristocracy, like the Roman senate, between the abolition of royalty and the institution of the tribunate, is of itself a faction, a private partial interest. Yet it was less so than an assembly annually chosen by the people, and vested with all authority, would be; for such an assembly runs faster and easier into an oligarchy than an hereditary aristocratical assembly. The leading members having, as has been before shown in detail, the appointment of judges, and the nomination to all lucrative and honorable offices, they have thus the power to bend the whole executive and judicial authority to their own private interest, and by these means to increase their own reputations, wealth, and influence, and those of their party, at every new election; whereas, in a simple hereditary aristocracy, it is the interest of the members in general to preserve an equality among themselves as long as they can; and as they are smaller in number, and have more knowledge, they can more easily unite for that purpose, and there is no opportunity for any one to in-

crease his power by any annual elections. An aspiring aristocrat, therefore, must take more time, and use more address, to augment his influence; yet we find in experience, that even hereditary aristocracies have never been able to prevent oligarchies rising up among them, but by the most rigorous, severe, and tyrannical regulations, such as the institution of inquisitions, &c.

It may sound oddly to say that the majority is a faction; but it is, nevertheless, literally just. If the majority are partial in their own favor, if they refuse or deny a perfect equality to every member of the minority, they are a faction; and as a popular assembly, collective or representative, cannot act, or will, but by a vote, the first step they take, if they are not unanimous, occasions a division into majority and minority, that is, into two parties, and the moment the former is unjust it is a faction. The Roman decemvirs themselves, were set up by the people, not by the senate; much longer time would have been required for an oligarchy to have grown up among the patricians and in the senate, if the people had not interposed and demanded a body of laws, that is, a constitution. The senate opposed the requisition as long as they could, but at last appointed the decemvirs, much against their own inclinations, and merely in compliance with the urgent clamors of the people. Nedham thinks, that "as the first founders of the Roman liberty did well in driving out their kings; so, on the other side, they did very ill in settling a standing authority within themselves." It is really very injudicious, and very ridiculous, to call those Roman nobles, who expelled their kings, founders of the Roman liberty; nothing was farther from their heads or their hearts than national liberty; it was merely a struggle for power between a king and a body of haughty envious nobles; the interests of the people and of liberty had no share in it. The Romans might do well in driving out their king; he might be a bad and incorrigible character; and in such a case any people may do well in expelling or deposing a king. But they did not well in demolishing the single executive magistracy; they should have then demanded a body of laws, a definite constitution, and an integral share in the legislature for the people, with a precise delineation of the powers of the first magistrate and senate. In this case they would have been entitled to the praise of founders of Roman

liberty ; but as it was, they only substituted one system of tyranny for another, and the new one was worse than the old.

They certainly "did very ill in settling a standing 'sovereign' supreme authority within themselves." Thus far our author is perfectly in the right, and the reason he gives for this opinion is very well founded ; it is the same that was given thousands of years before him, by Plato, Socrates, and others, and has been constantly given by all succeeding writers in favor of mixed governments, and against simple ones, "because, lying open to the temptations of honor and profit," or, in other words, having their ambition and vanity, avarice and lust, hatred and resentment, malice and revenge, in short, their self-love, and all their passions ("which are sails too big for any human bulk") unrestrained by any controlling power, they were at once transported by them, and made use of their public power not for the good of the commonwealth, but for the gratification of their private passions, whereby they put the commonwealth into frequent flames of discontent and sedition.

Thus far is very well ; but when our author goes on to say, "which might all have been prevented, could they have settled the state free, indeed, by placing an orderly succession of supreme authority in the hands of the people," he can be followed by no one who knows what is in man, and in society ; because that supreme authority falls out of the whole body into a majority at the first vote. To expect self-denial from men, when they have a majority in their favor, and consequently power to gratify themselves, is to disbelieve all history and universal experience ; it is to disbelieve Revelation and the Word of God, which informs us, the heart is deceitful above all things, and desperately wicked. There have been examples of self-denial, and will be again ; but such exalted virtue never yet existed in any large body of men, and lasted long ; and our author's argument requires it to be proved, not only that individuals, but that nations and majorities of nations, are capable, not only of a single act, or a few acts, of disinterested justice and exalted self-denial, but of a course of such heroic virtue for ages and generations ; and not only that they are capable of this, but that it is probable they will practise it. There is no man so blind as not to see, that to talk of founding a government upon a supposition that nations and great bodies of men, left to themselves,

will practise a course of self-denial, is either to babble like a new-born infant, or to deceive like an unprincipled impostor.

Nedham has himself acknowledged, in several parts of this work, the depravity of men in very strong terms. In this fifth reason he avers "temptations of honor and profit" to be "sails too big for any human bulk." Why then does he build a system on a foundation which he owns to be so unstable? If his mind had been at liberty to follow his own ideas and principles, he must have seen that a succession of supreme authority in the hands of the people, by their house of representatives, is at first an aristocracy as despotical as a Roman senate, and becomes an oligarchy even sooner than that assembly fell into the decemvirate. There is this infallible disadvantage in such a government, even in comparison with an hereditary aristocracy, that it lets in vice, profligacy, and corruption, like a torrent, with tyranny; whereas the latter often guards the morals of the people with the utmost severity. Even the despotism of aristocracy preserves the morals of the people.

It is pretended by some, that a sovereignty in a single assembly, annually elected, is the only one in which there is any responsibility for the exercise of power. In the mixed government we contend for, the ministers, at least of the executive power, are responsible for every instance of the exercise of it; and if they dispose of a single commission by corruption, they are responsible to a house of representatives, who may, by impeachment, make them responsible before a senate, where they may be accused, tried, condemned, and punished by independent judges. But in a single sovereign assembly, each member, at the end of his year, is only responsible to his constituents; and the majority of members who have been of one party, and carried all before them, are to be responsible only to their constituents, not to the constituents of the minority who have been overborne, injured, and plundered. And who are these constituents to whom the majority are accountable? Those very persons, to gratify whom they have prostituted the honors, rewards, wealth, and justice of the state. These, instead of punishing, will applaud; instead of discarding, will reëlect, with still greater eclat, and a more numerous majority; for the losing cause will be deserted by numbers. And this will be done in hopes of having still more injustice done, still more honors and profits divided

among themselves, to the exclusion and mortification of the minority. It is then astonishing that such a simple government should be preferred to a mixed one, by any rational creature, on the score of responsibility.

There is, in short, no possible way of defending the minority, in such a government, from the tyranny of the majority, but by giving the former a negative on the latter, — the most absurd institution that ever took place among men. As the major may bear all possible relations of proportion to the minor part, it may be fifty-one against forty-nine in an assembly of a hundred, or it may be ninety-nine against one only. It becomes therefore necessary to give the negative to the minority, in all cases, though it be ever so small. Every member must possess it, or he can never be secure that himself and his constituents shall not be sacrificed by all the rest. This is the true ground and original of the *liberum veto* in Poland; but the consequence has been ruin to that noble but ill-constituted republic. One fool, or one knave, one member of the diet, which is a single sovereign assembly, bribed by an intriguing ambassador of some foreign power, has prevented measures the most essential to the defence, safety, and existence of the nation. Hence humiliations and partitions! This also is the reason on which is founded the law of the United Netherlands, that all the seven provinces must be unanimous in the assembly of the states-general; and all the cities and other voting bodies in the assemblies of the separate states. Having no sufficient checks in their uncouth constitution, nor any mediating power possessed of the whole executive, they have been driven to demand unanimity instead of a balance. And this must be done in every government of a single assembly, or the majority will instantly oppress the minority. But what kind of government would that be in the United States of America, or any one of them, that should require unanimity, or allow of the *liberum veto*? It is sufficient to ask the question, for every man will answer it alike.

No controversy will be maintained with our author, that “a free state is more excellent than simple monarchy or simple aristocracy.” But the question is, What is a free state? It is plain our author means a single assembly of representatives of the people, periodically elected, and vested with the supreme power. This is denied to be a free state. It is at first a government of

grandees, and will soon degenerate into a government of a junto or oligarchy of a few of the most eminent of them, or into an absolute monarchy of one of them. The government of these grandees, while they are numerous, as well as when they become few, will be so oppressive to the people, that the people, from hatred or fear of the gentlemen, will set up one of them to rule the rest, and make him absolute.

Will it be asked how this can be proved? It is proved, as has been often already said, by the constitution of human nature, by the experience of the world, and the concurrent testimony of all history. The passions and desires of the majority of the representatives in an assembly being in their nature insatiable and unlimited by any thing within their own breasts, and having nothing to control them without, will crave more and more indulgence, and, as they have the power, they will have the gratification; and Nedham's government will have no security for continuing free, but the presumption of self-denial and self-government in the members of the assembly, virtues and qualities that never existed in great bodies of men, by the acknowledgment of all the greatest judges of human nature, as well as by his own, when he says that "temptations of honor and profit are sails too big for any human bulk." It would be as reasonable to say, that all government is altogether unnecessary, because it is the duty of all men to deny themselves, and obey the laws of nature and the laws of God. However clear the duty, we know it will not be performed; and, therefore, it is our duty to enter into associations, and compel one another to do some of it.

It is agreed that the people are the best keepers of their own liberties, and the only keepers who can be always trusted; and, therefore, the people's fair, full, and honest consent, to every law, by their representatives, must be made an essential part of the constitution; but it is denied that they are the best keepers, or any keepers at all, of their own liberties, when they hold collectively, or by representation, the executive and judicial power, or the whole and uncontrolled legislative; on the contrary, the experience of all ages has proved, that they instantly give away their liberties into the hand of grandees, or kings, idols of their own creation. The management of the executive and judicial powers together always corrupts them, and throws the whole power into the hands of the most profligate and abandoned among them-

selves. The honest men are generally nearly equally divided in sentiment, and, therefore, the vicious and unprincipled, by joining one party, carry the majority; and the vicious and unprincipled always follow the most profligate leader, him who bribes the highest, and sets all decency and shame at defiance. It becomes more profitable, and reputable too, except with a very few, to be a party man than a public-spirited one.

It is agreed that "the end of all government is the good and ease of the people, in a secure enjoyment of their rights, without oppression;" but it must be remembered, that the rich are *people* as well as the poor; that they have rights as well as others; that they have as clear and as *sacred* a right to their large property as others have to theirs which is smaller; that oppression to them is as possible and as wicked as to others; that stealing, robbing, cheating, are the same crimes and sins, whether committed against them or others. The rich, therefore, ought to have an effectual barrier in the constitution against being robbed, plundered, and murdered, as well as the poor; and this can never be without an independent senate. The poor should have a bulwark against the same dangers and oppressions; and this can never be without a house of representatives of the people. But neither the rich nor the poor can be defended by their respective guardians in the constitution, without an executive power, vested with a negative, equal to either, to hold the balance even between them, and decide when they cannot agree. If it is asked, When will this negative be used? it may be answered, Perhaps never. The known existence of it will prevent all occasion to exercise it; but if it has not a being, the want of it will be felt every day. If it has not been used in England for a long time past, it by no means follows that there have not been occasions when it might have been employed with propriety. But one thing is very certain, that there have been many occasions since the Revolution, when the constitution would have been overturned if the negative had not been an indubitable prerogative of the crown.

It is agreed that the people are "most sensible of their own burdens; and being once put into a capacity and freedom of acting, are the most likely to provide remedies for their own relief." For this reason they are an essential branch of the legislature, and have a negative on all laws, an absolute control over every grant of money, and an unlimited right to accuse their enemies before

an impartial tribunal. Thus far they are most sensible of their burdens, and are most likely to provide remedies. But it is affirmed that they are not only incapable of managing the executive power, but would be instantly corrupted by it in such numbers, as would destroy the integrity of all elections. It is denied that the legislative power can be wholly intrusted in their hands with a moment's safety. The poor and the vicious would instantly rob the rich and virtuous, spend their plunder in debauchery, or confer it upon some idol, who would become the despot; or, to speak more intelligibly, if not more accurately, some of the rich, by debauching the vicious to their corrupt interest, would plunder the virtuous, and become more rich, until they acquired all the property, or a balance of property and of power, in their own hands, and domineered as despots in an oligarchy.

It is agreed that the "people know where the shoe wrings, what grievances are most heavy," and, therefore, they should always hold an independent and essential part in the legislature, and be always able to prevent the shoe from wringing more, and the grievances from being made more heavy; they should have a full hearing of all their arguments, and a full share of all consultations, for easing the foot where it is in pain, and for lessening the weight of grievances or annihilating them. But it is denied that they have right, or that they should have power to take from one man his property to make another easy, and that they *only* know "what fences they stand in need of to shelter them from the injurious assaults of those powers that are above them;" meaning, by the powers above them, senators and magistrates, though, properly speaking, there are no powers above them but the law, which is above all men, governors and senators, kings, and nobles, as well as commons.

The Americans have agreed with this writer in the sentiment, that "it is but reason that the people should see that none be interested in the supreme authority but persons of their own election, and such as must, in a short time, return again into the same condition with themselves." This hazardous experiment they have tried, and, if elections are soberly made, it may answer very well; but if parties, factions, drunkenness, bribes, armies, and delirium come in, as they always have done sooner or later, to embroil and decide every thing, the people must again have recourse to conventions and find a remedy. Neither philosophy

nor policy has yet discovered any other cure, than by prolonging the duration of the first magistrate and senators. The evil may be lessened and postponed, by elections for longer periods of years, till they become for life; and if this is not found an adequate remedy, there will remain no other but to make them hereditary. The delicacy or the dread of unpopularity that should induce any man to conceal this important truth from the full view and contemplation of the people, would be a weakness, if not a vice. As to "reaping the same benefit or burden, by the laws enacted, that befalls the rest of the people," this will be secured, whether the first magistrate and senate be elective or hereditary, so long as the people are an integral branch of the legislature, can be bound by no laws to which they have not consented, and can be subjected to no tax which they have not agreed to lay. It is agreed that the "issue of such a constitution," whether the governor and senate be hereditary or elective, must be this, "that no load be laid upon any, but what is common to all, and that always by common consent; not to serve the lusts of any, but only to supply the necessities of their country."

The next paragraph is a figurative flourish, calculated to amuse a populace without informing their understandings. Poetry and mystics will answer no good end in discussing questions of this nature. The simplest style, the most mathematical precision of words and ideas, is best adapted to discover truth, and to convey it to others, in reasoning on this subject. There is here a confusion that is more than accidental—it is artful. The author purposely states the question, and makes the comparison only between simple forms of government, and carefully keeps out of sight the idea of a judicious mixture of them all. He seems to suppose, that the supreme power must be wholly in the hands of a simple monarch, or of a single senate, or of the people, and studiously avoids considering the sovereignty lodged in a composition of all three. "When a supreme power long continues in the hands of any person or persons, they, by greatness of place, being seated above the middle region of the people, sit secure from all winds and weathers, and from those storms of violence that nip and terrify the inferior part of the world." If this is popular poetry, it is not philosophical reasoning. It may be made a question, whether it is true in fact, that persons in the

higher ranks of life are more exempted from dangers and evils that threaten the commonwealth than those in the middle or lower rank? But if it were true, the United States of America have established their governments upon a principle to guard against it; and, "by a successive revolution of authority, they come to be degraded of their earthly godheads, and return into the same condition with other mortals;" and, therefore, "they must needs be the more sensible and tender of what is laid upon them."

Our author is not explicit. If he meant that a fundamental law should be made, that no man should be chosen more than one year, he has nowhere said so. He knew the nation would not have borne it. Cromwell and his creatures would all have detested it; nor would the members of the Long Parliament, or their constituents, have approved it. The idea would have been universally unpopular. No people in the world will bear to be deprived, at the end of one year, of the service of their best men, and be obliged to confer their suffrages, from year to year, on the next best, until the rotation brings them to the worst. The men of greatest interest and influence, moreover, will govern; and if they cannot be chosen themselves, they will generally influence the choice of others so decidedly, that they may be said to have the appointment. If it is true that "the strongest obligation that can be laid upon a man in public matters, is to see that he engage in nothing but what must either offensively or beneficially reflect upon himself," it is equally true at least in a mixed government as in a simple democracy. It is, indeed, more clearly and universally true, because in the first the representatives of the people being the special guardians of equality, equity, and liberty, for the people, will not consent to unequal laws; but in the second, where the great and rich will have the greatest influence in the public councils, they will continually make unequal laws in their own favor, unless the poorer majority unite, which they rarely do, set up an opposition to them, and run them down by making unequal laws against them. In every society where property exists, there will ever be a struggle between rich and poor. Mixed in one assembly, equal laws can never be expected. They will either be made by numbers, to plunder the few who are rich, or by influence, to fleece the many who are poor. Both rich and poor, then, must be made independent, that equal jus-

tice may be done, and equal liberty enjoyed by all. To expect that in a single sovereign assembly no load shall be laid upon any but what is common to all, nor to gratify the passions of any, but only to supply the necessities of their country, is altogether chimerical. Such an assembly, under an awkward, unwieldy form, becomes at once a simple monarchy in effect. Some one overgrown genius, fortune, or reputation, becomes a despot, who rules the state at his pleasure, while the deluded nation, or rather a deluded majority, thinks itself free; and in every resolve, law, and act of government, you see the interest, fame, and power of that single individual attended to more than the general good.

It is agreed, that "if any be never so good a patriot," (whether his power be prolonged or not,) "he will find it hard to keep self from creeping in upon him, and prompting him to some extravagances for his own private benefit." But it is asserted, that power will be prolonged in the hands of the same patriot, the same rich, able, powerful, and well-descended citizen, &c. as much as if he had a seat for life, or a hereditary seat in a senate, and, what is more destructive, his power and influence is constantly increasing, so that self is more certainly and rapidly growing upon him; whereas, in the other case, it is defined, limited, and never materially varies. If, in the first case, "he be shortly to return to a condition common with the rest of his brethren," it is only for a moment, or a day, or a week, in order to be reëlected with fresh eclat, redoubled popularity, increased reputation, influence, and power. Self-interest, therefore, binds him to propagate a false report and opinion, that he "does nothing but what is just and equal," while, in fact, he is every day doing what is unjust and unequal; while he is applying all the offices of the state, great and small, the revenues of the public, and even the judicial power, to the augmentation of his own wealth and honors, and those of his friends, and to the punishment, depression, and destruction of his enemies, with the acclamations and hosannas of the majority of the people.

"This, without controversy, must needs be the most noble, the most just, and the most excellent way of government in free states," provided our author meant only a mixed state, in which the people have an essential share, and the command of the public purse, with the judgment of causes and accusations as

jurors, while their power is tempered and controlled by the aristocratical part of the community in another house, and the executive in a distinct branch. But as it is plain his meaning was to jumble all these powers in one centre, a single assembly of representatives, it must be pronounced the most ignoble, unjust, and detestable form of government; worse than even a well-digested simple monarchy or aristocracy. The greatest excellency of it is, that it cannot last, but hastens rapidly to a revolution.

For a further illustration of this subject, let a supposition be made, that in the year 1656, when this book was printed, the system of it had been reduced to practice. A fair, full, and just representation of the people of England appears in the house of commons in Westminster Hall,—My Lord-General Cromwell is returned for Westminster or London; Ireton, Lambert, &c., for other principal cities or counties; Monk, Sir Harry Vane, &c., for others; and even Hugh Peters for some borough;—all eyes profoundly bow to my Lord-General as the first member of the house; the other principal characters are but his primary planets, and the multitude but secondary; altogether making a great majority in the interest of his Highness. If the majority is clear, and able to excite a strong current of popular rumors, ardor, and enthusiasm in their favor, their power will increase with every annual election, until Cromwell governs the nation more absolutely than any simple monarch in Europe. If there are in the house any members so daring as to differ in opinion, they will lose their seats, and more submissive characters be returned in their places; but if the great men in the house should fall into pretty equal divisions, then would begin a warfare of envy, rancor, hatred, and abuse of each other, until they divided the nation into two parties, and both must take the field.

Suppose, for a further illustration, the monarchical and aristocratical branches in England suspended, and all authority lodged in the present house of commons;—suppose that, in addition to all the great national questions of legislation, were added the promotion of all offices in the church, the law, the army, navy, excise, customs, and all questions of foreign alliance; let all the foreign ambassadors, as well as candidates for offices, solicit there. The contemplation must be amusing! but there is not a member of the house could seriously wish it, after thinking a

moment on the consequence. The objects are smaller, and the present temptations less, in our American houses; but the impropriety would be equally obvious, though, perhaps, not so instantaneously destructive.

Our author proceeds to prove his doctrine by examples out of Roman history. "What more noble patriots were there ever in the world than the Roman senators were, whilst they were kept under by their kings, and felt the same burdens of their fury as did the rest of the people?"

If by the patriots are meant men who were brave and active in war to defend the commonwealth against its enemies, the Roman senators and patricians were, under the kings, as good patriots as the plebeians were, and no better. Whether they were ever kept under by their kings, or whether their kings were kept under by them, I submit to Livy and Dionysius. The whole line of their kings, Romulus, Numa, Tullus, Ancus, Lucius Tarquinius, Servius Tullius, were meritorious princes; yet the patricians and senators maintained a continual series of cabals against them, constantly conspiring to set up one and pull down another. Romulus was put to death by the patricians; Tullus Hostilius was murdered by the patricians; Lucius Tarquinius was assassinated by the patricians; and Servius Tullius too was murdered by the patricians, to make way for Tarquin. Some of these excellent princes were destroyed for being too friendly to the people, and others for not being servile enough to the senate. If it is patriotism to persecute to death every prince who had an equitable desire of doing justice and easing the burdens of the plebeians; to intrigue in continual factions to set up one king and butcher another; to consider friendship and humanity and equity to the plebeians as treason against the state, and the highest crime that could be committed either by a king or patrician; then the Roman senators under the kings were noble patriots. But the utmost degrees of jealousy, envy, arrogance, ambition, rancor, rage, and cruelty, that ever constituted the aristocratical or oligarchical character in Sparta, Venice, Poland, or wherever unbalanced aristocracies have existed and been most enormous, existed in the Roman patricians under their kings.

What can our author mean by the senate and people's "feeling the burdens of the fury of their kings?" Surely he had read the Roman history! Did he mean to represent it? The whole

line of Roman kings, until we come to Tarquin the Proud, were mild, moderate princes, and their greatest fault, in the eyes of the senators, was an endeavor now and then to protect the people against the tyranny of the senate. Their greatest fault, in the judgment of truth, was too much complaisance to the senate, by making the constitution more aristocratical. Witness the assemblies by centuries instituted by Servius Tullius.

But Nedham should have considered what would have been the fruits in Rome, from the time of Romulus, of annual elections of senators to be vested with supreme power, with all the authority of the king, senate, and people. All those persons whose names we now read as kings, and all those who are mentioned as senators, would have caballed with the people as well as one another. Their passions would not have been extinguished; the same jealousy and envy, ambition and avarice, revenge and cruelty, would have been displayed in assemblies of the people. Sometimes one junto would have been popular, sometimes another; one set of principles would have prevailed one year, and another the next; now one law, then another; at this time one rule of property, at that another; riots, tumults, and battles, would have been fought continually; the law would have been a perfect Proteus. But as this confusion could not last long, either a simple monarchy or an aristocracy must have arisen; these might not have lasted long, and all the revolutions described by Plato and Aristotle as growing out of one another, and that we see in the Greek, Roman, and Italian republics, did grow out of one another, must have taken place, until the people, weary of changes, would have settled under a single tyranny and standing army, unless they had been wise enough to establish a well-ordered government of three branches.

It is easy to misrepresent and confound things, in order to make them answer a purpose, but it was not because the authority was *permanent*, or *standing*, or *hereditary*, that the behavior of the senate was worse after the expulsion of the kings than it had been under them; for the dignity of patricians and the authority of senators was equally *standing*, *permanent*, and *hereditary*, under the kings, from the institution of Romulus to the expulsion of Tarquin, as it was afterwards, from the expulsion of Tarquin to the institution of tribunes, and indeed to the subversion of the commonwealth. It was not its *permanency*, but its *omnipotence*,

its being *unlimited, unbalanced, uncontrolled*, that occasioned the abuse; and this is precisely what we contend for, that power is always abused when unlimited and unbalanced, whether it be permanent or temporary, a distinction that makes little difference in effect. The temporary has often been the worst of the two, because it has often been sooner abused, and more grossly, in order to obtain its revival at the stated period. It is agreed that patricians, nobles, senators, the aristocratical part of the community, call it by what name you please, are noble patriots when they are kept under; they are really then the best men and the best citizens. But there is no possibility of keeping them under but by giving them a master in a monarchy, and two masters in a free government. One of the masters I mean is the executive power in the first magistrate, and the other is the people in their house of representatives. Under these two masters they are, in general, the best men, citizens, magistrates, generals, or other officers; they are the guardians, ornaments, and glory of the community.

Nedham talks of "senate and people's feeling the burdens of the fury of the kings." But as we cannot accuse this writer of ignorance, this must have been either artifice or inadvertence. There is not in the whole Roman history so happy a period as this under their kings. The whole line were excellent characters, and fathers of their people, notwithstanding the continual cabals of the nobles against them. The nation was formed, their morality, their religion, the maxims of their government, were all established under these kings. The nation was defended against innumerable and warlike nations of enemies; in short, Rome was never so well governed or so happy. As soon as the monarchy was abolished, and an ambitious republic of haughty, aspiring aristocrats was erected, they were seized with the ambition of conquest, and became a torment to themselves and the world. Our author confesses, that "being freed from the kingly yoke, and having secured all power within the hands of themselves and their posterity, they fell into the same absurdities that had been before committed by their kings, so that this new yoke became more intolerable than the former." It would be more conformable to the truth of history to say, that they continued to behave exactly as they had done; but having no kings to murder, they had only people to destroy. The sovereign power

was in them under the kings, and the cause of their greatest animosity against their kings, next to the ambitious desire of getting into their places, was their too frequent patronage of the people. The only change made by the revolution was to take off a little awe which the name of king inspired. The office, with all its dignities, authorities, and powers, was in fact continued under the title of consul; it was made annually elective it is true, and became accordingly a mere tool of the senate, wholly destitute of any power or will to protect plebeians, a disposition which the hereditary kings always discovered more or less, and thereby became odious to the senate; for there is no sin or crime so heinous, in the judgment of patricians, as for any one of their own rank to court plebeians, or become their patron, protector or friend.

It is very true that "the new yoke was more intolerable than the old, nor could the people find any remedy until they procured that necessary office of the tribunes." This was some remedy, but a very feeble and ineffectual one. Nor, if the people had instituted an annual assembly of five hundred representatives, would that have been an effectual remedy, without a plenary executive power in the consul; the senate and assembly would have been soon at war, and the leader of the victorious army master of the state. If "the tribunes, by being invested with a temporary authority by the people's election, remained the more sensible of their condition," the American governors and senators, vested as they are with a temporary authority by the people's election, will remain sensible of their condition too. If they do not become too sensible of it, and discover that flattery and bribery and partiality are better calculated to procure renovations of their authority, than honesty, liberty, and equality, happy indeed shall we all be!

"What more excellent patriot could there be than Manlius, till he became corrupted by time and power?" Is it a clear case that Manlius was corrupted? To me he appears the best patriot in Roman history; the most humane, the most equitable; the greatest friend of liberty, and the most desirous of a constitution truly free; the real friend of the people, and the enemy of tyranny in every shape, as well as the greatest hero and warrior of his age; a much greater character than Camillus. Our author's expression implies, that there was no greater patriot,

until he saw the necessity of new-modelling the constitution, and was concerting measures upon the true principle of liberty, the authority of the people, to place checks upon the senate. But Manlius is an unfortunate instance for our author. It was not time and power that inspired him with his designs; the jealousy and envy of the senate had removed him from power. He was neither consul, dictator, nor general. Aristocratical envy had set up Camillus, and continued him in power, both as consul and dictator, on purpose to rival and mortify Manlius. It was discontinuance of power, then, that corrupted him, if he was corrupted; and this generally happens; disappointed candidates for popular elections are as often corrupted by their fall from power, as hereditary aristocratics by their continuance in it.

“Who more noble, courteous, and well affected to the common good, than was Appius Claudius, at first? But, afterwards, having obtained a continuation of the government in his own hands, he soon lost his primitive innocency and integrity, and devoted himself to all the practices of an absolute tyrant.” This is very true; but it was not barely continuation of power, it was absolute power that did the mischief. If the power had been properly limited in degree, it might have been continued without limitation of time, without corrupting him; though it might be better to limit it both in degree and in time; and it must never be forgotten, that it was the people, not the senate, that continued him in power.

The senate acted an arbitrary and reprehensible part, when they thought to continue Lucius Quinctius in the consulship longer than the time limited by law. By violating the law, they became tyrants, and their act was void. That gallant man acted only the part of a good citizen, in refusing to set a precedent so prejudicial to the Roman constitution. His magnanimity merits praise; but, perhaps, he was the only senator who would have refused, and we cannot safely reckon upon such self-denial in forming any constitution of government. But it may be depended on, that, when the whole power is in one assembly, whether of patricians or plebeians, or any mixture of both, a favorite will be continued in power whenever the majority wishes it, and every conceivable fundamental law, or even oath, against it will be dispensed with.

“A seventh reason, why a people qualified with a due and

orderly succession of their supreme assemblies are the best keepers of their own liberties, is, because, as in other forms, those persons only have access to government who are apt to serve the lust and will of the prince, or else are parties or compliers with some popular faction; so, in this form of government by the people, the door of dignity stands open to all (without exception) that ascend thither by the steps of worth and virtue; the consideration whereof hath this noble effect in free states, that it edges men's spirits with an active emulation, and raiseth them to a lofty pitch of design and action."

This is a mass of popular assertions, either hazarded at random, or, if aimed at a point, very little guarded by the love of truth. It is no more true that, in other forms, those persons *only* have access to government who are apt to serve the lust and will of a prince or a faction, than it is that, in our author's form, those only would obtain elections who will serve the lusts and wills of the most idle, vicious, and abandoned of the people, at the expense of the labor, wealth, and reputation of the most industrious, virtuous, and pious. The door of dignity in such a government is so far from standing open to all of worth and virtue, that, if the executive and judicial powers are managed in it, virtue and worth will soon be excluded. In an absolute monarchy, the road to preferment may lie open to all. In an aristocracy, the way of promotion may be open to all; and all offices in the executive department, as in the army, navy, courts of justice, foreign embassies, revenues, &c. may be filled from any class of the people. In a mixed government, consisting of three branches, all offices ever will be open; for, when the popular branch is destined expressly to defend the rights of the people, it is not probable they will ever consent to a law that shall exclude any class of their constituents. In this kind of government, indeed, the chance for merit to prevail is greater than in any other. The executive having the appointment to all offices, and the ministers of that executive being responsible for every exercise of their power, they are more cautious; they are responsible to their master for the recommendation they give, and to the nation and its representatives for the appointments that are made. Whereas, a single representative assembly is accountable to nobody. If it is admitted that each member is accountable to his constituents for the vote he gives, what is the penalty?

No other than not to vote for him at the next election. And what punishment is that? His constituents know or care nothing about any offices or officers, but such as lie within the limits of their parish; and let him vote right or wrong about all others, he has equally their thanks and future votes. What can the people of the cities, countries, boroughs, and corporations, in England, know of the characters of all the generals, admirals, ambassadors, judges, and bishops, whom they never saw, nor perhaps heard of?

But was there never a Sully, Colbert, Malesherbes, Turgot, or Necker called to power in France? nor a Burleigh nor a Pitt, in England? Was there never a Camillus appointed by a senate? nor a De Ruyter, Van Tromp, or De Witt, by an aristocratical body? When a writer is not careful to confine himself to truth, but allows himself a latitude of affirmation and denial, merely addressed to an ignorant populace, there is no end of ingenuity in invention. In this case, his object was to run down an exiled king and a depressed nobility; and it must be confessed he is not very delicate in his means. There are, in truth, examples innumerable of excellent generals, admirals, judges, ambassadors, bishops, and of all other officers and magistrates, appointed by monarchs, absolute as well as limited, and by hereditary senates. Excellent appointments have been also made by popular assemblies; but candor must allow, that very weak, injudicious, and unfortunate choices have been sometimes made by such assemblies too. But the best appointments for a course of time have invariably been made in mixed governments. The "active emulation" in free states is readily allowed; but it is not less active, less general, or less lofty, in design or action, in mixed governments than in simple ones, even simple democracies, or those which approach nearest to that description; and the instances alleged from the Roman history are full proofs of this.

"During the vassalage of the Romans under kings, we read not of any notable exploits, but find them confined within a narrow compass, oppressed at home, and ever and anon ready to be swallowed up by their enemies." It is really impossible to guess where this author learnt his history. The reigns of the kings are a complete confutation of his assertions. The vassalage was to the nobles, if to anybody, under the kings. The

kings were friends and fathers of the people in general. If the people were oppressed at home, it was by the patricians, but they appear to have been much less oppressed than they were under the aristocracy which succeeded the abolition of monarchy, as our author himself confesses.

“But when the state was made free indeed, and the people admitted into a share and interest in the government, as well as the great ones, then it was that their power began to exceed the bounds of Italy, and aspire towards that prodigious empire.” Was Rome ever a free state, according to our author’s idea of a free state? Were the people ever governed by a succession of sovereign power in their assemblies? Was not the senate the real sovereign, through all the changes, from Romulus to Julius Cæsar? When the tribunes were instituted, the people obtained a check upon the senate, but not a balance. The utmost that can with truth be said is, that it was a mixed government, composed of three powers; the monarchical in the kings or consuls, the aristocratical in the senate, and the democratical in the people and their tribunes, with the principal share and real sovereignty in the senate. The mixture was unequal, and the balance inadequate; but it was this mixture, with all its imperfections, that “edged men’s spirits with an active emulation, and raised them to a lofty pitch of design and action.” It was in consequence of this composition, that “their thoughts and power began to exceed the bounds of Italy, and aspire towards that prodigious empire.” In such a mixture, where the people have a share, and “the road to preferment lies plain to every man, no public work is done, nor any conquest made, but every man thinks he does and conquers for himself,” in some degree. But this sentiment is as vivid and active, surely, where the people have an equal share with the senate, as where they have only an imperfect check by their tribunes.

When our author advances, “that it was not alliance, nor friendship, nor faction, nor riches, that could advance men,” he affirms more than can be proved from any period of the Roman or any other history. If he had contented himself with saying, that these were not exclusive or principal causes of advancement, it would have been as great a panegyric as any nation at any period has deserved. Knowledge, valor, and virtue, were *often* preferred above them all; and, if we add, *generally*, it is as

much as the truth will bear. Our author talks of a preference of virtuous poverty; but there was no moment in the Roman, or any other history, when poverty, however virtuous, was preferred for its own sake. There have been times and countries, when poverty was not an insuperable objection to the employment of a man in the highest stations; but an absolute love of poverty, and a preference of a man for that attribute alone, never existed out of the imaginations of enthusiastic writers.

In the Roman story, some few of their brave patriots and conquerors were men of small fortune, and of so rare a temper of spirit, that they little cared to improve them, or enrich themselves by their public employment. Some, indeed, were buried at the public charge. And perhaps this race is not quite extinct; but the examples are so rare, that he who shall build his frame of government upon a presumption that characters of this stamp will arise in succession, in sufficient numbers to preserve the honor and liberty, and promote the prosperity of his people, will find himself mistaken. "The time will come," said a Roman senator, "when Horatii and Valerii will not be found to forego their private fortunes for the sake of plebeian liberty." His prediction was fulfilled; and a similar prophecy will be accomplished in every nation under heaven. The instances, too, of this kind in the Roman history, are all of patricians and senators. We do not find one example of a popular tribune who was so in love with poverty. Cincinnatus was a patrician, a senator of a splendid family and no mean fortune, until his son Cæso was prosecuted, and obliged to fly from his bail. The father had too noble and sublime a spirit to let the bail be ruined, and sold his fortune to pay the forfeiture. When this was done, he had only four or six acres left. But who was it that made him dictator? Not the people, nor the tribunes, but the senate, that very standing power against which our author's whole book is written; by no means by a successive sovereignty of the people's representatives, which our author all along contends for. Had the appointment of a dictator at that time lain with the people, most probably a richer man would have had the preference. He behaved with so much magnanimity, integrity, and wisdom, that he subdued the enemy, and quitted his authority with all willingness, and returned to painful private life. This example is a good argument for a mixed government, and for a senate as an

essential part of it; but no argument for a successive sovereignty in the people's representatives. Gracchus, Marius, Sylla, and Cæsar, whose elevation to power was by the people, in opposition to the senate, did not exhibit such moderation and contentment.

Our author's other examples of Lucius Tarquin, and Atilius Regulus, by no means prove such disinterested and magnanimous virtue to be ordinary in that state, nor does Lucius Paulus Æmilius. Lucius Tarquin, or Lucius Tarquinius Collatinus, was not only a patrician and a senator, but of the royal family, and therefore by no means an example to show what the conduct of a general, or other officer or magistrate, will be, who shall be appointed by a majority of the people's successive annual representatives. He was the husband of Lucretia, whose blood had expelled the king. It was in an assembly of the centuries, where the senate were all powerful, that he was appointed consul with Brutus. Valerius was the favorite of the plebeians. Collatia had been given by the king to Ancus Tarquin, because he had no estate; and from thence the family were called Collatini. At the siege of Ardea the frolic commenced between Collatinus and the other young Tarquins, over wine, which ended in the visit to their wives, which proved at first so honorable to the domestic virtues of Lucretia, and afterwards so fatal to her life; it occasioned, also, the expulsion of kings, and institution of consuls. Brutus and Collatinus were created consuls, but by whom? By the people, it is true, but it was in their assembly by centuries; so that it was the senate and patricians who decided the vote. If the people in their tribes, or by their successive representatives, had made the election, Collatinus would not have been chosen, but Valerius, who expected it, and had most contributed, next to Brutus, to the revolution.

And, by the way, we may observe here, that an aversion to public honors and offices by no means appears in the behavior of the virtuous and popular Valerius. His desire of the office of consul was so ardent, that his disappointment and chagrin induced him in a sullen ill-humor, to withdraw from the senate and the forum, and renounce public affairs; which so alarmed the people, that they dreaded his reconciliation and coalition with the exiled family. He soon removed this jealousy, by taking the oath by which Brutus wanted to bind the senate against

kings and kingly government. All the art of the patricians, with Brutus at their head, was now exerted, to intoxicate the people with superstition. Sacrifices and ceremonies were introduced, and the consuls approaching the altar, swore, for themselves, their children, and all posterity, never to recall Tarquin or his sons, or any of his family; that the Romans should never more be governed by kings; that those who should attempt to restore monarchy should be devoted to the infernal gods, and condemned to the most cruel torments; and an abhorrence of royalty became the predominant character of the Romans, to such a degree, that they could never bear the *name* of king, even when, under the emperors, they admitted much more than the *thing*, in an unlimited despotism. But is the cause of liberty, are the rights of mankind, to stand for ever on no better a foundation than a blind superstition, and a popular prejudice against a word, a mere name? It was really no more in this case; for even Brutus himself intended that the consuls should have all the power of the kings; and it was only against a family and a name that he declared war. If nations and peoples cannot be brought to a more rational way of thinking, and to judge of things, instead of being intoxicated with prejudice and superstition against words, it cannot be expected that truth, virtue, or liberty, will have much chance in the establishment of governments. The monarchical and aristocratical portions of society will for ever understand better how to operate upon the superstition, the prejudices, passions, fancies, and senses of the people, than the democratical, and therefore, will forever worm out liberty, if she has no other resource.

Tarquin, by his ambassadors, solicited at least the restoration of his property. Brutus opposed it. Collatinus, the other consul, advocated the demand of his royal banished cousin. The senate was divided. The question was referred to the people assembled by centuries. The two consuls zealously supported their different opinions. Collatinus prevailed by one vote. Tarquin's ambassadors rejoice and intrigue. A conspiracy was formed, in which a great part of the young nobility was concerned. Two of the Vitellii, sons of Collatinus's sister, and brothers of Brutus's wife; two of the Aquilii, sons of another sister of Collatinus, as well as two of Brutus's sons, were engaged in it. When the conspiracy was discovered, Brutus alone

was inexorable. Collatinus endeavored to save his nephews. Collatinus, as the husband of Lucretia, appears to have been actuated by resentment against the person of Tarquin, but not to have been very hearty in the expulsion of the family, or the abolition of monarchy. His warmly contending for the restitution of Tarquin's effects, and his aversion to the condemnation of the conspirators, completed his ruin with Brutus. He assembled the people, and was very sorry that the Roman people did not think their liberties safe while they saw the name and blood of Tarquin not only safe in Rome, but vested with sovereign power, and a dangerous obstacle to liberty. Collatinus was amazed at such a speech, and prepared to defend himself from this attack; but finding his father-in-law, Spurius Lucretius, join Brutus, and other principal men, in persuading him, and fearing that he should be forced into banishment, with the confiscation of his estate, he abdicated the consulship, and retired to Lavinium; but he carried all his effects with him, and twenty talents, or, £ 3,875 sterling, to which Brutus added five talents more, a most enormous sum, if we consider the universal poverty of that age, and the high value of money. Is it possible to find, in this character and conduct of Collatinus, such disinterested and magnanimous virtue as our author speaks of? Is this an example to prove that disinterested virtue was frequent in that state? He must have been dead to every manly feeling, if he had not resented the rape and death of his wife. He did not retire but to avoid banishment; nor was he contented without his whole estate, and a splendid addition to it; so that this is scarcely a character or anecdote in history less to any purpose in any point of view.

There is an extravagance in many popular writers in favor of republican governments, which injures much oftener than it serves the cause of liberty. Such is that of our author, when he cites the example of Regulus. Let us first remember, however, that Regulus was a patrician and a senator, and that he was appointed to his command, and continued in it, by the senate; and therefore, instead of being an example in honor of a simple or a representative democracy, it operates in favor of an aristocracy, or at most, in favor of a mixed government, in which an aristocracy has one full third part. Regulus had been in a course of victory, which the senate would not interrupt, and

therefore continued him in the command of the army. He wrote to the senate to complain of it. The glory of it to himself, the advantage to the public, was not reward enough for him. He demanded a successor; and what was his reason? A thief had stolen his tools of husbandry, used in manuring; his tenant was dead, and his presence was absolutely necessary to prevent his wife and children from starving. Is it possible to read this without laughter and indignation; laughter at the folly of that government which made so poor a provision for its generals, and indignation at the sordid avarice of that senate and people, who could require a threat of resignation from the conqueror of Carthage to induce them to provide for his wife and children? The senate decreed that his field should be cultivated at the public expense, that his working tools should be replaced, and his wife and children provided for. Then, indeed, Regulus's aversion to the service was removed; to such sordid condescensions to the prejudices and the meanness of the stingy and envious parts of the community are such exalted souls, as that of Regulus, obliged sometimes to submit; but the eternal panegyrics of republican writers, as they call themselves, will never reconcile mankind to any thing so ridiculous and contemptible. The laborer is worthy of his hire. He who labors for the public should live by the public, as much as he who preaches the gospel should live by the gospel; and these maxims of equity are approved by all the generous part of mankind. And the people whose heads are turned with contracted notions of a contrary nature, will forever be the dupes of the designing; for where you will find a single Regulus, you will find ten thousand Cæsars.

The example of Paulus Æmilius is equally hostile to our author's system, and equally friendly to that which we contend for. The first consul of that name, the conqueror of Illyricum, in 533, although he returned to Rome in triumph, yet, at the expiration of his office, he was cited before the people in their tribes, and accused of having converted part of the spoils to his own use. Æmilius had great difficulty to escape the condemnation which his colleague suffered. This great patrician and consul commanded and was killed at the battle of Cannæ. His son, of the same name, whose sister Æmilia was married to the great Scipio, distinguished himself by avoiding those intrigues, solicitations, caresses, and other artifices, practised by most can-

didates, even at this time, 562. His pains were employed to make himself esteemed by valor, justice, and ardor in his duty, in which he surpassed all the young men of his age. He carried the ædileship against ten competitors, every one of whom was so distinguished by birth and merit as afterwards to obtain the consulship. By his wife Papiria he had two sons, whom he procured to be adopted into the most illustrious houses in Rome; the eldest, by Fabius Maximus, five times consul and dictator; the younger by a son of Scipio Africanus. His two daughters he married, one to a son of Cato the Censor, and the other to Tubero. In 563 he gained a complete victory over the Lusitanians, in which he killed them eighteen thousand men, and took their camp, with thirteen hundred prisoners. In the offices of ædile, and of augur, he excelled all his contemporaries in the knowledge and practice of his duty; and military discipline he carried to greater perfection than had ever been known; nevertheless, when he stood for any office, even in these virtuous times, there was always an opposition; and he could not obtain the consulship till after he had suffered several repulses. Why? Because his virtue was too severe; not for the senate, but the people; and because he would not flatter and bribe the people. Before the end of the year of his first consulate he fought the Ligurians, and gained a complete victory over them, killing more than fifteen thousand men, and making near three thousand prisoners, and returned to Rome in triumph; yet with all this merit, when he stood candidate, some years after, for the consulate, the people rejected him; upon this he retired to educate his children. He was frugal in every thing of private luxury, but magnificent in expenses of public duty. Grammarians, rhetoricians, philosophers, sculptors, painters, equerries, hunters, were procured for the instruction of his children. While he was thus employed in private life, in 583, fourteen years after his first consulship, the affairs of the republic were ignorantly conducted, and the Macedonians, with Perseus at their head, gained great advantages against them. People were not satisfied with the conduct of the consuls of late years, and began to say, that the Roman name was not supported. The cry was, that the command of armies must no longer be given to faction and favor. The singular merit of Æmilius, his splendid services, the confidence which the troops had in his capacity, and the urgent ne-

cessity of the times for his wisdom and firmness, turned all eyes upon him. All his relations, and the senators in general, urged him to stand candidate. He had already experienced so much ingratitude, injustice, and caprice, that he shunned the present ardor, and chose to continue in private life. That very people who had so often ill used him, and rejected him, now crowded before his door, and insisted on his going to the forum; and his presence there was universally considered as a sure presage of victory, and he was unanimously elected consul, and appointed commander in Macedonia. He conquered Perseus and his Macedonian phalanx, and in the battle he formed Fabiuses and Scipios to be the glory and triumph of his country after him. He plundered the immense wealth of Macedonia and Epirus; he plundered seventy cities, and demolished their walls. The spoils were sold, and each soldier had two hundred denarii, and each of the horse four. The soldiers and common people, it seems, had little of that disinterestedness for which Æmilius was remarkable. They were so offended at their general for giving so little of the booty to them, and reserving so much to the public treasury, that they raised a great cry and opposition against his triumph; and Galba, the soldiers, and their friends among the plebeians, were determined to teach the great men, the consuls, generals, &c. to be less public-spirited—to defraud the treasury of its wealth, and bestow it upon them; they accordingly opposed the triumph of this great and disinterested general, and the first tribes absolutely rejected it.

Who, upon this occasion, saved the honor, justice, and dignity of the republic? Not the plebeians, but the senators. The senators were highly enraged at this infamous injustice and ingratitude, and this daring effort of popular licentiousness and avarice, and were obliged to make a noise, and excite a tumult. Servilius, too who had been consul, and had killed three-and-twenty enemies who had challenged him in single combat, made a long speech, in which he showed the baseness of their conduct in so striking a light, that he made the people ashamed of themselves; and at length they consented to the triumph, but to all appearance more from a desire to see the show of Perseus laden with chains, led through the city before the chariot of the victor, than from any honest and public-spirited design to reward merit. The sum which he caused to be carried into the public treasury

on the day of the triumph was one million three hundred thousand pounds sterling, and caused the taxes of the Roman people to be abolished. At his death, after the sale of part of his slaves, movables, and some farms, to pay his wife's dower, the remainder of his fortune was but nine thousand three hundred and seventy-five pounds sterling. As he was descended from one of the most noble and ancient houses of Rome, illustrious by the highest dignities, the smallness of his fortune reflects honor on his ancestors as well as on himself. The love of simplicity was still supported in some of the great families, by extreme care not to ally themselves with luxurious ones; and Æmilius chose Tubero, of the family of Ælii, whose first piece of plate was a silver cup of five pounds weight, given him by his father-in-law. These few families stemmed the torrent of popular avarice and extravagance.

Let us now consider what would have been the fate of Æmilius, if Rome had been governed at this time by Nedham's succession of the people's representatives, unchecked by a senate. It is plain he must have given into the common practice of flattering, caressing, soothing, bribing, and cajoling the people, or never have been consul, never commanded armies, never triumphed. An example more destructive of our author's system can scarcely be found, and yet he has the inadvertence at least to adduce it in support of his Right Constitution of a Commonwealth. It has been necessary to quote these anecdotes at some length, that we may not be deceived by a specious show, which is destitute of substance, truth, and fact, to support it.

But how come all these examples to be patricians and senators, and not one instance to be found of a plebeian commander who did not make a different use of his power?

There is a strange confusion or perversion in what follows: "Rome never thrived until it was settled in a freedom of the people." Rome never was settled in a freedom of the people; meaning in a free state, according to our author's definition of it, "a succession of the supreme authority in the people's representatives." Such an idea never existed in the Roman commonwealth, not even when or before the people made Cæsar a perpetual dictator. Rome never greatly prospered until the people obtained a small mixture of authority, a slight check upon the

senate, by their tribunes. This, therefore, is proof in favor of the mixture, and against the system of our author.

“Freedom was preserved, and that interest best advanced, when all places of honor and trust were exposed to men of merit, without distinction.”

True, but this never happened till the mixture took place.

“This happiness could never be obtained, until the people were instated in a capacity of preferring whom they thought worthy, by a freedom of electing men successively into their supreme offices and assemblies.” What is meant here by supreme offices? There were none in Rome but the dictators, and they were appointed by the senate, at least until Marius annihilated the senate, by making the tribes omnipotent. Consuls could not be called supreme officers in any sense. What is meant by supreme assemblies? There were none but the senate. The Roman people never had the power of electing a representative assembly. “So long as this custom continued, and merit took place, the people made shift to keep and increase their liberties.” This custom never took place, and, strictly speaking, the Roman people never enjoyed liberty. The senate was sovereign till the people set up a perpetual dictator.

“When this custom lay neglected, and the stream of preferment began to run along with the favor and pleasure of particular powerful men, then vice and compliance making way for advancement, the people could keep their liberties no longer; but both their liberties and themselves were made the price of every man’s ambition and luxury.”

But when was this? Precisely when the people began, and in proportion as they approached to, an equality of power with the senate, and to that state of things which our author contends for; so that the whole force of his reasoning and examples, when they come to be analyzed, conclude against him.

The eighth reason, why the people in their assemblies are the best keepers of their liberty, is, “because it is they only that are concerned in the point of liberty.” It is agreed that the people in their assemblies, tempered by another coequal assembly and an executive coequal with either, are the best keepers of their liberties. But it is denied that in one assembly, collective or representative, they are the best keepers. It may be reasonably questioned, whether they are not the worst; because they are as

sure to throw away their liberties, as a monarch or a senate untempered are to take them; with this additional evil, that they throw away their morals at the same time; whereas monarchs and senates sometimes by severity preserve them in some degree. In a simple democracy, the first citizen and the better sort of citizens are part of the people, and are equally "concerned" with any others "in the point of liberty." But is it clear that in other forms of government "the main interest and concernment, both of kings and grandees, lies either in keeping the people in utter ignorance what liberty is, or else in allowing and pleasing them only with the name and shadow of liberty instead of the substance?" It is very true that knowledge is very apt to make people uneasy under an arbitrary and oppressive government. But a simple monarch or a sovereign senate which is not arbitrary and oppressive, though absolute, if such cases can exist, would be interested to promote the knowledge of the nation. It must, however, be admitted, that simple governments will rarely if ever favor the dispersion of knowledge among the middle and lower ranks of people. But this is equally true of simple democracy. The people themselves, if uncontrolled, will never long tolerate a freedom of inquiry, debate, or writing; their idols must not be reflected on, nor their schemes and actions scanned, upon pain of popular vengeance, which is not less terrible than that of despots or sovereign senators.

"In free states, the people being sensible of their past condition in former times under the power of great ones, and comparing it with the possibilities and enjoyments of the present; become immediately instructed that their main interest and concernment consists in liberty; and are taught by common sense, that the only way to secure it from the reach of great ones, is to place it in the people's hands, adorned with all the prerogatives and rights of supremacy." It is very true that the main interest and concernment of the people is liberty. If their liberties are well secured they may be happy if they will; and they generally, perhaps always, are so. The way to secure liberty is to place it in the people's hands, that is, to give them a power at all times to defend it in the legislature and in the courts of justice. But to give the people, uncontrolled, all the prerogatives and rights of supremacy, meaning the whole executive and judicial power, or even the whole undivided legislative, is not the way to pre-

serve liberty. In such a government it is often as great a crime to oppose or decry a popular demagogue, or any of his principal friends, as in a simple monarchy to oppose a king, or in a simple aristocracy the senators. The people will not bear a contemptuous look or disrespectful word; nay, if the style of your homage, flattery, and adoration, is not as hyperbolic as the popular enthusiasm dictates, it is construed into disaffection; the popular cry of envy, jealousy, suspicious temper, vanity, arrogance, pride, ambition, impatience of a superior, is set up against a man, and the rage and fury of an ungoverned rabble, stimulated underhand by the demagogic despots, breaks out into every kind of insult, obloquy, and outrage, often ending in murders and massacres, like those of the De Witts, more horrible than any that the annals of despotism can produce.

It is indeed true, that "the interest of freedom is a virgin that every one seeks to deflower; and like a virgin it must be kept, or else (so great is the lust of mankind after dominion) there follows a rape upon the first opportunity." From this it follows, that liberty in the legislature is "more secure in the people's than in any other hands, because they are most concerned in it:" provided you keep the executive power out of their hands entirely, and give the property and liberty of the rich a security in a senate, against the encroachments of the poor in a popular assembly. Without this the rich will never enjoy any liberty, property, reputation, or life, in security. The rich have as clear a right to their liberty and property as the poor. It is essential to liberty that the rights of the rich be secured; if they are not, they will soon be robbed and become poor, and in their turn rob their robbers, and thus neither the liberty or property of any will be regarded.

The careful attention to liberty "makes the people both jealous and zealous, keeping a constant guard against the attempts and encroachments of any powerful or crafty underminers."

But this is true only while they are made a distinct body from the executive power, and the most conspicuous citizens mingle all together, and a scramble instantly commences for the loaves and fishes, abolition of debts, shutting up courts of justice, divisions of property, &c. Is it not an insult to common sense, for a people with the same breath to cry *liberty*, an *abolition of debts*, and *division of goods*? If debts are once abolished, and goods

are divided, there will be the same reason for a fresh abolition and division every month and every day. And thus the idle, vicious, and abandoned, will live in constant riot on the spoils of the industrious, virtuous, and deserving. "Powerful and crafty underminers" have nowhere such rare sport as in a simple democracy or single popular assembly. Nowhere, not in the completest despotisms, does human nature show itself so completely depraved, so nearly approaching an equal mixture of brutality and devilism, as in the last stages of such a democracy, and in the beginning of that despotism that always succeeds it.

"A people having once tasted the sweets of freedom, are so affected with it, that if they discover or do but suspect the least design to encroach upon it, they count it a crime never to be forgiven."

Strange perversion of truth and fact! This is so far from the truth, that our author himself is not able to produce a single instance of it as a proof or illustration. Instead of adducing an example of it from a simple democracy, he is obliged to have recourse to an example that operates strongly against him, because taken from an aristocracy. In the Roman state, one gave up his children, another his brother, to death, to revenge an attempt against common liberty. Was Brutus a man of the people? Was Brutus for a government of the people in their sovereign assemblies? Was not Brutus a patrician? Did he not think patricians a different order of beings from plebeians? Did he not erect a simple aristocracy? Did he not sacrifice his sons to preserve that aristocracy? Is it not equally probable that he would have sacrificed them to preserve his aristocracy from any attempt to set up such a government as our author contends for, or even against any attempt to have given the plebeians a share in the government; nay, against any attempt to erect the office of tribunes at that time?

"Divers sacrificed their lives to preserve it."

To preserve what? The standing government of grandees, against which our author's whole book is written.

"Some sacrificed their best friends to vindicate it, upon bare suspicion, as in the case of Mælius and Manlius."

To vindicate what? Liberty? popular liberty? plebeian liberty? Precisely the contrary. These characters were murdered for daring to be friends to popular liberty; for daring to

think of limiting the power of the grandees, by introducing a share of popular authority and a mixed constitution; and the people themselves were so far from the zeal, jealousy, and love of liberty that our author ascribes to them, that they suffered their own authority to be prostituted before their eyes, to the destruction of the only friends they had, and to the establishment of their enemies, and a form of government by grandees, under which they had no liberty, and in which they had no share.

Our author then cites examples of revenge in Greece. The year 1656 was a late age in the history of philosophy, as well as morality and religion, for any writer to preach revenge as a duty and a virtue. Reason and philanthropy, as well as religion, pronounce it a weakness and a vice in all possible cases. Examples enough of it, however, may be found in all revolutions. But monarchies and aristocracies have practised it, and, therefore, the virtue of revenge is not peculiar to our author's plan. In Corcyra itself, the people were massacred by the grandees as often as they massacred the grandees. And of all kinds of spirits that we read of, out of hell, this is the last that an enlightened friend of liberty would philosophically inculcate. Let legal liberty vindicate itself by legal punishments and moral measures; but mobs and massacres are the disgrace of her sacred cause still more than that of humanity.

Florence, too, and Cosmus\* are quoted, and the alternatives of treachery, revenge, and cruelty; all arising, as they did in Greece, from the want of a proper division of authority and an equal balance. Let any one read the history of the first Cosimo, his wisdom, virtues, and unbounded popularity, and then consider what would have been the consequence if Florence, at that period, had been governed by our author's plan of successive single assemblies, chosen by the people annually. It is plain that the people would have chosen such, and such only, for representatives as Cosimo and his friends would have recommended; at least a vast majority of them would have been his followers, and he would have been absolute. It was the aristocracy and the forms of the old constitution that alone served as a check upon him. The speech of Uzzano must convince one, that the people were more ready to make him absolute, than ever the Romans were to make Cæsar a perpetual dictator. He con-

\* See vol. ii. p. 94. (Of this work, vol. v. p. 74.)

fesses that Cosimo was followed by the whole body of the plebeians, and by one half of the nobles; that if Cosimo was not made master of the commonwealth, Rinaldo would be, whom he dreaded much more. In truth the government, at this time, was in reality become monarchical, and that ill-digested aristocracy, which they called a popular state, existed only in form; and the persecution of Cosimo only served to explain the secret.

Will it be denied that a nation has a right to choose a government for themselves? The question was really no more than this, whether Rinaldo or Cosimo should be master. The nation declared for Cosimo, reversed that banishment into which he had been very unjustly sent by Rinaldo, demanded his return, and voted him the father of his country. This, alone, is full proof, that if the people had been the keepers of their own liberties, in their successive assemblies, they would have given them all to Cosimo; whereas, had there been an equal mixture of monarchy, aristocracy, and democracy, in that constitution, the nobles and commons would have united against Cosimo, the moment he attempted to overleap the boundaries of his legal authority. Uzzano confesses that, unless charity, liberality, and beneficence were crimes, Cosimo was guilty of no offence; and that there was as much to apprehend from his own party as from the other, in the point of liberty. All the subsequent attempts of Rinaldo, to put Cosimo to death and to banish him, were unqualified tyranny. He saved his life, it is true, by a bribe; but what kind of patrons of liberty were these who would betray it for a bribe? His recall and return from banishment seem to have been the general voice of the nation, expressed according to the forms and spirit of the present constitution, without any appearance of such treachery, as our author suggests.\*

Whether Nedham knew the real history of Florence is very problematical; all his examples from it, are so unfortunate as to be conclusive against his project of a government. The real essence of the government in Florence had been, for the greatest part of fifty years, a monarchy, in the hands of Uzzano and Maso, according to Machiavel's own account; its form an aristocracy, and its name a popular state. Nothing of the essence was changed by the restoration of Cosimo; the form and name only underwent an alteration.

\* See vol. ii. pp. 96 - 99. (Of this work, vol. v. pp. 77 - 79.)

Holstein, too, is introduced, merely to make a story for the amusement of a drunken mob. "Here is a health to the remembrance of our liberty," said the "boorish, poor, silly generation," seventy years after they were made a duchy. Many hogsheads of ale and porter, I doubt not, were drank in England in consequence of this Holstein story; and that was all the effect it could have towards supporting our author's argument.

How deep soever the impression may be, that is made by "the love of freedom in the minds of the people," it will not follow that they alone are "the best keepers of their own liberties, being more tender and more concerned in their security than any powerful pretenders whatsoever."

Are not the senators, whether they be hereditary or elective, under the influence of powerful motives to be tender and concerned for the security of liberty? Every senator who consults his reason, knows that his own liberty and that of his posterity must depend upon the constitution which preserves it to others. What greater refuge can a nation have, than in a council in which the national maxims and the spirit and genius of the state, are preserved by a living tradition? What stronger motive to virtue, and to the preservation of liberty, can the human mind perceive, next to those of rewards and punishments in a future life, than the recollection of a long line of ancestors, who have sat within the walls of the senate, and guided the councils, led the armies, commanded the fleets, and fought the battles of the people, by which the nation has been sustained in its infant years, defended from dangers, and carried, through calamities, to wealth, grandeur, prosperity, and glory? What institution more useful can possibly exist, than a living repertory of all the history, knowledge, interests, and wisdom of the commonwealth, and a living representative of all the great characters, whose prudence, wisdom, and valor are registered in the history and recorded in the archives of the country? If the people have the periodical choice of these, we may hope they will generally select those, among the most conspicuous for fortune, family, and wealth, who are most signalized for virtue and wisdom, which is more advantageous than to be confined to the eldest son, however defective, to the exclusion of younger sons, though excellent, and to one family, though decayed and depraved, to another more deserving, as in hereditary senates.

But that a senate, guarded from ambition, should be objected to by a friend of liberty and republican government, is very extraordinary. Let the people have a full share, and a decisive negative; and, with this impregnable barrier against the ambition of the senate on one side, and the executive power, with an equal negative, on the other, such a council will be found the patron and guardian of liberty on many occasions, when the giddy, thoughtless multitude, and even their representatives, would neglect, forget, or even despise and insult it; instances of all which are not difficult to find.

The ninth reason is, "because the people are less luxurious than kings or grandees."

That may well be denied. Kings, nobles, and people are all alike in this respect, and, in general, know no other bounds of indulgence than the capacity of enjoyment, and the power to gratify it. The problem ought to be, to find a form of government best calculated to prevent the bad effects and corruption of luxury, when, in the ordinary course of things, it must be expected to come in. Kings and nobles, if they are confessed to enjoy or indulge in luxury more than the commons, it is merely because they have more means and opportunities, not because they have stronger appetites, passions, and fancies, or, in other words, a stronger propensity to luxury, than the plebeians. If it should be conceded, that the passions and appetites strengthen by indulgence, it must be confessed, too, that they have more motives to restrain them; but in regard to mere animal gratification, it may well be denied that they indulge or enjoy more than the common people on an average. Eating and drinking, surely, is practised with as much satisfaction by the footman as his lord; and as much pleasure may be tasted in gin, brandy, ale, and porter, as in Burgundy or Tokay; in beef and pudding, as in ortolans and jellies. If we consider nations together, we shall find that intemperance and excess are more indulged in the lowest ranks than in the highest. The luxury of dress, beyond the defence from the weather, is a mere matter of politics and etiquette throughout all the ranks of life; and, in the higher ranks, rises only in proportion as it rises in the middle and the lowest. The same is true of furniture and equipage, after the ordinary conveniences and accommodations of life. Those who claim or aspire to the highest ranks of life, will eternally go to a

certain degree above those below them in these particulars, if their incomes will allow it. Consideration is attainable by appearance, and ever will be; and it may be depended on, that rich men, in general, will not suffer others to be considered more than themselves, or as much, if they can prevent it by their riches. The poor and the middle ranks, then, have it in their power to diminish luxury as much as the great and rich have. Let the middle and lower ranks lessen their style of living, and they may depend upon it the higher ranks will lessen theirs.

It is commonly said, every thing is *regis ad exemplum*; that the lower ranks imitate the higher; and it is true. But it is equally true that the higher imitate the lower. The higher ranks will never exceed their inferiors but in a certain proportion; but *the distinction* they are absolutely obliged to keep up, or fall into contempt and ridicule. It may gratify vulgar malignity and popular envy, to declaim eternally against the rich and the great, the noble and the high; but, generally and philosophically speaking, the manners and characters of a nation are all alike. The lowest and the middling people, in general, grow vicious, vain, and luxurious, exactly in proportion. As to appearance, the higher sort are obliged to raise theirs in proportion as the stories below ascend. A free people are the most addicted to luxury of any. That equality which they enjoy, and in which they glory, inspires them with sentiments which hurry them into luxury. A citizen perceives his fellow-citizen, whom he holds his equal, have a better coat or hat, a better house or horse, than himself, and sees his neighbors are struck with it, talk of it, and respect him for it. He cannot bear it; he must and will be upon a level with him. Such an emulation as this takes place in every neighborhood, in every family; among artisans, husbandmen, laborers, as much as between dukes and marquises; and more—these are all nearly equal in dress, and are now distinguished by other marks. Declamations, oratory, poetry, sermons, against luxury, riches, and commerce will never have much effect. The most rigorous sumptuary laws will have little more. “Discordia, et avaritia, atque ambitio, et cetera secundis rebus oriri sueta mala, post Carthaginis excidium maxumè aucta sunt. Ex quo tempore majorum mores, non paulatim, ut antea, sed torrentis modo præcipitati.”\*

\* Sallust. in *Frag.*

In the late war, the Americans found an unusual quantity of money flow in upon them, and, without the least degree of prudence, foresight, consideration, or measure, rushed headlong into a greater degree of luxury than ought to have crept in for a hundred years. The Romans charged the ruin of their commonwealth to luxury; they might have charged it to the want of a balance in their constitution. In a country like America, where the means and opportunities for luxury are so easy and so plenty, it would be madness not to expect it, be prepared for it, and provide against the dangers of it in the constitution. The balance, in a triple-headed legislature, is the best and the only remedy. If we will not adopt that, we must suffer the punishment of our temerity. The supereminence of a three-fold balance above all the imperfect balances that were attempted in the ancient republics of Greece and Italy, and the modern ones of Switzerland and Holland, whether aristocratical or mixed, lies in this, that as it is capable of governing a great nation and large territory, whereas the others can only exist in small ones, so it is capable of preserving liberty among great degrees of wealth, luxury, dissipation, and even profligacy of manners; whereas the others require the utmost frugality, simplicity, and moderation, to make human life tolerable under them.

“Where luxury takes place, there is a natural tendency to tyranny.”

There is a natural tendency to tyranny every where, in the simplest manners as well as the most luxurious, which nothing but force can stop. And why should this tendency be taken from human nature, where it grows as in its native soil, and attributed to luxury?

“The nature of luxury lies altogether in excess. It is a universal deprivation of manners, without reason, without moderation; it is the canine appetite of a corrupt will and phantasy, which nothing can satisfy; but in every action, in every imagination, it flies beyond the bounds of honesty, just and good, into all extremity.”

This is declamation and rant that it is not easy to comprehend. There are all possible degrees of luxury which appear in society, with every degree of virtue, from the first dawnings of civilization to the last stage of improvement and refinement; and civility, humanity, and benevolence, increase commonly as fast as

ambition of conquest, the pride of war, cruelty, and bloody rage, diminish. Luxury, to certain degrees of excess, is an evil; but it is not at all times, and in all circumstances, an absolute evil. It should be restrained by morality and by law, by prohibitions and discouragements. But the evil does not lie here only; it lies in human nature; and that must be restrained by a mixed form of government, which is the best in the world to manage luxury. Our author's government would never make, or, if it made, it never would execute laws to restrain luxury.

"That form of government," says our author, "must needs be the most excellent, and the people's liberty most secured, where governors are least exposed to the baits and snares of luxury."

That is to say, that form of government is the best, and the people's liberty most secure, where the people are poorest; this will never recommend a government to mankind. But what has poverty or riches to do with the form of government? If mankind must be voluntarily poor in order to be free, it is too late in the age of the world to preach liberty. Whatever Nedham might think, mankind in general had rather be rich under a simple monarchy, than poor under a democracy. But if that is the best form of government, where governors are least exposed to the baits and snares of luxury, the government our author contends for is the worst of all possible forms. There is, there can be no form in which the governors are so much exposed to the baits and snares of luxury as in a simple democracy. In proportion as a government is democratical, in a degree beyond a proportional prevalence of monarchy and aristocracy, the wealth, means, and opportunities being the same, does luxury prevail. Its progress is instantaneous. There can be no subordination. One citizen cannot bear that another should live better than himself; a universal emulation in luxury instantly commences; and the governors, that is, those who aspire at elections, are obliged to take the lead in this silly contention; they must not be behind the foremost in dress, equipage, furniture, entertainments, games, races, spectacles; they must feast and gratify the luxury of electors to obtain their votes; and the whole executive authority must be prostituted, and the legislative too, to encourage luxury. The Athenians made it death for any one to propose the appropriation of money devoted to the support of the theatre to any the most necessary purposes of the state. In

monarchies and aristocracies much may be done, both by precept and example, by laws and manners, to diminish luxury and restrain its growth; in a mixed government more still may be done for this salutary end; but in a simple democracy, nothing. Every man will do as he pleases, no sumptuary law will be obeyed; every prohibition or impost will be eluded; no man will dare to propose a law by which the pleasures or the liberty of the citizen shall be restrained. A more unfortunate argument for a simple democracy could not have been thought of; it is, however, a very good one in favor of a mixed government.

Our author is nowhere so weak as in this reason, or under this head. He attempts to prove his point by reason and examples, but is equally unfortunate in both. First, by reason. "The people," says he, "must needs be less luxurious than kings, or the great ones, because they are bounded within a more lowly pitch of desire and imagination; give them but *panem et circenses*, bread, sport, and ease, and they are abundantly satisfied." It is to be feared that this is too good a character for any people living, or that have lived. The disposition to luxury is the same, though the habit is not, both in plebeians, patricians, and kings. When we say their desires are bounded, we admit the desires to exist. Imagination is as quick in one as in the other. It is demanding a great deal, to demand "bread, and sports, and ease." No one can tell how far these terms may extend. If by bread is meant a subsistence, a maintenance in food and clothing, it will mount up very high; if by sports be meant cock-fighting, horse-racing, theatrical representations, and all the species of cards, dice, and gambling, no mortal philosopher can fathom the depth of this article; and if with "bread" and "sport" they are to have "ease" too, and by ease be meant idleness, an exemption from care and labor, all three together will amount to as much as ever was demanded for nobles or kings, and more than ought ever to be granted to either. But let us grant all this for a moment; we should be disappointed; the promised "abundant satisfaction" would not be found. The bread must soon be of the finest wheat; poultry and *gibier* must be added to beef and mutton; the entertainments would not be elegant enough after a time; more expense must be added; in short, contentment is not in human nature; there is no passion, appetite, or affection for contentment. To amuse

and flatter the people with compliments of qualities that never existed in them, is not the duty nor the right of a philosopher or legislator; he must form a true idea and judgment of mankind, and adapt his institutions to facts, not compliments.

“The people have less means and opportunities for luxury than those pompous standing powers, whether in the hands of one or many.”

But if the sovereignty were exercised wholly by one popular assembly, they would then have the means and opportunities in their hands as much as the king has in a monarchy, or the senate in an aristocracy or oligarchy; and much more than either king or nobles have in the tripartite composition we contend for; because in this the king and nobles have really no means or opportunities of luxury but what are freely given them by the people, whose representatives hold the purse. Accordingly, in the simple democracy, or representative democracy, which our author contends for, it would be found, that the great leaders in the assembly would soon be as luxurious as ever kings or hereditary nobles were, and they would make partisans by admitting associates in a luxury, which they would support at the expense of the minority; and every particle of the executive power would be prostituted, new lucrative offices daily created, and larger appointments annexed to support it; nay, the power of judging would be prostituted to determine causes in favor of friends and against enemies, and the plunder devoted to the luxury. The people would be found as much inclined to vice and vanity as kings or grandees, and would run on to still greater excess and riot; for kings and nobles are always restrained, in some degree, by fear of the people, and their censures; whereas the people themselves, in the case we put, are not restrained by fear or shame, having all honor and applause at their disposal, as well as force. It does not appear, then, that they are less luxurious; on the contrary, they are more luxurious, and necessarily become so, in a simple democracy.

Our author triumphantly concludes, “it is clear the people, that is, their successive representatives,” (all authority in one centre, and that centre the nation,) “must be the best governors, because the current of succession keeps them the less arrogant and presumptuous.”

He must have forgot that these successive representatives

have all the executive power, and will use it at once for the express purpose of corruption among their constituents, to obtain votes at the next election. Every commission will be given, and new offices created, and fresh fees, salaries, perquisites, and emoluments added, on purpose to corrupt more voters. He must have forgot that the judicial power is in the hands of these representatives, by his own suppositions, and that false accusations of crimes will be sustained to ruin enemies; disputes in civil causes will be decided in favor of friends; in short, the whole criminal law, and the whole civil law concerning lands, houses, goods, and money, will be made subservient to the covetousness, pride, ambition, and ostentation of the dominant party and their chiefs. "The current of succession," instead of keeping them "less corrupt and presumptuous," is the very thing that annually makes them more corrupt and shameless. Instead of being more "free from luxurious courses," they are more irresistibly drawn into them; instead of being "free from oppressive and injurious practices," their parties at elections will force them into them; and all these things they must do to hold up the port and splendor of their tyranny; and if any of them hesitate at any imprudence that his party demands, he alone will be rejected, and another found whose conscience and whose shame are sufficiently subdued.

Unfortunate in his arguments from reason, to show that the people, qualified with the supreme authority, are less devoted to luxury than the grandee or kingly powers, our author is still more unhappy in those drawn from example.

The first example is Athens. "While Athens remained free, in the people's hands, it was adorned with such governors as gave themselves up to a *serious, abstemious, and severe* course of life."

*Sobriety, abstinence, and severity*, were never remarkable characteristics of democracy, or the democratical branch or mixture, in any constitution; they have oftener been the attributes of aristocracy and oligarchy. Athens, in particular, was never conspicuous for these qualities; but, on the contrary, from the first to the last moment of her democratical constitution, *levity, gayety, inconsistency, dissipation, intemperance, debauchery, and a dissolution of manners*, were the prevailing character of the whole nation. At what period will it be pretended that they were adorned with

these serious, abstemious, and severe governors? and what were their names? Was Pisistratus so serious, when he drove his chariot into the Agora, wounded by himself, and duped the people to give him his guard? or when he dressed the girl like Minerva? Was Hipparchus or Hippias, Cleisthenes or Isagoras, so abstemious? Was there so much abstinence and severity of public virtue in applying first to Sparta, and then to Persia, against their country, as the leaders alternately did? Miltiades indeed was serious, abstemious, and severe; but Xanthippus, who was more popular, and who conducted a capital accusation against him, and got him fined fifty talents, was not. Themistocles! was he the severe character? A great statesman and soldier, to be sure; but very ambitious, and not very honest. Pericles sacrificed all things to his ambition; Cleon and Alcibiades were the very reverse of sobriety, moderation, and modesty. Miltiades, Aristides, Socrates, and Phocion, are all the characters in the Athenian story who had this kind of merit; and to show how little the Athenians themselves deserved this praise, or esteemed it in others, the first was condemned by the people in an immense fine, the second to banishment, and the third and fourth to death. Aristides had Themistocles, a more popular man, constantly to oppose him. He was, indeed, made financier of all Greece; but what other arbitration had Athens? And Aristides himself, though a professed imitator of Lycurgus, and a favorer of aristocracy, was obliged to overturn the constitution, by giving way to the furious ambition of the people, and by letting every citizen into the competition for the archonship.\*

“Being at the height, they began to decline;” that is, almost in the instant when they had expelled the Pisistratidæ, and acquired a democratical ascendancy, though checked by the areopagus and many other institutions of Solon, they declined. The good conduct of the democracy began and ended with Aristides.

\* When the city of Athens was rebuilt, the people, finding themselves in a state of tranquillity, endeavored by every means to get the whole government into their own hands. Aristides, perceiving that it would be no easy matter to restrain a people with arms in their hands, and grown insolent with victory, studied methods to appease them. He passed a decree, that the government should be common to all the citizens; and that the archons, who were the chief magistrates, and used to be chosen only out of those who received at least five hundred *medimni* of grain from the product of their lands, should for the future be elected from among all the Athenians, without distinction. *Plut. Arist.*

“Permitting some men to greaten themselves by continuing long in power and authority, they soon lost their pure principles of severity and liberty.”

In truth, nobody yet had such principles but Miltiades and Aristides. As soon as the people got unlimited power, they did, as the people always do, give it to their flatterers, like Themistocles, and continued it in him. To what purpose is it to talk of the rules of a free state, when you are sure those rules will be violated? The people unbalanced never will observe them.

“The thirty” were appointed by Lysander, after the conquest of Athens by Sparta; yet it was not the continuance, but the illimitation, of their power that corrupted them. These, indeed, behaved like all other unchecked assemblies. The majority destroyed Theramenes and the few virtuous members, who happened to be among them and were a reproach to them, and then ruled with a rod of iron. Nothing was heard of but murders and imprisonments. Riches were a crime that never failed to be punished with confiscation and death. More people were put to death in eight months of peace than had been slain by the enemy in a war of thirty years. In short, every body of men, every unchecked assembly in Athens, had invariably behaved in this manner: the four hundred formerly chosen; now the thirty; and afterwards the ten. Such universal, tenacious, and uniform conspiracies against liberty, justice, and the public good; such a never-failing passion for tyranny, possessing republicans born in the air of liberty, nurtured in her bosom, accustomed to that equality on which it is founded, and principled by their education, from their earliest infancy, in an abhorrence of all servitude, have astonished the generality of historians. There must be in power, say they, some violent impulse to actuate so many persons in this manner, who had no doubt sentiments of virtue and honor, and make them forget all laws of nature and religion. But there is really no room for all this surprise. It is the form of government that naturally and necessarily produces the effect. The astonishment really is, and ought only to be, that there is one sensible man left in the world who can still entertain an esteem, or any other sentiment than abhorrence, for a government in a single assembly.

“Such, also was the condition of Athens when Pisistratus usurped the tyranny.” But who was it that continued the power

of Pisistratus and his sons? The people. And if this example shows, like all others, that the people are always disposed to continue and increase the power of their favorites, against all maxims and rules of freedom, this, also, is an argument for placing balances in the constitution, even against the power of the people.

From Athens, our author comes to Rome. Under Tarquin, it was "dissolved in debauchery. Upon the change of government, their manners were somewhat mended."

This difference does not appear. On the contrary, the Roman manners were under the kings as pure as under the aristocracy that followed.

"The senate, being a standing power, soon grew corrupt, and first let in luxury, then tyranny; till the people, being interested in the government, established a good discipline and freedom both together; which was upheld with all severity till the ten *grandeos* came in play."

When an author writes from imagination only, he may say what he pleases; but it would be trifling to adduce proofs in detail of what every one knows. The whole history of Rome shows that corruption began with the people sooner than in the senate; that it increased faster; that it produced the characters he calls *grandeos*,—as the Gracchi, Marius, Sylla, and Cæsar; and that the senate was for centuries the check that preserved any degree of virtue, moderation, or modesty.

Our author's conclusion is, that "*grandee* and kingly powers are ever more luxurious than the popular are, or can be; that luxury ever brings on tyranny as the bane of liberty; and, therefore, that the rights of the people, in a due and orderly succession of their supreme assemblies, are more secure in their own hands than any others."

But if the fact is otherwise, and the people are equally luxurious in a simple democracy as in a simple aristocracy or monarchy; but more especially if it be true, as it undoubtedly is, that they are more so; then the contrary conclusion will follow, that their rights are more secure when their own power is tempered by a separate executive and an aristocratical senate.

The truth relating to this subject is very obvious, and lies in a narrow compass. The disposition to luxury is so strong in all men, and in all nations, that it can be restrained, where it

has the means of gratification, only by education, discipline, or law. Education and discipline soon lose their force when unsupported by law. Simple democracies, therefore, have occasion for the strictest laws to preserve the force of education, discipline, and severity of manners. This is the reason why examples of the most rigorous, the most tyrannical, sumptuary laws are found in governments the most popular. But such sumptuary laws are found always ineffectual; they are always hated by the people, and violated continually; and those who approve them neither dare repeal them, nor attempt to carry them into execution. In a simple aristocracy, the disposition to luxury shows itself in the utmost extravagance, as in Poland. But it is confined to the gentlemen; the common people are forbidden it; and such sumptuary laws are executed severely enough. In simple monarchies, sumptuary laws are made under the guise of prohibitions or imposts; and luxury is generally no otherwise restrained than by the ability to gratify it; but as the difference of ranks is established by laws and customs universally known, there is no temptation for people in the lower ranks to imitate the splendor of those in the higher. But in the mixed government we contend for, the distinction of ranks is also generally known, or ought to be. It has, therefore, all the advantage against general luxury which arises from subordination; and it has the further advantage of being able to execute prudent and reasonable sumptuary laws, whenever the circumstances of affairs require them. It is, therefore, safe to affirm, that luxury is less dangerous in such a mixed government than any other; has less tendency to prevail; and is much more easily restrained to such persons and objects as will be least detrimental to the public good.

The tenth reason is, "because, under this government, the people are ever endued with a more magnanimous, active, and noble temper of spirit, than under the grandeur of any standing power. And this arises from that apprehension which every particular man hath of his own immediate share in the public interest, as well as of that security which he possesses in the enjoyment of his private fortune, free from the reach of any arbitrary power."

This is a good argument in favor of a government in which the people have an essential part of the sovereign power; but

none at all for one in which they exercise the whole. When they have a part, balanced by a senate and a distinct executive power, it is true they have more magnanimity, activity, and spirit; they have a regard to their own immediate share in the public interest; they have an apprehension of that security they possess in the enjoyment of their private fortunes, free from the reach of any arbitrary power. Whenever success betides the public, and the commonwealth conquers, thrives in dominion, wealth, or honor, the citizen reckons all his own. If he sees honors, offices, rewards, distributed to valiant, virtuous, or learned men, he esteems them his own, as long as the door is left open to succeed in the same dignities and enjoyments, if he can attain to the same measure of desert. Men aspire to great actions when rewards depend on merit; and merit is more certain of reward in a mixed government than in any simple one. Rewards depend on the will and pleasure of particular persons, in standing powers of monarchy or aristocracy. But they depend equally on the will and pleasure of the *principes populi*, the reigning demagogues, in simple democracies, and for obvious reasons are oftener distributed in an arbitrary manner. In a mixed government, the ministers of the executive power are always responsible, and gross corruption in the distribution of offices is always subject to inquiry and to punishment; but in simple governments, the reigning characters are accountable to nobody. In a simple democracy, each leader thinks himself accountable only to his party, and obliged to bestow honors, rewards, and offices, not upon merit and for the good of the whole state, but merely to increase his votes and partisans in future elections. But it is by no means just, politic, or true, to say, that offices, &c. are always conferred in free states, meaning single assemblies, according to merit, without any consideration of birth or fortune. Birth and fortune are as much considered in simple democracies as in monarchies, and ought to be considered in some degree in all states. Merit, it is true, ought to be preferred to both; but, merit being equal, birth will generally determine the question in all popular governments; and fortune, which is a worse criterion, oftener still.

But what apprehension of their share in the public interest, or of their security in the enjoyment of their private fortune, can the minor party have in a simple democracy, when they

see that successes, conquests, wealth, and honor, only tend to increase the power of their antagonists, and to lessen their own; when all honors, offices, and rewards, are bestowed to lessen their importance, and increase that of their opponents; when every door is shut against them to succeed to dignities and enjoyments, be their merit what it will; when they see that neither birth, fortune, nor merit can avail them, and that their adversaries, whom they will call their enemies, succeed continually, without either birth, fortune, or merit? This is surely the course in a simple democracy, even more than in a simple aristocracy or monarchy. Abilities, no doubt, will be sought and purchased into the service of fortune and family in the predominant party, but left to perish in opposition.

A mixed government is the only one where merit can be expected to have fair play. There it has three resources, one in each branch of the legislature, and a fourth in the courts of justice; whereas in all simple governments it has but one.

Our author proceeds again to Roman history, and repeats examples he had used before, with equal ill success. The examples prove the contrary of what he cites them to prove. "The Romans, under their kings, remained inconsiderable in reputation, and could never enlarge the dominion very far beyond the walls of their city. Afterwards, under the standing power of the senate, they began to thrive a little better, and for a little time. But when the people began to know, claim, and possess their liberties, in being governed by a succession of their supreme officers and assemblies, then it was, and never till then, that they laid the foundation and built the structure of that wondrous empire that overshadowed the whole world."

In support of all this, no doubt, will be cited the splendid authority of Sallust. "*Nam regibus, boni quam mali suspectiores sunt, semperque his aliena virtus formidolosa est. Sed civitas, incredibile memoratu est, adeptam libertatem, quantum brevi creverit; tanta cupido gloriæ incesserat. Jam primum juvenis, simul laboris ac belli patiens erat, in castris per usum militiam discebat; magisque in decoris armis et militaribus equis, quam in scortis atque conviviis lubidinem habebat.*" The condition and happiness of Rome under their kings, till the time of Tarquin, have been before related. It has been shown that the introduction of laws and formation of the manners of a barbarous rabble, assembled from all nations,

engaged the attention both of the kings and the senate during this period. Their wars have been enumerated, and it has been shown that the nation was not in a condition to struggle with hostile neighbors, nor to contend among themselves. It has been shown that, in proportion as they became easy and safe, the nobles began to envy the kings, and to form continual conspiracies against their authority, thrones, and lives, until it became a question only whether monarchy or aristocracy should be abolished. In this manner kings were necessitated either to give up all their authority into the hands of a haughty and aspiring senate, or assert a more decisive and arbitrary power than the constitution allowed them. In the contest the nobles prevailed, and in the wars with Tarquin and his successors and their allies, soldiers and officers were formed, who became capable and desirous of conquest and glory. Sallust himself confesses this in the former chapter. “*Post, ubi regium imperium, quod initio conservandæ libertatis, atque augendæ reipublicæ fuerat, in superbiam, dominationemque convertit; immutato more, annua imperia, binosque imperatores sibi fecere.*”

In addition to this it should be remembered, that Sallust was an aristocratical historian, and attached to the sovereignty in the senate, or at least desirous of appearing so in his history, and an enemy to the government of a single person, of which the republic was at that time in the near prospect and the utmost danger. The question, in the mind of this writer, was not between an aristocracy and a mixed sovereignty, but between aristocracy and simple monarchy, or the empire of one. Yet all that can be inferred from the fact, as stated by our author and by Sallust, is, that aristocracy at first is better calculated for conquest than simple monarchy. It by no means follows, that aristocracy is more friendly to liberty or commerce, the two blessings now most esteemed by mankind, than even simple monarchy. But the most exceptionable sentiment of all is this, — “When the people began to possess their liberties, in being governed by a succession of their supreme officers and assemblies, then they laid the foundation of empire, and built the structure.” By this one would think that the Romans were governed by a single representative assembly, periodically chosen, which is our author’s idea of a perfect commonwealth; whereas nothing can be further from the truth. There is scarcely any

constitution farther removed from a simple democracy or a representative democracy than the Roman. As has been before observed, from Romulus to Cæsar, aristocracy was the predominant feature of the sovereignty. The mixture of monarchical power in the kings and consuls, and the mixture of democratical power in the tribunes and popular assemblies, though unequal to the aristocratical ingredient, were checks to it and strong stimulants to exertions, though not complete balances. But the periods of greatest liberty, virtue, glory, and prosperity, were those in which the mixture of all three was nearest equality. Our author's argument and example are clear and strong in favor of the triple combination, and decisive against the democracy he contends for.

“ In those days the world abounded with free states more than any other form, as all over Italy, Gallia, Spain, and Africa.”

It may be questioned, whether there was then in the world one free state, according to our author's definition of it. All that were called free states in those days, were either aristocracies, oligarchies, or mixtures of monarchy and aristocracy, of aristocracy and democracy, or of monarchy, aristocracy, and democracy. But not one do we read of which was governed by a democracy, simple or by representation. The Achaian league, and others like it, were confederated cities, each city being independent, and itself a mixed government.

Carthage is the next example; and an excellent one it is to prove that a mixed government, in which the people have a share, gives them magnanimity, courage, and activity; but it proves nothing to our author's purpose. The *suffetes*, the senate, and the people, the monarchical, aristocratical, and democratical powers, nicely balanced, as Aristotle says, were the constitution of Carthage, and secured its liberty and prosperity. But when the balance was weakened, and began to incline to a *dominatio plebis*, the precise form of government our author contends for, they hastened to ruin. The next example quoted by our author is the Swiss; another example which proves nothing for him, and much against him. All the cantons of any extent, numbers, or wealth, are aristocratical or mixed. The little spots that are called democratical are more or less mixtures. The Hollanders, his last example, had no democratical mixture in their constitution; are entirely aristocratical; and preserved from tyranny

and destruction, partly by a stadtholder, partly by the people in mobs, but more especially by the number of independent cities and sovereignties associated together, and the great multitude of persons concerned in the government and composing the sovereignty, four or five thousand; and, finally, by the unanimity that is required in all transactions. Thus, every one of these examples, ancient and modern, is a clear demonstration against our author's system instead of being an argument for it. There is not even a color in his favor in the democratical cantons of Switzerland, narrow spots or barren mountains, where the people live on milk; nor in St. Marino or Ragusa. No precedents, surely, for England or American States, where the people are numerous and rich, the territory capacious, and commerce extensive.

Freedom produces magnanimity and courage; but there is no freedom nor justice in a simple democracy for any but the majority. The ruling party, no doubt, will be active and bold; but the ruled will be discouraged, browbeaten, and insulted, without a possibility of redress but by civil war. It is a mixed government, then, well balanced, that makes all the nation of a noble temper. Our author confesses, "we feel a loss of courage and magnanimity follow the loss of freedom;" and it is very true. This loss is nowhere so keenly felt as when we are enslaved by those whom the constitution makes our equals. This is the case of the minority always in a simple democracy.

The eleventh reason is, "because no determinations being carried but by consent of the people, therefore they must needs remain secure out of the reach of tyranny and free from the arbitrary disposition of any commanding power."

No determinations are carried, it is true, in a simple or representative democracy, but by consent of the majority of the people or their representatives. If our author had required unanimity in every vote, resolve, and law, in that case no determination could be carried but by consent of the people. But no good government was ever yet founded upon the principle of unanimity; and it need not be attempted to be proved that none such ever can exist. If the majority, then, must govern, and consequently often near half, and almost always a party, must be governed against their consent, it is the majority only who will remain secure out of the reach of tyranny, and free from the

arbitrary disposition of any commanding power. The minority, on the contrary, will be constantly within the reach of tyranny, and under the arbitrary disposition of the commanding power of the majority. Nor do the minority, under such a government, "know what laws they are to obey, or what penalties they are to undergo, in case of transgression; nor have they any share or interest in making of laws, with the penalties annexed; nor do they become the more inexcusable if they offend;" nor ought they "the more willingly to submit to punishment, when they suffer for any offence," for the minority have no laws but what the majority please to give, any more than "when government is managed in the hands of a particular person," or "continued in the hands of a certain number of great men;" nor do the minority "know how to walk by those laws" of the majority, "or how to understand them, because the sense is oftentimes left at uncertainty;" and it will be "reckoned a great mystery of state, in such a form of government, that no laws shall be of any sense or force, but as the great ones" among the majority "please to expound them;" so as "the people of the minority" will be "left, as it were, without law, because they bear no other construction and meaning but what suits with the interests and fancies of particular men" in the majority; "not with right reason or the public liberty."

To be convinced of this, we should recollect that the majority have the appointment of the judges, who will be generally the great leaders in the house, or their friends and partisans, and even great exertions will be made to pack juries; but without packing, the probability is, that a majority at least of the juries will be of the ruling party in the nation and its sovereign assembly. We may go farther, and say, that as the passions and interests of the majority have no check, they will frequently make *ex post facto* laws; laws with a retrospect, to take in cases which at the time were not foreseen, for the mortification of the minority and the support and encouragement of their adversaries. The judges will not be less "reputed the oracles of the law" under such a government, than under kings or standing senates; and the "power of creating judges" will not indeed be "usurped," but will be legally and constitutionally in the hands of the majority, or rather of their leader or leaders, "who will ever have a care to create such as will make the law speak in favor of

them upon any occasion." These *principes populi* may say, with as much arrogance and as much truth as it was ever said by Charles or James, "As long as we have the power of making what judges and bishops we please, we are sure to have no law nor gospel but what shall please us."

The example of Henry VII. and Henry VIII., those of James and Charles, are no doubt pertinent to prove, that "the usurpation of a prerogative of expounding the laws after their own pleasure, made them rather snares than instruments of relief, like a grand catchpole, to pill, poll, and geld the purses of the people; to deprive many gallant men of their lives and fortunes." But if we had the history of any simple democracy, or democracy by simple representation, such as our author contends for, we should find that such a prerogative was usurped by the majority and their chiefs, and applied to as bad purposes. But the truth is, no such government, that we know of, ever existed. The universal sense of mankind has deemed it so destructive or impracticable, that no nation has ventured on it. The Italian republics of the middle age approach the nearest to it. Their history is an answer. But if we consider those passions in human nature which cause despots, oligarchies, and standing senates, to make such an abuse of power, we must see that the same passions will ever exist in the majority and their leaders in a democracy, and produce the same fatal effects.

It is really astonishing, that the institution of Lycurgus should be adduced as a precedent in favor of our author's project of the right constitution of a commonwealth; there is scarcely a form of government in the world more essentially different from it in all its parts. It is very true that the provision made by that legislator for an equality of laws, rights, duties, and burdens, among all the citizens, however imperfect it was, however inferior to the provision in the English and American constitutions, was the principal commendation of his plan; but instead of giving all power to the people or their representatives, he gave the real sovereignty to his standing senate. Our author himself is so sensible of this, that he allows the "Lacedæmonian commonwealth to be cut out after the grandee fashion, confirming the supremacy within the walls of the senate." The senate was in some measure "restrained by laws, walking in the same even pace of subjection with the people; having very few offices of

dignity or profit allowed, which might make them swell with state and ambition; but were prescribed also the same rules of frugality, plainness, and moderation, as were the common people; by which means immoderate lusts and desires being prevented in the great ones, they were the less inclined to pride and oppression; and no great profit or pleasure being to be gotten by authority, very few desired it; and such as were in it sat free from envy, by which means they avoided that odium and emulation which uses to rage betwixt the great ones and the people in that form of government."

But how was this done? by collecting all authority into one centre? No; but by prohibiting travel and communication with strangers, which no people on earth are now barbarous and stupid enough to bear; by prohibiting commerce, which no people who have sense and feeling will now renounce; and by prohibiting money, which all people now desire, and which makes the essential instrument for guiding the world. But all this would not have succeeded, if his constitution had been only one popular assembly. This was effected by reciprocal checks and a real balance, approaching nearly to an absolute control of the senate, by a marriage between the king and people. The king, so far from being a cipher, had great authority; he was the standing and hereditary head of the commonwealth, and this alone must give him a dominion over the hearts and understandings both of senate and people, that must have amounted to a great authority. Our author is generally so sensible of the influence gained over high and low by standing authority, that it is wonderful he should forget it in this case. He was, besides, always commander-in-chief of the armies, and generally led in person; and this, in all governments, gives a general an influence bordering on royal supremacy. But, besides, there were two assemblies of the people, one for the city and one for the country, and those popular representatives, the *Ephori*.

But the indissoluble bond that united the king and people for ever, was the oath taken by the kings and ephori every month; the former never to violate the privileges of the people, and the latter forever to be loyal to the kings, the descendants of Hercules. This was not equivalent to an absolute negative in the king and the people both, upon the laws of the senate, but it amounted to one complete negative upon the senate; because

the kings and people were both sworn to oppose all encroachments of the senate; and if these had made unequal laws, and scrambled for more power, the people would have instantly taken arms, under the command of their ephori and their kings, against the senate. This balance, this mixture, was the real cause of that equality which was preserved in Sparta. But if all authority had been in the popular assemblies, without kings or senate, the right constitution of a commonwealth which our author is an advocate for, that equality could not have existed twenty years; a majority would necessarily have risen up to carry all before them, and to depress the minority more and more, until the first man among the majority would have been king, his principal supporters nobles, and the rest not only plebeians, but slaves.

The question between us and our author, is not whether the people shall be excluded from all interest in government or not. In this point we are perfectly agreed, namely, — that there can be no constitutional liberty, no free state, no right constitution of a commonwealth, where the people are excluded from the government; where, indeed, the people have not an independent equal share with the two other orders of the state, and an absolute control over all laws and grants of money. We agree, therefore, in his next example, the commonwealth of Venice, “where the people being excluded from all interest in government, the power of making and executing of laws, and bearing offices, with all other immunities, lies only in the hands of a standing senate and their kindred, which they call the patrician or noble order. Their duke is indeed restrained.” But far from being “made just such another officer as were the Lacedæmonian kings,” he is reduced in dignity and authority much below them, “differing from the rest of the senate only in a corner of his cap, besides a little outward ceremony and splendor. The senators themselves have, indeed, liberty at random arbitrarily to ramble and do what they please with the people, who, excepting the city itself, are so extremely oppressed in all their territories, living by no law but the arbitrary dictates of the senate, that it seems rather a junta than a commonwealth; and the subjects take so little content in it, that seeing more to be enjoyed under the Turk, they that are his borderers take all opportunities to revolt, and submit rather to the mercy of a

Pagan tyranny. Which disposition if you consider, together with the little courage in their subjects, by reason they press them so hard, and how that they are forced for this cause to rely upon foreign mercenaries in all warlike expeditions, you might wonder how this state hath held up so long, but that we know the interest of Christendom being concerned in her security, she hath been chiefly supported by the supplies and arms of others."

All this is readily allowed. We concur also most sincerely in our author's conclusion, in part, namely,—“That since kings and all standing powers are so inclinable to act according to their own wills and interests, in making, expounding, and executing of laws, to the prejudice of the people's liberty and security, no laws whatsoever should be made but by the people's consent, as the only means to prevent arbitrariness.” But we must carry the conclusion farther, namely,—that since all men are so inclinable to act according to their own wills and interests, in making, expounding, and executing laws, to the prejudice of the people's liberty and security, the sovereign authority, the legislative, executive, and judicial power, can never be safely lodged in one assembly, though chosen annually by the people; because the majority and their leaders, the *principes populi*, will as certainly oppress the minority, and make, expound, and execute laws for their own wealth, power, grandeur, and glory, to the prejudice of the liberty and security of the minority, as hereditary kings or standing senates.

The conclusion, therefore, that “the people, in a succession of their supreme single assemblies, are the best keepers of their liberties,” must be wholly reprobated.

The twelfth reason is, “because this form is most suitable to the nature and reason of mankind.”

If Socrates and Plato, Cicero and Seneca, Hutcheson and Butler are to be credited, reason is rightfully supreme in man, and, therefore, it would be most suitable to the reason of mankind to have no civil or political government at all. The moral government of God, and his vicegerent, Conscience, ought to be sufficient to restrain men to obedience, to justice, and benevolence, at all times and in all places; we must therefore descend from the dignity of our nature, when we think of civil government at all. But the nature of mankind is one thing, and the reason of mankind another; and the first has the same relation

to the last as the whole to a part. The passions and appetites are parts of human nature, as well as reason and the moral sense. In the institution of government, it must be remembered that, although reason ought always to govern individuals, it certainly never did since the Fall, and never will, till the Millennium; and human nature must be taken as it is, as it has been, and will be. If, as Cicero says, "man is a noble creature, born with affections to rule rather than obey, there being in every man a natural desire of principality," it is yet certain that every man ought to obey as well as to rule, *ἀρχεῖν καὶ ἀρχεσθαι*, and that every man cannot rule alone. Each man must be content with his share of empire; and if the nature and reason of mankind, the nobleness of his qualities and affections, and his natural desires, prove his right to a share in the government, they cannot surely prove more than the constitutions of the United States have allowed, — an annual election of the whole legislative and executive, the governor, senate, and house. If we admit them to prove more, they would prove that every man has every year a right to be governor, senator, and representative; which, being impossible, is absurd.

Even in our author's "Right Constitution," every man would have an equal right to be representative, chosen or not. The reason why one man is content to submit to the government of another, as assigned by our author, namely, — "not because he conceives himself to have less right than another to govern, but either because he finds himself less able, or else because he judgeth it will be more convenient for himself and the community, if he submits to another's government," is a proof of this; because, the moment it is allowed that some are more able than others, and that the community are judges who the most able are, you take away the right to rule, derived from the nobleness of each man's individual nature, from his affections to rule rather than obey, or from his natural appetite or desire of principality, and give the right of conferring the power to rule to the community. As a share in the appointment of deputies is all that our author can with any color infer from this noble nature of man, his nature will be gratified and his dignity supported as well, if you divide his deputies into three orders, — of governor for the executive and an integral share in the legislative, of senators for another independent part of the legislative, and

of representatives for a third;— and if you introduce a judicious balance between them, as if you huddle them into one assembly, where they will soon disgrace their own nature and that of their constituents, by ambition, avarice, jealousy, envy, faction, division, sedition, and rebellion. Nay, if it should be found that annual elections of governors and senators cannot be supported without introducing venality and convulsions, as is very possible, the people will consult the dignity of their nature better by appointing a standing executive and senate, than by insisting on elections, or at least by prolonging the duration of those high trusts, and making elections less frequent.

It is indeed a “most excellent maxim, that the original and fountain of all just power and government is in the people;” and if ever this maxim was fully demonstrated and exemplified among men, it was in the late American Revolution, where thirteen governments were taken down from the foundation, and new ones elected wholly by the people, as an architect would pull down an old building and erect a new one. There will be no dispute, then, with Cicero, when he says, “A mind well instructed by the light of nature, will pay obedience,” willingly “to none but such as command, direct, or govern for its good or benefit;” nor will our author’s inferences from these passages from that oracle of human wisdom be denied:

“1. That by the light of nature people are taught to be their own carvers and contrivers in the framing of that government under which they mean to live.

“2. That none are to preside in government, or sit at the helm, but such as shall be judged fit, and chosen by the people.

“3. That the people are the only proper judges of the convenience or inconvenience of a government when it is erected, and of the behavior of governors after they are chosen.”

But then it is insisted, that rational and regular means shall be used that the whole people may be their own carvers, that they may judge and choose who shall preside, and that they may determine on the convenience or inconvenience of government, and the behavior of governors. But then it is insisted, that the town of Berwick upon Tweed shall not carve, judge, choose, and determine for the whole kingdom of Great Britain, nor the county of Berkshire for the Massachusetts; much less that a lawless tyrannical rabble shall do all this for the state, or even for the county of Berkshire.

It may be, and is admitted, that a free government is most natural, and only suitable to the reason of mankind; but it by no means follows "that the other forms, as of a standing power in the hands of a particular person, as a king; or of a set number of great ones, as in a senate," much less that a mixture of the three simple forms "are beside the dictates of nature, and mere artificial devices of great men, squared out only to serve the ends and interests of avarice, pride, and ambition of a few, to a vassalizing of the community." If the original and fountain of all power and government is in the people, as undoubtedly it is, the people have as clear a right to erect a simple monarchy, aristocracy, or democracy, or an equal mixture, or any other mixture of all three, if they judge it for their liberty, happiness, and prosperity, as they have to erect a democracy; and infinitely greater and better men than Marchamont Nedham, and the wisest nations that ever lived, have preferred such mixtures, and even with such standing powers as ingredients in their compositions. But even those nations who choose to reserve in their own hands the periodical choice of the first magistrate, senate, and assembly, at certain stated periods, have as clear a right to appoint a first magistrate for life as for years, and for perpetuity in his descendants as for life.

When I say for perpetuity or for life, it is always meant to imply, that the same people have at all times a right to interpose, and to depose for maladministration—to appoint anew. No appointment of a king or senate, or any standing power, can be, in the nature of things, for a longer period than *quam diu se bene gesserit*, the whole nation being judge. An appointment for life or perpetuity can be no more than an appointment until further order; but further order can only be given by the nation. And, until the nation shall have given the order, an estate for life or in fee is held in the office. It must be a great occasion which can induce a nation to take such a subject into consideration, and make a change. Until a change is made, an hereditary limited monarch is the representative of the whole nation, for the management of the executive power, as much as a house of representatives is, as one branch of the legislature, and as guardian of the public purse; and a house of lords, too, or a standing senate, represents the nation for other purposes, namely, as a watch set upon both the representative and the executive

power. The people are the fountain and original of the power of kings and lords, governors and senates, as well as the house of commons, or assembly of representatives. And if the people are sufficiently enlightened to see all the dangers that surround them, they will always be represented by a distinct personage to manage the whole executive power; a distinct senate, to be guardians of property against levellers for the purposes of plunder, to be a repository of the national tradition of public maxims, customs, and manners, and to be controllers, in turn, both of kings and their ministers on one side, and the representatives of the people on the other, when either discover a disposition to do wrong; and a distinct house of representatives, to be the guardians of the public purse, and to protect the people, in their turn, against both kings and nobles.

A science certainly comprehends all the principles in nature which belong to the subject. The principles in nature which relate to government cannot all be known, without a knowledge of the history of mankind. The English constitution is the only one which has considered and provided for all cases that are known to have generally, indeed to have always, happened in the progress of every nation; it is, therefore, the only scientific government. To say, then, that standing powers have been erected, as "mere artificial devices of great men, to serve the ends of avarice, pride, and ambition of a few, to the vassalizing of the community," is to declaim and abuse. Standing powers have been instituted to avoid greater evils,—corruption, sedition, war, and bloodshed, in elections; it is the people's business, therefore, to find out some method of avoiding them, without standing powers. The Americans flatter themselves they have hit upon it; and no doubt they have for a time, perhaps a long one; but this remains to be proved by experience.

Our author proceeds: "A consent and free election of the people, which is the most natural way and form of governing, hath no real effect in the other forms; but is either supplanted by craft and custom, or swallowed up by a pernicious pretence of right, in one or many, to govern only by virtue of a hereditary succession."

If the people are so unenlightened, and so corrupt, that they cannot manage one third part of a legislature, and their own purses by their representatives, how much worse would it be if

they had the whole, and all the executive and judicial powers, to manage? But the assertion is not true. The consent and free election of the people have a great and decided effect in the English constitution, and would have had much more if it had been more equal. But if the present inequalities cannot be altered, nor a vote obtained to alter them in the house of commons, nor any general application of the people to have them altered, what would be the effect of the whole executive and judicial powers, were they in the hands of the house? The leading members would employ both these resources, not only to prevent the representation from being rendered more equal, but to make it still more unequal. Our author, alluding to the times of Charles and James, had some color for representing the power of the commons as of little effect; but he saw that an attempt, or suspicion of one, to grasp all power into the hands of the crown, had proved the destruction both of king and lords; this, surely, was a real and great effect. If nations will entangle their constitutions with spiritual lords, and elective lords, and with decayed boroughs, how can it be avoided? But would not the nation send bishops and elective lords into a single house as their deputies? and would not the utmost artifices of bigotry, superstition, and enthusiasm, be set at work among the people, as well as bribery and corruption at elections? If the people cannot be sufficiently enlightened, by education and the press, to despise and resent, as insults and impositions on human nature, all pretences of right drawn from uninterrupted successions, or divine missions, they will be duped by them in one assembly more than in three.

Our author has no right to call his project "the people's form," any more than Montesquieu, Blackstone, and De Lolme, have to call their admired system by that endearing appellation. Both are the people's form, if the people adopt, choose, and prefer them; and neither is, if they do not. The people have liberty to make use of that reason and understanding God hath given them, in choosing governors, and providing for their safety in government, where they annually choose all; nay, they have it even where the king and senate are hereditary, so long as they have the choice of an essential branch. No law can be made, no money raised, not one step can be taken, without their con-

currence; nay, there is no one act can be done by the ministers of the executive, but the people, by their representatives, can inquire into, and prosecute to judgment and to punishment if it is wrong. Our author will not consider the case of a mixed government; all governments must be simple with him; the people must exercise all power, or none. He had his reasons for this artifice at that time, which do not exist at this; his reasons, however, were not sufficient; and if the nation had been dealt with more candidly, openly, and boldly, by him, and Milton, and others, a better settlement might have been obtained. But it is plain that Milton, Nedham, and even Harrington, wrote in shackles; but had Nedham and Milton understood the science of government as well as Harrington, Charles had never been restored.

Our author, instead of considering the project of two assemblies, as Harrington did, flies from the idea, and will allow no mixtures.

“In the other forms of a standing power, *all* authority being entailed to certain persons and families, in a course of inheritance, men are always deprived of the use of their reason about choice of governors.” In mixed governments, even such as Sparta, Athens, Rome, Carthage, imperfect as those mixtures were, our author very well knew, that although some authority was entailed, all was not. In America none at all is entailed, or held for more than a term of years; their course, therefore, is not “destructive to the reason, common interest, and majesty, of that noble creature called man,” and has avoided “that most irrational and brutish principle, fit only to be hissed out of the world, which has transformed men into beasts, and mortified mankind with misery through all generations.”

This violent declamation, however, does not remove the danger of venality, faction, sedition, and civil war, in the choice of governors and senators, principles more brutish and irrational, more fit to be hissed out of the world, than hereditary kings and senates — evils, indeed, if you will, but the least of the two. Hereditary senators, it is certain, have not been the advocates, abettors, or erectors, in general, of absolute monarchies; no such government ever was, or will be, erected or supported but against their wills. It is the people, who, wearied and irritated with

the solicitations, bribes, intrigues, and tyranny of the nobles, and their eternal squabbles with kings, have always set up monarchy, and fortified it with an army.

Our author proceeds to search for examples all over the world; and fixes first upon monarchy, absolute hereditary monarchy; but as Americans have no thoughts of introducing this form of government, it is none of their concern to vindicate the honor of such kings or kingdoms. Two quarters of the globe, Asia and Africa, are governed wholly by despotisms. There are in Europe near two hundred simple monarchs, and in the course of the two last centuries, allowing twenty years to each reign, two thousand absolute princes.\* If these have been generally of such a character as our author describes, what are we to think of the pride and dignity of that rational, noble animal, man, who has submitted so quietly to their tyranny? Mr. Hume thinks more favorably of them; and he has the judgment of the species in his favor. The species, not having yet attended to the balance and tried its virtues, have almost universally determined monarchy preferable to aristocracies, or mixtures of monarchy and aristocracy; because they find the people have more liberty under the first than under the two last. They may possibly one day try the experiment of mixtures and balances; when they do, a greater improvement in society will take place than ever yet has happened.

Nations, too, have tried the experiment of elective monarchies, in Bohemia, Poland, Hungary, Sweden, &c., instances which our author adduces; but after long miseries, wars, and carnage, they have always determined chance to be better than choice, and hereditary princes preferable to elective ones. These elections, it is true, have been made by nobles, and by very inadequate methods of collecting the votes of the people; and when elected, there has been no good balance between them and the nobles, nor between the nobles and the people. The Americans have hoped that these circumstances might be arranged so as to justify one more experiment of elective executives, as well as senates and representatives. They have not adopted our author's idea, that if any kingly form be tolerable, it must be that which is by election, chosen by the people's

\* Hume's *Essays*, vol. i. p. 98.

representatives. They were well aware, that "present greatness would give their governors an opportunity to practise such sleights, that in a short time the government, that they received only for their own lives, will become entailed upon their families; whereby the people's election will be made of no effect further than for fashion, to mock the poor people, and adorn the triumphs of an aspiring tyranny." A hereditary first magistrate at once would, perhaps, be preferable to elections by legislative representatives; it is impossible to say, until it is fairly tried, whether it would not be better than annual elections by the people; or whether elections for more years, or for life, would not be better still.

Our author concludes by a very curious definition of the people.

"To take off all misconstructions, when we mention the people, observe all along, that we do not mean the confused promiscuous body of the people, nor any part of the people who have forfeited their rights by delinquency, neutrality, or apostacy, &c. in relation to the divided state of any nation; for they are not to be reckoned within the lists of the people."

This wise precaution to exclude all royalists, prelatists, and malignants, according to the style of those times, was very sagacious; and all majorities will ever be equally penetrating in such a Right Constitution of a Commonwealth as our author contends for; the minority will seldom be accounted people.

The thirteenth reason is, "because in free states there are fewer opportunities of oppression and tyranny than in the other forms."

This is very true, and most cordially admitted; but then the question occurs, What is a free state? In the aristocracy of Venice and Poland there are opportunities of oppression and tyranny; and although our author's Right Constitution of a Commonwealth has never been tried, the unanimous determination of all nations having been against it, and almost the universal voice of individuals; yet the instantaneous effects of it upon human nature are so obvious, that it is easy to foresee it would afford more opportunities for tyranny and oppression, and would multiply such opportunities more than aristocracy, or even monarchy; because the leaders of the majority in the

house would be supported and stimulated by their parties continually to tyrannize and oppress the minority. The reason given by our author in support of his position is directly against it: "It is ever the care of free commonwealths to preserve not an equality, (which were irrational and odious) but an equability of condition among all the members." Equality, it seems, was not his favorite; this would not do in England, to be sure, any more than America. What his distinction is between equality and equability is not known; he defines it, "that no man be permitted to grow over-great in power." But how much is over-great? this is reduced to no standard. "Nor any rank above the ordinary standard." What is this? Excellencies, honorables, gentlemen, yeomen and laborers, are really as distinct ranks, and confer as different degrees of consideration, respect, and influence, among a people who have no other distinctions, as dukes, marquises, earls, and barons, in nations that have adopted these titles; and the higher are as eagerly coveted by the lower. But at last the secret comes out,—"to assume the state and title of nobility." The house of lords had been voted useless, and it was our author's system to keep it down; without considering that the thing would still exist, call it by what name you will.

Preserving the equability "secures the people's liberty from the reach of their own officers, in camp or council." But no people ever yet were provident enough to preserve either equality or equability. Their eternal fault is too much gratitude to those who study their humors, flatter their passions, and become their favorites. They never know any bounds in their praises, honors, or rewards, to those who possess their confidence, and have excited their enthusiasm. The reputation of their idol becomes as complete a tyranny as can be erected among men; it is a crime that is not to be borne, to speak a word, to betray a look, in opposition to him; nay, not to pronounce their most inflamed hyperboles in his praise, with as ardent a tone as theirs, is envy, disaffection, ambition. "Down with him! the Tarpeian rock!" as soon as Manlius dares to think a little higher of his own services, and a little lower of Camillus, than the fashion. Aristocracies are anxious and eager to prevent any one of the nobility from overtopping the rest; monarchies are jealous of any very great near the throne; but an unmixed, unbalanced people, are

never satisfied till they make their idol a tyrant. An equal mixture of monarchy, aristocracy, and democracy, is the only free government which has been able to manage the greatest heroes and statesmen, the greatest individuals and families, or combination of them, so as to keep them always obedient to the laws. A Marlborough, a Pulteney, or a Pitt, are here harmless beings. But in Rome a Marlborough would have been worse than Marius, Sylla, or Cæsar; in Athens, worse than Themistocles, Pericles, or Alcibiades; because, with all their ambition, he had more avarice and less sense.

Not allowing any rank above the common standard, “secures the people from the pressures and ambition of such petty tyrants, as would usurp and claim a prerogative, power, and greatness above others, by birth and inheritance.”

These expressions have all the keenness and bitterness of party rancor; and although they were, at that time, no doubt, music to his friends and death to his enemies, they are so difficult to avoid in such times, that on the one hand, candid philosophy will extenuate their ferocity, but on the other, political wisdom will forever be on its guard against their seductions.

“These,” that is a nobility, “are a sort of men not to be endured in any well ordered commonwealth.”

If these words are true, no well ordered commonwealth ever existed; for we read of none without a nobility, no, not one, that I can recollect, without a hereditary nobility;—Sparta, Athens, Rome, Venice, Bern, Holland, even Geneva and San Marino, &c., where shall we look for one without? It would be an improvement in the affairs of society, probably, if the hereditary legal descent could be avoided; and this experiment the Americans have tried. But in this case a nobility must and will exist, though without the name, as really as in countries where it is hereditary; for the people, by their elections, will continue the government generally in the same families from generation to generation. Descent from certain parents, and inheritance of certain houses, lands, and other visible objects, will eternally have such an influence over the affections and imaginations of the people, as no arts or institutions of policy will control. Time will come, if it is now or ever was otherwise, that these circumstances will have more influence over great numbers of minds than any consideration of virtues or talents; and what-

ever influences numbers is of great moment in popular governments, and in all elections.

“They always bear a natural and implacable hate towards the people.”

This is too strong and universal. The Romans observed certain families, as the Valerii, &c., who were constant friends and lovers of the people, as well as others, the Claudii, &c., who as constantly hated them. It has been before admitted, that such a body naturally encroaches both ways, on the people on one side, and on the king on the other. The people hate and envy them as much, and endeavor equally to encroach. But the same sentiments, passions, and enterprises, take place between the democratical body and the aristocratical, where the last is not hereditary, but annually elective.

Our author's next argument is still more grossly erroneous.

“If any great man arrive to so much power and confidence as to think of usurping, these are the first that will set him on, mingle interests with him, and become the prime instruments in heaving them up into the seat of tyranny.”

It is true, that some few individuals of a nobility may join such a man in his conspiracy, in hopes of enjoying high stations and great emoluments under him; but such an usurpation was never set on foot by a body of nobility. It has ever been the people who have set up single despots in opposition to the body of the nobility; and it is the people who have furnished the men and money to support the standing army by which he is defended. If any one example of the contrary is to be found, it has escaped a diligent inquiry.

It is very unnecessary to produce “examples, to show that states have lost their liberties by permitting one or a few to be over great.” Every monarchy, oligarchy, and aristocracy, is an instance and a proof of it. The very notion of a free people's losing their liberties, implies the setting up one or a few with too much power. This will be readily admitted; but it is contended that the people in a simple democracy, collectively or by representation, are necessarily the most addicted to setting up individuals with too much power. To say that it is their duty not to do it; that their happiness forbids it; that their interest is against it; that their liberty will be ruined by it, is to exhort and to preach, to be sure. The clergy exhort and preach in favor of

religion and morality, and against profaneness and vice; but there are numbers,—multitudes, we find,—who will not regard them; and laws, checks, power, are the only security against these. The thirty tyrants of Athens, Pisistratus, Hiero of Syracuse, Dionysius, and Agathocles of Sicily, are very oddly introduced here, when every despotism, empire, monarchy, oligarchy, and aristocracy that ever had a being, is as much to the purpose. Mælius and Manlius are cited very improperly. The Decemviri, Sylla, Cæsar, are no more to the purpose than all tyrannies or absolute governments;—all of which are proofs of the people's indiscretion and constant disposition to set up idols, as much as they are of the danger of permitting individuals to be too powerful.

Florence and Cosmus, Milan and Switzerland, and Holland and the family of Orange, are all proofs against our author. There is not a stronger instance to be found than the house of Orange, which has been supported by the people, I mean the plebeians, against the aristocracy, and who in their course have sacrificed to their deified protectors, Barnevelt, Grotius, and De Witts, patriots that one need not scruple to compare to Aristides, Phocion, and Camillus; and, horrid as the sacrifice has been, one need not scruple to say, that all the liberty there has been in Holland for the common people, has been preserved by this alliance between the house of Orange and them, against the encroaching disposition of the aristocracy, as much as the liberties of Sparta were preserved by the oath of the kings and ephori. It would, nevertheless, be an infinite improvement, if the power of the prince and common people were defined, limited, and made constitutional and legal.

The author's principle is excellent and eternal, "to keep any man, though he have deserved never so well by success or service, from being too great or popular; it is" indeed "a notable means (and so esteemed by all free states) to keep and preserve a commonwealth from the rapes of usurpation." But the question between us still is, how it is to be done? In a simple aristocracy it is impossible; with all their pride, jealousy, and envy, some one, and some few of the nobles, obtain more influence than the rest, and would soon obtain all power, if ballots and rotations, and innumerable intricate contrivances were not used to prevent it. In a simple democracy no ballots or rota-

tions can prevent it; one single tyrant will rule the whole commonwealth at his pleasure, respecting forms and appearances a little at first, but presently throwing off all restraint. How can you prevent a man in such a government from being too popular? There can be nothing to prevent him from making himself as popular as his abilities, fortune, or birth, will enable him to be; nothing to prevent him from employing the whole executive and judicial power, nothing to prevent him from applying the public purse, to the augmentation of his own popularity and power. In short, nothing but the mixture we contend for can prevent it. The king and lords are interested to prevent any commoner from being too popular and powerful; the king and commons are interested to keep any lord from being too popular and powerful; and the lords and commons are interested to prevent the king from being too popular and powerful, and they always have the means. There is not a stronger argument against our author's form, nor in favor of the triple composition.

The fourteenth and last reason is, "because in this form all powers are accountable for misdemeanors in government, in regard of the nimble returns and periods of the people's election; by which means he that erewhile was a governor, being reduced to the condition of a subject, lies open to the force of the laws, and may with ease be brought to punishment for his offence."

In a free government, whose legislature consists of three independent branches, one of which has the whole executive, this is true. Every member of the two houses is as amenable to the laws as his poorest fellow-citizen. The king can do nothing but by ministers, who are accountable for every act they do or advise; and this responsibility is efficacious to protect the laws from being trampled on by any person or persons, however exalted in office, reputation, or popularity. But in our author's "Right Constitution," no member can be responsible to any but his constituents; and by means of the influence of the executive power and the offices it bestows, by means of perversions of the judicial power, and even of the public treasure, which his party will assist him in applying to his purpose, he will be able to procure a pardon among his constituents in a single city or borough, and a reëlection; nay, he will be able to procure applause and rewards for that very criminal conduct which deserved punish-

ment. There is no form of government, not even an absolute monarchy, where a minister will find it so easy to elude inquiry; recollect the instance in Poland.

“He that was once a governor, will generally continue always a governor, because he will apply all the executive and judicial authority, and even the public money, as well as his personal and family influence, to increase that party in the legislature;” that is, the single assembly upon whose support he depends.

By a governor here is no doubt intended a person appointed by the assembly to manage the executive power. Such a governor will generally be continued; but if he is not, he will be succeeded by another of the same party, who will screen and support him, while he again takes his station in the house, and supports or rules his successor. But if opposition prevails in the house and nation, and the minority becomes the majority, they will be so weak as not to dare to look back and punish; and if they do, this will again render them unpopular, and restore the reins to their antagonist. In this way, after a few vibrations of the pendulum, they must have recourse to arms to decide the contest. These consequences are so obvious and indisputable, that it is amazing to read the triumphant assertions which follow: “Such a course as this cuts the very throat of tyranny, and doth not only root it up when at full growth, but crusheth the cocatrice in the egg, destroys in the seed, in the principle, and in the very possibilities of its being, forever after. The safety of the people is,” indeed, “the sovereign and supreme law!” and if “laws are dispensed by uncontrollable, unaccountable persons in power,” they will “never be interpreted but in their own sense, nor executed but after their own wills and pleasure.”

But it is unaccountable that our author did not see that it is precisely in his *Right Constitution of a Commonwealth* that we are to expect such uncontrollable and unaccountable persons, at least as certainly as in a simple monarchy or aristocracy. The only “establishment” then, in which we may depend upon the responsibility of men in power, and upon their being actually called to account and punished when they deserve it, is the tripartite balance, the political trinity in unity, trinity of legislative, and unity of executive power, which in politics is no mystery. This alone is “the impregnable bulwark of the people’s safety, because without it no certain benefit can be obtained by the

ordinary laws." This alone is the "bank against inundations of arbitrary power and tyranny."

Our author asserts, very truly, "that all standing powers" (meaning unlimited, unbalanced, standing powers, as hereditary simple monarchies and aristocracies,) "have, and ever do assume unto themselves an arbitrary exercise of their own dictates at pleasure, and make it their only interest to settle themselves in an unaccountable state of dominion; so that, though they commit all the injustice in the world, their custom hath been still to persuade men, partly by strong pretence of argument, and partly by force, that they may do what they list; and that they are not bound to give an account of their actions to any but to God himself." This is perfectly true, and very important. But our author did not consider, that the leading men in a single popular assembly will make it their interest to settle themselves in a state of dominion; that they will persuade men, by strong pretence of argument, by force, by the temptations of offices, civil, military, fiscal, and ecclesiastical, and by the allurements and terrors of judgments in the executive courts of justice, to connive at them, while they do what they list, and to believe them God's vicegerents. Our author forgets, that he who makes bishops and judges, may have what gospel and law he pleases; and he who makes admirals and generals, may command their fleets and armies. He forgets that one overgrown sagamore in the house, with his circle of subordinate chieftains, each with his clan at his heels, will make bishops, judges, admirals, generals, governors of provinces, &c. in as great number, and with as much facility, as an absolute monarch. This inadvertence in our author is the more remarkable for what follows.

"This doctrine of tyranny hath taken the deeper root in men's minds, because the greatest part" (that is, the greatest part of mankind) "was ever inclined to adore the golden idol of tyranny in every form; by which means, the rabble of mankind being prejudicated in this particular, and having placed their corrupt humor or interest in base fawning and the favor of the present great ones, therefore, if any resolute spirit happen to broach and maintain true principles of freedom, or do at any time arise to so much courage as to perform a noble act of justice, in calling tyrants to an account, presently he draws all the enmity and fury of the world about him."

It is really astonishing that any man could write these words, and not see that they totally overthrow the whole system of government that he calls the Right Constitution of a Commonwealth. "The greatest part of men was ever inclined to adore the golden idol;" yet his constitution places the golden idol in the midst of the people, without any check or restraint, that they may fall down and worship, as soon as they will. He places all power in the hands of that very "rabble of mankind," who have "prejudicated in favor of tyranny;" he places "great ones" in the midst of these, who "have placed their corrupt humor and interest in base fawning, and the favor of those present great ones." Human nature is not honored by this account of it, nor has it justice done it. Without supposing the majority so bad, if we suppose one third or one quarter of this character, and another third or quarter indifferent, neutral, lukewarm, or even enough in love with private life and their own industry to stay at home at elections, this is enough to demonstrate the tyranny and ruin to which such a simple democracy would rush.

But our author's device for extricating himself out of this difficulty is more curious still. Although the greatest part of men always incline to worship the golden calf Tyranny, yet "in commonwealths it is, and ought to be, otherwise." The Greeks and Romans "were wont to heap all the honors they could invent, by public rewards, consecration of statues, and crowns of laurel, upon such worthy patriots" as had the courage to call tyrants to account. Here he can only mean the stories of Harmodius and Aristogiton, Brutus and Cassius; so that all the security which freedom is to have is, that as soon as a great one arises in his assembly, and the majority begin to fawn, some Harmodius or Cassius will arise to assassinate him. But we know that the murder of Hipparchus only inflamed Hippias, and that of Cæsar entailed the empire in his family, and the murder of Alexander, by Lorenzo, completed the despotism of the Medici. The ill success of liberty, in those instances, ought to be a warning against such attempts in future, rather than precedents on which to build all the hopes of the cause of liberty.

The right of a nation to kill a tyrant, in cases of necessity, can no more be doubted, than that to hang a robber, or kill a flea. But killing one tyrant only makes way for a worse, unless the people have sense, spirit, and honesty enough to establish

and support a constitution guarded at all points against tyranny; against the tyranny of the one, the few, and the many. Let it be the study, therefore, of lawgivers and philosophers, to enlighten the people's understandings and improve their morals, by good and general education; to enable them to comprehend the scheme of government, and to know upon what points their liberties depend; to dissipate those vulgar prejudices and popular superstitions that oppose themselves to good government; and to teach them that obedience to the laws is as indispensable in them as in lords and kings.

Our author contends, that the honors decreed to tyrannicides, by the Greeks and Romans, were bestowed "out of a noble sense of commonweal interest; knowing that the life of liberty consists in a strict hand and zeal against tyrants and tyranny." But he should have recollected, that in Rome these honors were decreed to senators, for supporting the standing authority of a hereditary senate against single men who aspired to popular favor, but never in any instance in support of such a government as he contends for. In Greece, too, there is no instance of any honors decreed for destroying tyrants in defence of any such government. The government of Athens was as different as possible from that of a single assembly of successive representatives of the people. It is agreed that "persons in power cannot be kept from all occasions of tyranny better than by leaving them liable to account;" but it is denied that persons in power can ever be brought to account, unless by assassination, (which is no account at all,) in a government by a single sovereign assembly. And it is asserted, that this "happiness was never seen yet under the sun, by any law or custom established, save only in those states where all men are brought to taste of subjection as well as rule," ἀρχεῖν καὶ ἀρχεσθαι, by a government of three branches, reciprocally dependent on each other.

"In Switzerland the people are free indeed, because all officers and governors in the cantons are questionable by the people in their successive assemblies."

What does he mean? in the aristocratical assemblies? The people have no assemblies, and officers are called to account only in standing councils. In the democratical cantons, there is nothing to account for but milk and cheese. But why should England be forgotten, where all officers are questionable, and

often have been questioned, by the people in their successive assemblies; and where the judicature in parliament is digested with infinitely more prudence than in any canton in Switzerland, or any other republic in the world?

It is agreed that "freedom is to be preserved no other way in a commonwealth, but by keeping officers and governors in an accountable state;" but it is insisted, that all "standing powers" in the English constitution, as the lords and ministers, who conduct the prerogative of the crown, may at any time be called to account without the least "difficulty, or involving the nation in blood and misery." But it is denied that powerful men, in our author's "Right Constitution," can be called to account, without the utmost difficulty and danger of involving the nation in blood and misery; and, therefore, it is concluded, that the English constitution is infinitely preferable to any succession of the single supreme assemblies of the representatives of the people.