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JOHN ADAMS, L.L.D.

Vice President of the United States of America

A
DEFENCE
OF THE
CONSTITUTIONS OF GOVERNMENT
OF THE
UNITED STATES
OF
AMERICA,
AGAINST THE ATTACK OF M. TURGOT
IN HIS
LETTER TO DR. PRICE,
DATED THE TWENTY-SECOND DAY OF MARCH, 1778.

BY JOHN ADAMS, LL. D.
AND A MEMBER OF THE ACADEMY OF ARTS AND SCIENCES
AT BOSTON.

All Nature's Difference keeps all Nature's Peace.

POPE.

IN THREE VOLUMES.

VOL. I.

A NEW EDITION.

LONDON:

PRINTED FOR JOHN STOCKDALE, PICCADILLY.

1794.

*The publisher has prefixed the following
Short Account of the Author, which he
hopes the reader will not be displeased with.
It is extracted from the American Geogra-
phy, by the Rev. Jedidiah Morse, now
printing in quarto.*

MR. ADAMS is a descendant of one of
the first families who founded the co-
lony of Massachusetts Bay in 1630. He was
born at Braintree, in Massachusetts, October
19th, 1735.

He was by profession a lawyer; and such
were his abilities and integrity, that he at-
tracted the attention, the esteem, and the
confidence of his fellow-citizens. Not con-
tented with barely maintaining the rights of
individuals, he early signalized himself in
the defence of the rights of his country, and
of mankind at large, by writing his admirable

Dissertation on the Canon and Feudal Laws; a work well adapted to convince or confound the advocates either for civil or ecclesiastical tyranny. It evinced that he had abilities to afford powerful aid in the formation of republics, on the genuine principles of justice and virtue.

The zeal and firmness with which Mr. Adams defended the liberties of his country, did not prevent his acting in the service of her enemies, where he thought they were treated with too much severity. Called upon by his profession, he boldly stood forth as the advocate of Capt. Preston, who had been imprisoned as the murderer of some of the citizens of Boston, on the memorable 5th of March, 1770. His client's cause was most unpopular. The whole town had been in a state of irritation, on account of the conduct of Governor Hutchinson, and the troops which were stationed in it. Their resentment now burst into a flame. But he felt the cause to be a just one; and the danger of incurring the displeasure of his countrymen could not deter him from undertaking it. He conducted the cause with great address, by keeping off the trial till the pas-

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sions of the people had time to subside. The trial at length commenced, and lasted several days, during which he displayed the most extensive knowledge of the laws of his country, and of humanity ; and at the conclusion he had the satisfaction of proving to Great Britain herself, that the citizens of Massachusetts would be just and humane to their enemies amidst the grossest insults and provocations. Capt. Preston was acquitted. In this most delicate and important trial, Mr. Adams manifested that firmness of mind, disinterested and enlightened patriotism, and that love of justice and humanity, which have uniformly marked his conduct in all those great departments which he has since filled with so much ability and dignity.

He was a member of the first Congress in 1774 ; and was one of the principal promoters of the famous resolution of the 4th of July, 1776, which declared the American colonies FREE, SOVEREIGN, AND INDEPENDENT STATES.

Having been for a considerable length of time one of the commissioners of the war department, and a principal suggestor of the terms to be offered to France, for forming a treaty
of

of alliance and commerce, he was sent to the court of Versailles, as one of the ministers plenipotentiary of the United States, to consummate that important business.

On his return from France he was called upon by Massachusetts to assist in forming a plan of government; and to him this State is chiefly indebted for their present excellent constitution.*

After this important business was accomplished, he returned to Europe, vested with full powers from Congress to assist at any conference which might be opened for the establishment of peace; and he soon after received other powers to negotiate a loan of money for the use of the United States; and to represent them as their minister plenipotentiary to their High Mightinesses the States General of the United Provinces. Such important trusts shew in what high estimation he was held by his country, and the able and satisfactory manner in which he executed them, proved that their confidence was well placed.

* See the American Constitutions, published by order of Congress, printed for J. Stockdale.

While

OF THE AUTHOR.

While in Europe, Mr. Adams published the following learned and celebrated work, in which he advocates, as the fundamental principles of a free government—equal representation, of which numbers, or property, or both should be the rule—a total separation of the executive from the legislative power, and of the judicial from both—and a balance in the legislature, by three independent, equal branches. “If there is one certain truth,” says he, “to be collected from the history of all ages, it is this: That the people’s rights and liberties, and the democratical mixture in a constitution, can never be preserved without a strong executive; or in other words, without separating the executive power from the legislative.”

A character who rendered such eminent services to his country, both at home and abroad, in seasons of the greatest gloominess and danger, and who possessed such an extensive knowledge of politics and government, did not remain unnoticed by his grateful countrymen. He was called, in 1789, by the choice of his country, to the Vice-Presidency of the United States, which office he still retains.

“They

“ They who have had an opportunity of knowing his Excellency, Mr. Adams,” says an European writer, “ trace in his features the most unequivocal marks of probity and candour. He unites to that gravity which is suitable to the dignity of his station, an affability which prejudices you in his favour. Although of a silent turn, as is common to men who engage in important affairs, yet he has a natural eloquence for the discussion of important subjects, and for the recommending and enforcing the measures and systems which are dictated by sound policy. He has neither the corrupted nor corrupting principles of Lord Chesterfield, but the plain and virtuous demeanour of Sir William Temple. Like him also he is simple in negociation, where he finds candour in those who treat with him; otherwise he has the severity of a true Republican, his idea of virtue giving him a rigidness, which makes it difficult for him to accommodate himself to those intrigues which European politics have introduced into negociation.”

P R E F A C E.

THE arts and sciences in general, during the three or four last centuries, have had a regular course of progressive improvement. The inventions in mechanic arts, the discoveries in natural philosophy, navigation, and commerce, and the advancement of civilization and humanity, have occasioned changes in the condition of the world, and the human character, which would have astonished the most refined nations of antiquity. A continuation of similar exertions is every day rendering Europe more and more like one community, or single family. Even in the theory and practice of government, in all the simple monarchies, considerable improvements have been made. The checks and balances of republican governments have been in some degree adopted by the courts of princes. By the erection of various tribunals to register the laws and exercise the judicial power---by indulging the petitions and remonstrances of subjects, until by habit they are regarded as rights---a controul has been established over ministers

of state and the royal councils, which approaches, in some degree, to the spirit of republics. Property is generally secure, and personal liberty seldom invaded. The press has great influence, even where it is not expressly tolerated; and the public opinion must be respected by a minister, or his place becomes insecure. Commerce begins to thrive; and if religious toleration were established, and personal liberty a little more protected, by giving an absolute right to demand a public trial in a certain reasonable time—and the states invested with a few more privileges, or rather restored to some that have been taken away—these governments would be brought to as great a degree of perfection, they would approach as near to the character of governments of laws and not of men, as their nature will probably admit of. In so general a refinement, or more properly reformation of manners and improvement in knowledge, is it not unaccountable that the knowledge of the principles and construction of free governments, in which the happiness of life, and even the further progress of improvement in education and society, in knowledge and virtue, are so deeply interested, should have remained at a full stand for two or three thousand years?—According to a story in Herodotus, the nature of monarchy, aristocracy, and democracy, and the advantages and

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and inconveniencies of each, were as well understood at the time of the neighing of the horse of Darius as they are at this hour. A variety of mixtures of these simple species were conceived and attempted, with different success, by the Greeks and Romans. Representations, instead of collections, of the people---a total separation of the executive from the legislative power, and of the judicial from both---and a balance in the legislature by three independent equal branches---are perhaps the three only discoveries in the constitution of a free government, since the institution of Lycurgus. Even these have been so unfortunate, that they have never spread: the first has been given up by all the nations, excepting one, who had once adopted it; and the other two, reduced to practice, if not invented, by the English nation, have never been imitated by any other except their own descendants in America. While it would be rash to say, that nothing further can be done to bring a free government, in all its parts, still nearer to perfection---the representations of the people are most obviously susceptible of improvement. The end to be aimed at, in the formation of a representative assembly, seems to be the sense of the people, the public voice: the perfection of the portrait consists in its likeness. Numbers, or property, or both, should be the rule; and the proportions of

electors and members an affair of calculation. The duration should not be so long that the deputy should have time to forget the opinions of his constituents. Corruption in elections is the great enemy of freedom. Among the provisions to prevent it, more frequent elections, and a more general privilege of voting, are not all that might be devised. Dividing the districts, diminishing the distance of travel, and confining the choice to residents, would be great advances towards the annihilation of corruption. The modern aristocracies of Holland, Venice, Berne, &c. have tempered themselves with innumerable multitudes of checks, by which they have given a great degree of stability to that form of government: and though liberty and life can never be there enjoyed so well as in a free republic, none is perhaps more capable of profound sagacity. We shall learn to prize the checks and balances of a free government, and even those of the modern aristocracies, if we recollect the miseries of Greece, which arose from their ignorance of them. The only balance attempted against the ancient kings was a body of nobles; and the consequences were perpetual altercations of rebellion and tyranny, and butcheries of thousands upon every revolution, from one to the other. When the kings were abolished, the aristocracies tyrannized; and then no balance was attempted but between aristocracy and democracy.

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This, in the nature of things, could be no balance at all, and therefore the pendulum was for ever on the swing. It is impossible to read in Thucydides, lib. iii. his account of the factions and confusions throughout all Greece, which were introduced by this want of an equilibrium, without horror. During the few days that Eurymedon, with his troops, continued at Corcyra, the people of that city extended their massacre to all whom they judged their enemies. The crime alledged was, an attempt to overturn the democracy. Some perished merely through private enmity ; some for the money they had lent, by the hands of the borrower. Every kind of death, every dreadful act, was perpetrated. Fathers slew their children ; some were dragged from altars, some were butchered at them ; numbers, immersed in temples, were starved. The contagion spread through the whole extent of Greece : factions raged in every city ; the licentious many contending for the Athenians, and the aspiring few for the Lacedæmonians. The consequence was, seditions in cities, with all their numerous and tragical incidents. Such things ever will be, says Thucydides, so long as human nature continues the same. But if this nervous historian had known a balance of three powers, he would not have pronounced the distemper so incurable, but would have added---*so long as parties in cities remain un-*
A 4 *balanced.*

balanced. He adds---Words lost their signification: brutal rashness was fortitude; prudence, cowardice; modesty, effeminacy; and being wise in every thing, to be good for nothing: the hot temper was manly valour; calm deliberation, plausible knavery; he who boiled with indignation was trustworthy; and he who presumed to contradict was ever suspected. Connection of blood was less regarded than transient acquaintance; associations were not formed for mutual advantage, consistent with law, but for rapine against all law; trust was only communication of guilt; revenge was more valued than never to have suffered an injury; perjuries were master-pieces of cunning; the dupes only blushed, the villains most impudently triumphed. The source of all these evils is a thirst of power, from rapacious or ambitious passions. The men of large influence, some contending for the just equality of the democratical, and others for the fair decorum of aristocratical government, by artful sounds, embarrassed those communities for their own private lucre, by the keenest spirit, the most daring projects, and most dreadful machinations. Revenge, not limited by justice or the public welfare, was measured only by such retaliation as was judged the sweetest---by capital condemnations, by iniquitous sentences, and by glutting the present rancour of their hearts with their own hands.

hands. The pious and upright conduct was on both sides disregarded: the moderate citizens fell victims to both. Seditions introduced every species of outrageous wickedness into the Grecian manners. Sincerity was laughed out of countenance: the whole order of human life was confounded: the human temper, too apt to transgress in spite of laws, now having gained the ascendant over law, seemed to glory that it was too strong for justice, and an enemy to all superiority. —Mr. Hume has collected, from Diodorus Siculus alone, a few massacres which happened in only sixty of the most polished years of Greece:---From Sybaris 500 nobles banished; of Chians, 600 citizens; at Ephesus, 340 killed, 1000 banished; of Cyrenians, 500 nobles killed, all the rest banished; the Corinthians killed 120, banished 500; Phæbidas banished 300 Bœotians. Upon the fall of the Lacedæmonians, democracies were restored in many cities, and severe vengeance taken of the nobles; the banished nobles returning, butchered their adversaries at Phialæ, in Corinth, in Megara, in Phliasia, where they killed 300 of the people; but these again revolting, killed above 600 of the nobles, and banished the rest. In Arcadia, 1400 banished, besides many killed: the banished retired to Sparta and Pallantium; the latter were delivered up to their countrymen, and all killed. Of the
banished

banished from Argos and Thebes, there were 509 in the Spartan army. The people, before the usurpation of Agathocles, had banished 600 nobles; afterwards that tyrant, in concurrence with the people, killed 4000 nobles, and banished 6000, and killed 4000 people at Gela: his brother banished 8000 from Syracuse. The inhabitants of Ægesta, to the number of 40,000, were killed, man, woman, and child, for the sake of their money: all the relations of the Libyan army, fathers, brothers, children, killed; 7000 exiles killed after capitulation. These numbers, compared with the population of those cities, are prodigious; yet Agathocles was a man of character, and not to be suspected of cruelty, contrary to the maxims of his age: such were the fashionable outrages of unbalanced parties.

In the name of human and divine benevolence, is such a system as this to be recommended to Americans in this age of the world? Human nature is as incapable now of going through revolutions with temper and sobriety, with patience and prudence, or without fury and madness, as it was among the Greeks so long ago. The latest revolution that we read of was conducted, at least on one side, in the Grecian style, with laconic energy, and with a little Attic salt; at least, without too much patience, foresight, and prudence, on the other.---Without three orders,

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orders, and an effectual balance between them, in every American constitution, it must be destined to frequent unavoidable revolutions: if they are delayed a few years, they must come in time. The United States are large and populous nations in comparison of the Grecian commonwealths, or even the Swiss cantons, and are growing every day more disproportionate, and therefore less capable of being held together by simple governments. Countries that increase in population so rapidly as the States of America did, even during such an impoverishing and destructive war as the last was, are not to be bound long with filken threads: lions, young or old, will not be bound by cobwebs.---It would be better for America, it is nevertheless agreed, to ring all the changes with the whole set of bells, and go through all the revolutions of the Grecian states, rather than establish an absolute monarchy among them, notwithstanding all the great and real improvements made in that kind of government.

The objection to these governments is not because they are supported by nobles and a subordination of ranks; for all governments, even the most democratical, are supported by a subordination of offices, and of ranks too. None ever existed without it but in a state of anarchy and outrage, in a contempt of law and justice, no better than no government. But the nobles in the European monarchies

narchies support them more by opposing than promoting their ordinary views. The kings are supported by their armies : the nobles support the crown, as it is in full possession of the gift of all employments ; but they support it still more by checking its ministers, and preventing them from running into abuses of power and wanton despotism, otherwise the people would be pushed to extremities and insurrections. It is thus that the nobles reconcile the monarchical authority to the obedience of the subjects ; but take away the standing armies, and leave the nobles to themselves, and they would overturn every monarchy in Europe in a few years, and erect aristocracies.

It is become a kind of fashion among writers to admit, as a maxim, that if you could be always sure of a wise, active, and virtuous prince, monarchy would be the best of governments. But this is so far from being admissible, that it will for ever remain true, that a free government has a great advantage over a simple monarchy. The best and wisest prince, by means of a freer communication with his people, and the greater opportunities to collect the best advice from the best of his subjects, would have an immense advantage in a free state more than in a monarchy. A senate consisting of all that is most noble, wealthy, and able in the nation, with a right to counsel the crown at all

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all times, is a check to ministers, and a security against abuses, that a body of nobles who never meet, and have no such right, can never accomplish. Another assembly, composed of representatives chosen by the people in all parts, gives the whole nation free access, and communicates all the wants, knowledge, projects, and wishes of the nation to government; excites an emulation among all classes, removes complaints, redresses grievances, affords opportunities of exertion to genius though in obscurity, and gives full scope to all the faculties of man; opens a passage for every speculation to the legislature, to administration, and to the public: it gives a universal energy to the human character, in every part of the state, which never can be obtained in a monarchy.

There is a third particular which deserves attention both from governments and people. The ministers of state in a simple monarchy can never know their friends from their enemies: cabals in secret undermine their influence and blast their reputations. This occasions a jealousy ever anxious and irritated, which never thinks the government safe without an encouragement of informers and spies throughout every part of the state, who interrupt the tranquillity of private life, destroy the confidence of families in their own domestics and one another, and poison freedom in its sweetest retirements. In a free govern-

government, on the contrary, the ministers can have no enemies of consequence but among the members of the great or little council, where every man is obliged to take his side, and declare his opinion upon every question. This circumstance alone, to every manly mind, would be sufficient to decide the preference in favour of a free government. Even secrecy, where the executive is entire in one hand, is as easily and surely preserved in a free government, as in a simple monarchy; and as to dispatch, all the simple monarchies of the whole universe may be defied to produce greater or more examples of it than are to be found in English history. ---An Alexander or a Frederic, possessed of the prerogatives only of a king of England, and leading his own armies, would never find himself embarrassed or delayed in any honest enterprize. He might be restrained, indeed, from running mad, and from making conquests to the ruin of his nation merely for his own glory; but this is no argument against a free government. ---There can be no free government without a democratical branch in the constitution. Monarchies and aristocracies are in possession of the voice and influence of every university and academy in Europe. Democracy, simple democracy, never had a patron among men of letters. Democratical mixtures in government have lost almost all the advocates they ever had out of England and America.

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Men of letters must have a great deal of praise, and some of the necessities, conveniences, and ornaments of life. Monarchies and aristocracies pay well and applaud liberally. The people have almost always expected to be served gratis, and to be paid for the honour of serving them; and their applauses and adorations are bestowed too often on artifices and tricks, on hypocrisy and superstition, on flattery, bribes, and largesses. It is no wonder then that democracies and democratical mixtures are annihilated all over Europe, except on a barren rock, a paltry fen, an inaccessible mountain, or an impenetrable forest. The people of England, to their immortal honour, are hitherto an exception; but, to the humiliation of human nature, they shew very often that they are like other men. The people in America have now the best opportunity, and the greatest trust, in their hands, that Providence ever committed to so small a number since the transgression of the first pair: if they betray their trust, their guilt will merit even greater punishment than other nations have suffered, and the indignation of heaven. If there is one certain truth to be collected from the history of all ages, it is this: that the people's rights and liberties, and the democratical mixture in a constitution, can never be preserved without a strong executive, or, in other words, without separating

parating the executive power from the legislative. If the executive power, or any considerable part of it, is left in the hands either of an aristocratical or a democratical assembly, it will corrupt the legislature, as necessarily as rust corrupts iron, or as arsenic poisons the human body ; and when the legislature is corrupted the people are undone.

The rich, the well-born, and the able, acquire an influence among the people that will soon be too much for simple honesty and plain sense in a house of representatives. The most illustrious of them must therefore be separated from the mass, and placed by themselves in a senate: this is, to all honest and useful intents, an ostracism. A member of a senate of immense wealth, the most respected birth and transcendent abilities, has no influence in the nation in comparison of what he would have in a single representative assembly. When a senate exists, the most powerful man in the state may be safely admitted into the house of representatives, because the people have it in their power to remove him into the senate as soon as his influence becomes dangerous. The senate becomes the great object of ambition ; and the richest and the most sagacious wish to merit an advancement to it by services to the public in the house. When he has obtained the object of his wishes, you may still hope for the benefits of his exertions, without dread-
ing

ing his passions ; for the executive power being in other hands, he has lost much of his influence with the people, and can govern very few votes more than his own among the senators.

It was the general opinion of ancient nations, that the Divinity alone was adequate to the important office of giving laws to men. The Greeks entertained this prejudice throughout all their dispersions ; the Romans cultivated the same popular delusion ; and modern nations in the consecration of kings, and in several superstitious chimeras of divine rights in princes and nobles, are nearly unanimous in preserving remnants of it : even the venerable magistrates of Amersfort devoutly believe themselves God's vicegerents. Is it that obedience to the laws can be obtained from mankind in no other manner?—Is the jealousy of power, and the envy of superiority, so strong in all men, that no considerations of public or private utility are sufficient to engage their submission to rules for their own happiness? Or is the disposition to imposture so prevalent in men of experience that their private views of ambition and avarice can be accomplished only by artifice?—It was a tradition in antiquity that the laws of Crete were dictated to Minos by the inspiration of Jupiter. This legislator and his brother Rhadamanthus were both his sons : once in nine years they went to
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converse with their father, to propose questions concerning the wants of the people, and his answers were recorded as laws for their government. The laws of Lacedæmon were communicated by Apollo to Lycurgus; and, lest the meaning of the deity should not have been perfectly comprehended, or correctly expressed, were afterwards confirmed by his oracle at Delphos. Among the Romans, Numa was indebted for those laws which procured the prosperity of his country to his conversations with Egeria. The Greeks imported these mysteries from Egypt and the East, whose despotisms, from the remotest antiquity to this day, have been founded in the same solemn empiricism; their emperors and nobles being all descended from their gods. Woden and Thor were divinities too; and their posterity ruled a thousand years in the north by the strength of a like credulity. Manco Capac was the child of the sun, the visible deity of the Peruvians, and transmitted his divinity, as well as his earthly dignity and authority, through a line of incas. And the rudest tribes of savages in North America have certain families under the immediate protection of the god of war, from which their leaders are always chosen. There is nothing in which mankind have been more unanimous; yet nothing can be inferred from it more than this, that the multitude have always been credulous,

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credulous, and the few artful. The United States of America have exhibited, perhaps, the first example of governments erected on the simple principles of nature; and if men are now sufficiently enlightened to disabuse themselves of artifice, imposture, hypocrisy, and superstition, they will consider this event as an æra in their history. Although the detail of the formation of the American governments is at present little known or regarded either in Europe or America, it may hereafter become an object of curiosity. It will never be pretended that any persons employed in that service had any interviews with the gods, or were in any degree under the inspiration of heaven, any more than those at work upon ships or houses, or labouring in merchandize or agriculture: it will for ever be acknowledged that these governments were contrived merely by the use of reason and the senses. As Copley painted Chatham; West, Wolf; and Trumbull, Warren and Montgomery; as Dwight, Barlow, Trumbull, and Humphries composed their verse, and Belknap and Ramsay history; as Godfrey invented his quadrant, and Rittenhouse his planetarium; as Boylston practised inoculation, and Franklin electricity; as Paine exposed the mistakes of Raynal, and Jefferson those of Buffon, so unphilosophically borrowed from the *Recherches Philosophiques sur les Americains*, those despicable

ble dreams of De Paw—neither the people, nor their conventions, committees, or sub-committees, considered legislation in any other light than ordinary arts and sciences; only as of more importance. Called without expectation, and compelled without previous inclination, though undoubtedly at the best period of time both for England and America, to erect suddenly new systems of laws for their future government, they adopted the method of a wise architect, in erecting a new palace for the residence of his sovereign. They determined to consult Vitruvius, Palladio, and all other writers of reputation in the art; to examine the most celebrated buildings, whether they remain entire or in ruins; compare these with the principles of writers, and inquire how far both the theories and models were founded in nature, or created by fancy; and when this should be done, as far as their circumstances would allow, to adopt the advantages, and reject the inconveniencies, of all. Unembarrassed by attachments to noble families, hereditary lines and successions, or any considerations of royal blood, even the pious mystery of holy oil had no more influence than that other of holy water: the people universally were too enlightened to be imposed on by artifice, and their leaders, or more properly followers, were men of too much honour to attempt it. Thirteen governments

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vernments thus founded on the natural authority of the people alone, without a pretence of miracle or mystery, which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favour of the rights of mankind. The experiment is made, and has completely succeeded: it can no longer be called in question, whether authority in magistrates, and obedience of citizens, can be grounded on reason, morality, and the Christian religion, without the monkery of priests, or the knavery of politicians. As the writer was personally acquainted with most of the gentlemen in each of the states, who had the principal share in the first draughts, the following letters were really written to lay before the gentleman to whom they are addressed, a specimen of that kind of reading and reasoning which produced the American constitutions.

It is not a little surprising that all this kind of learning should have been unknown to any illustrious philosopher and statesman, especially one who really was, what he has been often called, "a well of science." But if he could be unacquainted with it, or it could have escaped his memory, we may suppose millions in America have occasion to be reminded of it.---The writer has long seen with anxiety the facility with which philosophers of greatest name have under-
B 3 taken

taken to write of American affairs without knowing any thing of them, and have echoed and re-echoed each other's visions. Having neither talents, leisure, nor inclination, to meet such champions in the field of literary controversy, he little thought of venturing to propose to them any questions: circumstances, however, have lately occurred, which seemed to require that some notice should be taken of one of them. If the publication of these papers should contribute any thing to turn the attention of the younger gentlemen of letters in America to this kind of inquiry, it will produce an effect of some importance to their country. The subject is the most interesting that can engage the understanding or the heart; for whether the end of man, in this stage of his existence, be enjoyment or improvement, or both, it can never be attained so well in a bad government as a good one.

The practicability or the duration of a republic, in which there is a governor, a senate, and a house of representatives, is doubted by Tacitus, though he admits the theory to be laudable---“*Cunctas nationes
“ et urbes, populus, aut priores, aut singuli,
“ regunt. Delecta ex his et constituta
“ reipublicæ forma, laudari facilius quam
“ inveniri; vel, si evenit, haud diuturna
“ esse potest.*” Ann. lib. iv.---Cicero asserts---“*Statuo esse optime constitutam
“ rem-*

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“ rempublicam, quæ ex tribus generibus
 “ illis, regali, optimo, et populari, modice
 “ confusa.” Frag.---in such peremptory
 terms the superiority of such a government
 to all other forms, that the loss of his book
 upon republics is much to be regretted.
 From a few passages that have been pre-
 served, it is very probable he entered more
 largely into an examination of the compo-
 sition of monarchical republics than any other
 ancient writer. He was so far from appre-
 hending “ disputes” from a variety of orders,
 that he affirms it to be the firmest bond of
 justice, and the strongest anchor of safety to
 the community. As the treble, the tenor,
 and the bass exist in nature, they will be
 heard in the concert: if they are arranged
 by Handel, in a skilful composition, they
 produce rapture the most exquisite that har-
 mony can excite; but if they are confused
 together without order, they will

“ Rend with tremendous sound your ears
 “ asunder.”

“ Ut in fidibus ac tibiis, atque cantu ipso,
 “ a vocibus concentus est quidam tenendus
 “ ex distinctis sonis, quem immutatum ac
 “ discrepantem aures eruditæ ferre non pos-
 “ sunt; isque concentus, *ex dissimillarum*
 “ *vocum moderatione, concors tamen efficitur*
 “ *et congruens: sic ex summis et infimis et*
 “ *mediis interjectis ordinibus, ut sonis, mo-*

“derata ratione, civitas consensu diffimilli-
 “morum concinit; et quæ harmonia a
 “musicis dicitur in cantu, ea est in civitate
 “concordia, arctissimum atque optimum
 “omni in republica vinculum incolumitatis;
 “quæ sine justitia nullo pacto esse potest.”

Cicero, Frag. de Repub.---As all the ages of the world have not produced a greater statesman and philosopher united in the same character, his authority should have great weight. His decided opinion in favour of three branches is founded on a reason that is unchangeable; the laws, which are the only possible rule, measure, and security of justice, can be sure of protection, for any course of time, in no other form of government: and the very name of a republic implies, that the property of the people should be represented in the legislature, and decide the rule of justice.---“Res publica est res populi. Populus autem non omnis cœtus multitudinis, sed cœtus juris consensu, et utilitatis communione sociatus.” Frag. de Rep.

“Respublica res est populi, cum bene ac
 “juste geritur, sive ab uno rege, sive a
 “paucis optimatibus, sive ab universo
 “populo. Cum vero injustus est rex,
 “quem tyrannum voco; aut injusti opti-
 “mates, quorum consensus factio est; aut
 “injustus ipse populus, cui nomen usitatum
 “nullum reperio, nisi ut etiam ipsum tyran-
 “num

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“ num appellem ; non jam vitiosa, sed
 “ omnino nulla respublica est ; quoniam
 “ non est res populi, cum tyrannus eam
 “ factiove capeffat ; nec ipse populus est si
 “ fit injustus, quoniam non est multitudinis
 “ juris consensu, et utilitatis unione sociata.”
 Frag. de Repub.

“ Ubi vero justitia non est, nec jus potest
 “ esse ; quod enim jure fit, profecto juste
 “ fit ; quod autem fit injuste, nec jure fieri
 “ potest. Non enim jura dicenda sunt, vel
 “ putanda, iniqua hominum constituta, cum
 “ illud etiam ipsi jus esse dicant quod de
 “ justitiæ fonte manaverit ; falsumque fit,
 “ quod a quibusdam non recte sentientibus
 “ dici solet, id jus esse, quod ei, qui plus
 “ potest, utile est.” According to this, a
 simple monarchy, if it could in reality be
 what it pretends to be, a government of
 laws, might be justly denominated a re-
 public. A limited monarchy, therefore,
 especially when limited by two independent
 branches, an aristocratical and a democrati-
 cal power in the constitution, may with
 strict propriety be called by that name.

If Cicero and Tacitus could revisit the
 earth, and learn that the English nation had
 reduced the great idea to practice, and
 brought it nearly to perfection, by giving
 each division a power to defend itself by a
 negative ; had found it the most solid and
 durable government, as well as the most
 free ;

free; had obtained, by means of it, a prosperity among civilized nations, in an enlightened age, like that of the Romans among barbarians; and that the Americans, after having enjoyed the benefits of such a constitution a century and a half, were advised by some of the greatest philosophers and politicians of the age to renounce it, and set up the governments of ancient Goths and modern Indians---what would they say? That the Americans would be more reprehensible than the Cappadocians, if they should listen to such advice. It would have been much to the purpose to have inserted a more accurate investigation of the form of government of the ancient Germans and modern Indians; in both, the existence of the three divisions of power is marked with a precision that excludes all controversy. The democratical branch, especially, is so determined, that the real sovereignty resided in the body of the people, and was exercised in the assembly of king, nobles, and commons together. These institutions really collected all authority into one center of kings, nobles, and people. But small as their numbers, and narrow as their territories were, the consequence was confusion; each part believed it governed the whole: the chiefs thought they were sovereign; the nobles believed the power to be in their hands; and the people flattered themselves that

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that all depended upon them. Their purposes were well enough answered, without coming to an explanation, while they were few in numbers, and had no property ; but when spread over large provinces of the Roman empire, now the great kingdoms of Europe, and grown populous and rich, they found the inconvenience of not knowing each its place. Kings, nobles, and people claimed the government in turn : and after all the turbulence, wars, and revolutions, which compose the history of Europe for so many ages, we find simple monarchies established every where. Whether the system will now become stationary, and last for ever, by means of a few further improvements in monarchical governments, we know not ; or whether still further revolutions are to come. The most probable, or rather the only probable change is, the introduction of democratical branches into those governments. If the people should ever aim at more, they will defeat themselves ; and indeed if they aim at this, by any other than gentle means, and by gradual advances ; by improvements in general education, and informing the public mind. The systems of legislators are experiments made on human life and manners, society and government. Zoroaster, Confucius, Mithras, Odin, Thor, Mahomet, Lycurgus, Solon,

Solon, Romulus, and a thousand others, may be compared to philosophers making experiments on the elements. Unhappily a political experiment cannot be made in a laboratory, nor determined in a few hours. The operation once begun, runs over whole quarters of the globe, and is not finished in many thousands of years. The experiment of Lycurgus lasted seven hundred years, but never spread beyond the limits of Laconia. The process of Solon blowed out in one century; that of Romulus lasted but two centuries and a half; but the Teutonic institutions, described by Cæsar and Tacitus, are the most memorable experiment, merely political, ever yet made in human affairs. They have spread all over Europe, and have lasted eighteen hundred years. They afford the strongest argument that can be imagined in support of the point aimed at in these letters. Nothing ought to have more weight with America, to determine her judgement against mixing the authority of the one, the few, and the many, confusedly in one assembly, than the wide-spread miseries and final slavery of almost all mankind, in consequence of such an ignorant policy in the ancient Germans. What is the ingredient which in England has preserved the democratical authority? The balance, and that only. The English have, in reality, blended

ed together the feudal institutions with those of the Greeks and Romans ; and out of all have made that noble composition, which avoids the inconveniencies, and retains the advantages of both. The institutions now made in America will never wear wholly out for thousands of years : it is of the last importance, then, that they should begin right ; if they set out wrong, they will never be able to return, unless it be by accident, to the right path. After having known the history of Europe, and of England in particular, it would be the height of folly to go back to the institutions of Woden and of Thor, as they are advised to do ; if they had been counselled to adopt a simple monarchy at once, it would have been less mysterious. Robertson, Hume, and Gibbon, have given such admirable accounts of the feudal institutions, and their consequences, that it would have been more discreet to have referred to them, perhaps, without saying any thing more upon the subject. To collect together the legislation of the Indians would take up much room, but would be well worth the pains. The sovereignty is in the nation, it is true, but the three powers are strong in every tribe ; and their royal and aristocratical dignities are much more generally hereditary, from the popular partiality to particular families,

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and the superstitious opinion that such are
favourites of the god of war, than the late
writers upon this subject have allowed.

*Grosvenor Square,
January 1, 1787.*

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LETTER I.

Grosvenor-Square, Oct. 4, 1786.

MY DEAR SIR,

THREE writers in Europe, of great abilities, reputation, and learning, M. Turgot, the Abbé De Mably, and Dr. Price, have turned their attention to the constitutions of government in the United States of America, and have written and published their criticisms and advice. They had all the most amiable characters, and unquestionably the purest intentions. They had all experience in public affairs, and ample information in the nature of man, the necessity of society, and the science of government.

There are in the productions of all of them, among many excellent things, some sentiments, however, that it will be difficult to reconcile to reason, experience, the constitution of human nature, or to the uniform testimony of the greatest statesmen, legislators, and philosophers of all enlightened nations, ancient and modern.

M. Turgot, in his letter to Dr. Price, confesses, "that he is not satisfied with the constitutions which have hitherto been formed for the different states of America." He observes that by most of them the customs of England are imitated, without any particular motive. Instead of collecting all authority into one center, that of the nation, they have established

“ different bodies, a body of representatives, a
 “ council, and a governor, because there is in
 “ England, a house of commons, a house of
 “ lords, and a king. They endeavour to ba-
 “ lance these different powers, as if this equili-
 “ brium, which in England may be a necessary
 “ check to the enormous influence of royalty,
 “ could be of any use in republics founded
 “ upon the equality of all the citizens, and as if
 “ establishing different orders of men was not a
 “ source of divisions and disputes.”

There has been, from the beginning of the re-
 volution in America, a party in every state, who
 have entertained sentiments similar to these of M.
 Turgot. Two or three of them have established
 governments upon his principle: and, by ad-
 vices from Boston, certain committees of coun-
 ties have been held, and other conventions pro-
 posed in the Massachusetts, with the express pur-
 pose of deposing the governor and senate, as use-
 less and expensive branches of the constitution,
 and as it is probable that the publication of M.
 Turgot's opinion has contributed to excite such
 discontents among the people, it becomes neces-
 sary to examine it, and, if it can be shown to be
 an error, whatever veneration the Americans very
 justly entertain for his memory, it is to be hoped
 they will not be misled by his authority.

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L E T T E R II.

MY DEAR SIR,

M. TURGOT is offended, because the customs of England are imitated in most of the new constitutions in America, without any particular motive. But, if we suppose that English customs were neither good nor evil in themselves, and merely indifferent ; and the people, by their birth, education, and habits, were familiarly attached to them ; was not this a motive particular enough for their preservation, rather than endanger the public tranquillity, or unanimity, by renouncing them ? If those customs were wise, just, and good, and calculated to secure the liberty, property, and safety of the people, as well or better than any other institutions ancient or modern, would M. Turgot have advised the nation to reject them, merely because it was at that time justly incensed against the English government ?--What English customs have they retained which may with any propriety be called evil ? M. Turgot has instanced only in one, viz. " that
" a body of representatives, a council, and a go-
" vernor, has been established, because there is
" in England, a house of commons, a house of
" lords, and a king." It was not so much because the legislature in England consisted of three branches, that such a division of power was adopted by the states, as because their own assemblies had ever been so constituted. It was not so much from attachment by habit to such a plan of power, as from conviction that it was founded in nature and reason, that it was continued.

M. Turgot seems to be of a different opinion, and is for "collecting all authority into one center, the nation." It is easily understood how all authority may be collected "into one center" in a despot or monarch; but how it can be done, when the center is to be the nation, is more difficult to comprehend. Before we attempt to discuss the notions of an author, we should be careful to ascertain his meaning. It will not be easy, after the most anxious research, to discover the true sense of this extraordinary passage. If, after the pains of "collecting all authority into one center," that center is to be the nation, we shall remain exactly where we began, and no collection of authority at all will be made. The nation will be the authority, and the authority the nation. The center will be the circle, and the circle the center. When a number of men, women, and children, are simply congregated together, there is no political authority among them; nor any natural authority, but that of parents over their children. To leave the women and children out of the question for the present, the men will all be equal, free, and independent of each other. Not one will have any authority over any other. The first "collection" of authority must be an unanimous agreement to form themselves into a *nation, people, community, or body politic*, and to be governed by the majority of suffrages or voices. But even in this case, although the authority is collected into one center, that center is no longer the nation, but the majority of the nation. Did M. Turgot mean, that the people of Virginia, for example, half a million of souls scattered over a territory of two hundred leagues square, should stop here, and have no other authority

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thority by which to make or execute a law, or judge a cause, but by a vote of the whole people, and the decision of a majority? Where is the plain large enough to hold them; and what are the means, and how long would be the time, necessary to assemble them together?

A simple and perfect democracy never yet existed among men. If a village of half a mile square, and one hundred families, is capable of exercising all the legislative, executive, and judicial powers, in public assemblies of the whole, by unanimous votes, or by majorities, it is more than has ever yet been proved in theory or experience. In such a democracy, the moderator would be king, the town-clerk legislator and judge, and the constable sheriff, for the most part; and upon more important occasions, committees would be only the counsellors of both the former, and commandants of the latter.

Shall we suppose then, that M. Turgot intended, that an assembly of representatives should be chosen by the nation, and vested with all the powers of government; and that this assembly shall be the center in which all the authority shall be collected, and shall be virtually deemed the nation? After long reflection, I have not been able to discover any other sense in his words, and this was probably his real meaning. To examine this system in detail may be thought as trifling an occupation, as the laboured reasonings of Sidney and Locke, to shew the absurdity of Filmar's superstitious notions, appeared to Mr. Hume in his enlightened days. Yet the mistakes of great men, and even the absurdities of fools, when they countenance the prejudices of numbers of people, especially in a young country, and under new governments, cannot be too fully confuted.

You will not then esteem my time or your own mis-spent; in placing this idea of M. Turgot in all its lights; in considering the consequences of it; and in collecting a variety of authorities against it.

L E T T E R III.

ST. MARINO.

MY DEAR SIR,

A SOCIETY of gods would govern themselves democratically," says the eloquent philosopher of Geneva; who, however, would have agreed, that his "gods" must not have been the classical deities: since he knew from the highest authority, the poets, who had their information from those divinities, the Muses, that all the terrors of the nod, the arm, and the thunderbolts of Jupiter, with all the energy of his undisputed monarchy, were insufficient to hold *them* in order. As it is impossible to know what would have been his definition of the gods, we may quietly pursue our inquiry, whether it is practicable to govern *men* in this way. It would be very surprising, if, among all the nations that have existed, not one has discovered a secret of so much importance. It is not necessary for us to prove that no such government has existed; it is incumbent on him who shall embrace the opinion of M. Turgot, to name the age, the country, and the people, in which such an experiment has been tried. It might be easier to determine the question concerning the practicability

lity or impracticability, the utility or inutility, of a simple democracy, if we could find a number of examples of it. From the frightful pictures of a democratical city, drawn by the masterly pencils of ancient philosophers and historians, it may be conjectured that such governments existed in Greece and Italy, at least for short spaces of time : but no particular history of any one of them is come down to us ; nor are we able to procure any more satisfaction to our curiosity from modern history. If such a phenomenon is at this time to be seen in the world, it is probably in some of those states which have the name of democracies, or at least in such as have preserved some share in the government to the people. Let us travel to some of those countries, and examine their laws.

The republic of St. Marino, in Italy, is sometimes quoted as an instance ; and therefore it is of some importance to examine, 1. Whether, in fact, this is a simple democracy ; and, 2. Whether, if it were such, it is not owing to particular circumstances, which do not belong to any other people, and prove it to be improper for any other, especially the United States of America, to attempt to imitate it.

The republic of St. Marino, as Mr. Addison informs us, stands on the top of a very high and craggy mountain, generally hid among the clouds, and sometimes under snow, even when the weather is clear and warm in all the country about it.

This mountain, and a few hillocks that lie scattered about the bottom of it, is the whole circuit of the dominion. They have, what they call, three castles, three convents, and five churches,

churches, and reckon about five thousand souls in their community.

St. Marino was its founder, a Dalmatian by birth, and by trade a mason. He was employed, about thirteen hundred years ago, in the reparation of Rimini, and after he had finished his work, retired to this solitary mountain as very proper for the life of a hermit, which he led in the greatest austerities of religion. He had not been long here, before he wrought a reputed miracle, which, joined with his extraordinary sanctity, gained him so great an esteem, that the princes of the country made him a present of the mountain, to dispose of it at his discretion. His reputation quickly peopled it, and gave rise to the republic which calls itself after his name. The best of their churches is dedicated to the saint, and holds his ashes. His statue stands over the high altar, with the figure of a mountain in his hands, crowned with three castles, which is likewise the arms of the commonwealth. They attribute to his protection the long duration of the state, and look on him the greatest saint next the blessed Virgin. In their statute-book is a law against such as speak disrespectfully of him, who are to be punished in the same manner as those who are convicted of blasphemy. This petty republic has lasted thirteen hundred years, while all the other states of Italy have several times changed their masters and forms of government. Their whole history consists in two purchases of a neighbouring prince, and two wars, in which they assisted the pope against a lord of Rimini.

They would probably sell their liberty as dear as they could to any that attacked them; for there is but one road by which to climb up to them.

them. All that are capable of bearing arms, are exercised, and ready at a moment's call.

The sovereign power of the republic was lodged, originally, in what they call the *arengo*, a great council, in which every house had its representative; but, because they found too much confusion in such a multitude of statesmen, they devolved their whole authority into the hands of the council of sixty. The *arengo*, however, is still called together in cases of extraordinary importance; and if, after due summons, any member absents himself, he is to be fined. In the ordinary course of government, the council of sixty, which, notwithstanding the name, consists but of forty persons, has in its hands the administration of affairs, and is made up of half out of the noble families, and half out of the plebeian. They decide all by balloting, are not admitted until five-and-twenty years old, and choose the officers of the commonwealth.

No sentence can stand that is not confirmed by two thirds of this council; no son can be admitted into it during the life of his father, nor two be in it of the same family, nor any enter but by election. The chief officers of the commonwealth are the two *capitaneos*, who have such a power as the old Roman consuls had, but are chosen every six months. Some have been *capitaneos* six or seven times, though the office is never to be continued to the same persons twice successively. The third officer is the commissary, who judges in all civil and criminal matters: but because the many alliances, friendships, and intermarriages, as well as the personal feuds and animosities that happen among so small a people, might obstruct the course of justice, if one of their own number had the distribution of it, they have always a foreigner for this employ,

employ, whom they choose for three years, and maintain out of the public stock. He must be a doctor of law, and a man of known integrity. He is joined in commission with the *capitaneos*, and acts something like the recorder of London under the lord mayor. The fourth man in the state is the physician: another person, who makes no ordinary figure in the republic, is the schoolmaster. Few in the place but have some tincture of learning.

The people are esteemed very honest, and rigorous in the execution of justice, and seem to live more happy and contented among their rocks and snows, than others of the Italians do in the pleasantest vallies in the world. Nothing indeed can be a greater instance of the natural love mankind has for liberty, and of their aversion to arbitrary government, than such a savage mountain covered with people, and the Campagna of Rome, which lies in the same country, almost destitute of inhabitants.

This is the account of St. Marino. Yet, if all authority is here collected in one center, that center is not the nation. Although the original representation in the *arengo* was of houses, that is to say, of property, rather than of the persons of the citizens, and consequently not very equal, as it excluded all personal property, as well as all who had no property; yet even such an agrarian, it seems, was not a sufficient check to licentiousness, and they found it necessary to institute a senate of forty men. Here, at least, commenced as complete an aristocracy as that of ancient Rome; or, to express it more exactly, as complete a separation of the aristocratical from the democratical part of the community: and there are two remarkable circumstances in confirmation

mation of this ; one is, that there are not only noble families in this *illustrissimâ republicâ Sancti Marini*, but the constitution has limited the choice of the electors so far as to oblige them to choose one half the senate out of these nobles ; the other is, that the names of the agents for the commonwealth, of the notary, and the witnesses to two instruments of purchases made at seventy years distance from one another, one in 1100, the other in 1170, are the same.—It is not credible that they were the same persons : they were probably sons or grandsons—which is a strong proof of the attachment to aristocratical families in this little state, and of their desire to continue the same blood and the same names in public employments, like the Oranges, Fagels, De Lindens, &c. in Holland, and like innumerable other examples in all nations.

Another remarkable circumstance is, the reluctance of the citizens to attend the assembly of the *arengo*, which obliged them to make a law, obliging themselves to attend, upon a penalty. This is a defect, and a misfortune natural to every democratical constitution, and to the popular part of every mixed government. A general or too common disinclination to attend, leaves room for persons and parties more active to carry points by faction and intrigue, which the majority, if all were present, would not approve.

It is curious to see how many checks and limitations are contrived for this legislative assembly. Half nobles, half plebeians—all upwards of five-and-twenty years old—two thirds must agree—no son can sit with his father ; never two of the same family.

The *capitaneos* have the executive, like the Roman consuls, and the commissary has the judicial.

cial.—Here again are remarkable limitations: he must be a foreigner, and he is for three years. This is to give some degree of stability to the judicial power, and to make it a real and powerful check both to the executive and legislative.

We are not, indeed, told whether the council of forty are elected annually or for life. Mr. Addison may, from his well-known character, be supposed to have been more attentive to the grand and beautiful monuments of ancient arts of every kind which surrounded him in Italy, than to this rough hillock, although the form of government might have excited his curiosity, and the simplicity of manners his esteem; he has accordingly given a very imperfect sketch of its constitution and history. Yet enough appears to shew incontestably, that St. Marino is by no means a perfect democracy. It is a mixture of monarchy, aristocracy, and democracy, as really as Sparta or Rome were, and as the Massachusetts, New-York, and Maryland now are, in which the powers of the governor, senate, and assembly, are more exactly ascertained and nicely balanced, but they are not more distinct than those of the *capitaneos*, council of forty, and the *arengo* are in St. Marino.

Should it be argued, that a government like this, where the sovereignty resides in the whole body of the people, is a democracy, it may be answered, that the right of sovereignty in all nations is unalienable and indivisible, and does and can reside no where else; but not to recur to a principle so general, the exercise, as well as right of sovereignty, in Rome, resided in the people, but the government was not a democracy. In America, the right of sovereignty resides indisputably in the body of the people, and they have the whole

whole property of land. There are no nobles or patricians—all are equal by law and by birth. The governors and senates, as well as representative assemblies, to whom the exercise of sovereignty is committed, are annually chosen. Governments more democratical never existed; they are vastly more so than St. Marino. Yet the annual administration is divided into executive, legislative, and judicial powers; and the legislature itself is divided into monarchical, aristocratical, and democratical branches; and an equilibrium has been anxiously sought for in all their deliberations and actions, with infinitely more art, judgement, and skill, than appears in this little Italian commonwealth.

The liberty and the honesty of these people is not at all surprising. In so small a state, where every man personally knows every other, let the form of government be what it will, it is scarcely possible that any thing like tyranny or cruelty can take place. A king, or a decemvirate intrusted with the government, would feel the censures of the people, and be constantly conscious of the facility of assembling the whole, and apprehensive of an exertion of their strength.

The poverty of this people appears, by the fine of one penny imposed upon absence from the *arengo*; and by the law, that an ambassador should have a shilling a day. This, however, is a salary in proportion to the numbers of the people, as thirty guineas a day would be to an ambassador from the United States.—It appears also, from the physician's being obliged to keep a horse, probably there is not a carriage, nor another saddle-horse, in the commonwealth.

An handful of poor people, living in the simplest manner, by hard labour, upon the produce
of

of a few cows, sheep, goats, swine, poultry, and pigeons, on a piece of rocky, snowy ground, protected from every enemy by their situation, their superstition, and even by their poverty, having no commerce nor luxury, can be no example for the commonwealth of Pennsylvania, Georgia, or Vermont, in one of which there are possibly half a million of people, and in each of the other at least thirty thousand, scattered over a large territory.

Upon the whole, a stronger proof cannot be adduced of the necessity of different orders. and of an equilibrium between them, than this commonwealth of St. Marino, where there are such strong symptoms of both in a society, where the least occasion for them appears that can be imagined to take place in any conceivable situation.

L E T T E R IV.

BISCAY.

MY DEAR SIR,

IN a research like this, after those people in Europe who have had the skill, courage, and fortune, to preserve a voice in the government, Biscay, in Spain, ought by no means to be omitted. While their neighbours have long since resigned all their pretensions into the hands of kings and priests, this extraordinary people have preserved their ancient language, genius, laws, government, and manners, without innovation, longer than any other nation of Europe. Of Celtic extraction, they once inhabited some of the

the finest parts of the ancient Boetica; but their love of liberty, and unconquerable aversion to a foreign servitude, made them retire, when invaded and overpowered in their ancient seats, into these mountainous countries, called by the ancients Cantabria. They were governed by counts, sent them by the kings of Oviedo and Leon, until 859, when finding themselves without a chief, because Zeno, who commanded them, was made prisoner, they rose and took arms to resist Ordogne, son of Alfonsus the Third, whose domination was too severe for them, and chose for their chief an issue of the blood-royal of Scotland by the mother's side, and son-in-law of Zeno their governor, who having overcome Ordogne, in 870, they chose him for their lord, and his posterity, who bore afterwards the name of Haro, succeeded him, from father to son, until the king, Don Pedro the Cruel, having put to death those who were in possession of the lordship, reduced them to a treaty, by which they united their country, under the title of a lordship, with Castile, by which convention the king of Spain is now lord of Biscay. It is a republic; and one of the privileges they have most insisted on, is not to have a king: another was, that every new lord, at his accession, should come into the country in person, with one of his legs bare, and take an oath to preserve the privileges of the lordship. The present king of Spain is the first who has been complimented with their consent, that the oath should be administered at Madrid, though the other humiliating and indecent ceremony has been long laid aside.

Their solicitude for defence has surrounded with walls all the towns in the district. They

are one-and-twenty in number ; the principal of which are, Orduna, Laredo, Portugalete, Durango, Bilbao, and St. Andero. Biscay is divided into nine merindades, a sort of jurisdiction like a bailiwick, besides the four cities on the coast. The capital is Bilbao.--The whole is a collection of very high and very steep mountains, rugged and rocky to such a degree, that a company of men posted on one of them might defend itself as long as it could subsist by rolling rocks on their enemy. This natural formation of the country, which has rendered the march of armies impracticable, and the daring spirit of the inhabitants, have preserved their liberty.

Active, vigilant, generous, brave, hardy, inclined to war and navigation, they have enjoyed, for two thousand years, the reputation of the best soldiers and sailors in Spain, and even of the best courtiers, many of them having, by their wit and manners, raised themselves into offices of consequence under the court of Madrid. Their valuable qualities have recommended them to the esteem of the kings of Spain, who have hitherto left them in possession of those great immunities of which they are so jealous. In 1632, indeed, the court laid a duty upon salt: the inhabitants of Bilbao rose, and massacred all the officers appointed to collect it, and all the officers of the grand admiral. Three thousand troops were sent to punish them for rebellion: these they fought, and totally defeated, driving most of them into the sea, which discouraged the court from pursuing their plan of taxation; and since that time the king has had no officer of any kind in the lordship, except his corregidor.

Many writers ascribe their flourishing commerce

merce to their situation ; but, as this is no better than that of Ferrol, or Corunna, that advantage is more probably due to their liberty. In riding through this little territory, you would fancy yourself in Connecticut ; instead of miserable huts, built of mud, and covered with straw, you see the country full of large and commodious houses and barns of the farmer ; the lands well cultivated ; and a wealthy, happy yeomanry. The roads, so dangerous and impassable in most other parts of Spain, are here very good, having been made at a vast expence of labour.

Although the government is called a democracy, we cannot here find all authority collected into one center ; there are, on the contrary, as many distinct governments as there are cities and merindades. The general government has two orders at least ; the lord or governor, and the biennial parliament. Each of the thirteen subordinate divisions has its organized government, with its chief magistrate at the head of it. We may judge of the form of all of them by that of the metropolis, which calls itself, in all its laws, the noble and illustrious republic of Bilbao. This city has its alcalde, who is both governor and chief justice, its twelve regidores or counselors, attorney-general, &c. and by all these, assembled in the consistorial palace under the titles of *concejo*, *justicia*, y *regimiento*, the laws are made in the name of the lord of Biscay, and confirmed by him.

These officers, it is true, are elected by the citizens, but they must by law be elected, as well as the deputies to the biennial parliament or junta general, out of a few noble families, unstained, both by the side of father and mother, by any mixture with Moors, Jews, new converts, peni-

tentiaries of the inquisition, &c. They must be natives and residents, worth a thousand ducats, and must have no concern in commerce, manufactures, or trades, and, by a fundamental agreement among all the merindades, all their deputies to the junta general, and all their regidores, findics, secretaries, and treasurers, must be nobles, at least knights, and such as never exercised any mechanical trades themselves or their fathers. Thus we see the people themselves have established by law a contracted aristocracy, under the appearance of a liberal democracy. Americans, beware!

Although we see here in the general government, and in that of every city and merindad, the three branches of power, of the one, the few, and the many; yet, if it were as democratical as it has been thought by some, we could by no means infer, from this instance of a little flock upon a few impracticable mountains, in a round form of ten leagues diameter, the utility or practicability of such a government in any other country.

The disposition to division, so apparent in all democratical governments, however tempered with aristocratical and monarchical powers, has shewn itself, in breaking off from it Guipuscoa and Alaba; and the only preservative of it from other divisions has been the fear of their neighbours. They always knew, that as soon as they should fall into factions, or attempt innovations, the court of Spain would interpose, and prescribe them a government not so much to their taste.

THE GRISONS.

IN the republic of the Three Leagues of the Grisons, the sovereign is all the people of a great part of the ancient Rhetia. This is called a democratical republic of three leagues. 1. The League of the Grisons. 2. The League Caddee. 3. The League of Ten Jurisdictions. These three are united by the perpetual confederation of 1472, which has been several times renewed. The government resides sovereignly in the commons, where every thing is decided by the plurality of voices. The commons elect and instruct their deputies for the general diet, which is held once a year. Each league elects also its chief or president, who presides at the diets, each one in his league. The general diet assembles one year at Ilanz, in the league of the Grisons; one year at Coire, in the league Caddee; and one year at Davons, in the league of Ten Jurisdictions. There is another ordinary assembly, composed of chiefs and of three deputies from each league, which is held at Coire, in the month of January. Besides these regular assemblies, they hold congresses whenever the necessities of the state require them; sometimes of the chiefs alone, sometimes of certain deputies from each league, according to the importance of the case: these assemblies are held at Coire. The three leagues form but one body in general affairs; and, although one league has more deputies than another, they count the voices without distinction of leagues. They conduct separately their particular affairs. Their country is thirty-five leagues in length, and thirty in breadth.

Even in this happy country, where there is more equality than in almost any other, there are noble families, who, although they live like their neighbours by the cultivation of the earth, and think it no disgrace, are very proud of the immense antiquity of their descent, and boast of it, and value themselves upon it, as much as Julius Cæsar did, who was descended from a goddess.

THE UNITED PROVINCES OF THE LOW COUNTRIES.

THERE are in Friesland and Overijssel, and perhaps in the city of Dort, certain remnants of democratical powers, the fragments of an ancient edifice, which may possibly be re-erected; but as there is nothing which favours M. Turgot's idea, I shall pass over this country for the present.

L E T T E R V.

SWITZERLAND.

MY DEAR SIR,

IT is commonly said, that some of the cantons of Switzerland are democratical, and others aristocratical: and if these epithets are understood only to mean, that one of these powers prevails in some of those republics, and the other in the rest, they are just enough; but there is neither a simple democracy, nor a simple aristocracy, among them. The governments of these confederated states,

states, like those of the United Provinces of the Netherlands, are very complicated, and therefore very difficult to be fully explained; yet the most superficial inquirer will find the most evident traces of a composition of all the three powers in all of them.

To begin with the cantons commonly reputed democratical.

DEMOCRATICAL CANTONS.

APPENZEL.

THE canton of Appenzel consists of a series of vallies, scattered among inaccessible rocks and mountains, in all about eighteen miles square. The people are laborious and frugal, and have no commerce but in cattle, hides, butter, cheese, and a little linen made of their own flax. It has no walled towns, and only two or three open boroughs, and a few small villages: it is, like New England, almost a continued village, covered with excellent houses of the yeomanry, built of wood, each of which has its territory of pasture grounds, commonly ornamented with trees; neatness and convenience are studied without, and a remarkable cleanliness within. The principal part of the inhabitants have preserved the simplicity of the pastoral life. As there are not, at most, above fifty thousand souls, there cannot be more than ten thousand men capable of bearing arms. It is not at all surprising, among so much freedom, though among rocks and herbs, to hear of literature, and men of letters who are an ornament to their country.

Nevertheless, this simple people, so small in number, in so narrow a territory, could not agree. After a violent contest, in which they were in danger of a civil war, by the mediation of the other cantons, at the time of the Reformation, they agreed to divide the canton into two portions, the Outer and the Inner Appenzel, or Rhodes Exterior, and Rhodes Interior. Each district has now its respective chief magistrate, court of justice, police, bandaret, and deputy to the general diet, although the canton has but one vote, and consequently loses its voice if the two deputies are of different opinions. The canton is divided into no less than twelve communities; six of them called the Inner Appenzel, lying to the east; and six the Outer, to the west. They have one general sovereign council, which is composed of one hundred and forty-four persons, twelve taken from each community.

The sovereignty resides in the general assembly, which, in the interior Rhodes, meets every year at Appenzel, the last Sunday in April; but, in the exterior Rhodes, it assembles alternately at Trogen and at Hundwyl. In the interior Rhodes are the chiefs and officers, the land amman, the tything-man, the governor, the treasurer, the captain of the country, the director of the buildings, the director of the churches, and the ensign. The exterior Rhodes have ten officers, viz. two land ammans, two governors, two treasurers, two captains, and two ensigns. The interior Rhodes is subdivided into six lesser ones, each of which has sixteen counsellors, among whom are always two chiefs. The grand council in the interior Rhodes, as also the criminal jurisdiction, is composed of one hundred and twenty-eight persons, who assemble

semble twice a year, eight days after the general assembly, and at as many other times as occasions require. Moreover, they have also the little council, called the weekly council, because it meets every week in the year. The exterior Rhodes are now divided into nineteen communities; and the sovereignty of them consists in the double grand council of the country, called the old and new council, which assembles once a year, eight days after the assembly of the country, at Trogen, or at Herisaw, and is composed of ninety and odd persons. Then follows the grand council, in which, besides the ten officers, the reigning chiefs of all the communities have seats, the directors of the buildings, the chancellor, and the *fautier*, which make thirty-five persons; the reigning land amman presides. After this comes the little council from before the *sittern*, which is held every first Tuesday of each month at Trogen; the reigning land amman is the president, to whom always assists, alternately, an officer, with a member of council from all the thirteen communities, the chancellor of the country, and the *fautier*, and consists of twenty and odd persons. The little council from behind the *sittern* is held under the presidency of the reigning land amman, whenever occasion requires; it is held at Herisaw, Hundwyl, or Urnaeschén: at it assist the chancellor of the country, and the *fautier*, with the counsellors of the six communities behind the *sittern*, appointed for this service.

Let me ask, if here are not different orders of men, and balances in abundance? Such an handful of people, living by agriculture, in primitive simplicity, one would think might live very quietly, almost without any government at all; yet, instead of being capable of collecting
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all authority into one assembly, they seem to have been forcibly agitated by a mutual power of repulsion, which has divided them into two commonwealths, each of which has its monarchical power in a chief magistrate; its aristocratical power in two councils, one for legislation, and the other for execution; besides the two more popular assemblies. This is surely no simple democracy.—Indeed a simple democracy by representation is a contradiction in terms.

LETTER VI.

UNDERWALD.

MY DEAR SIR,

THE canton of Underwald consists only of villages and boroughs, although it is twenty-five miles in length, and seventeen in breadth. These dimensions, it seems, were too extensive to be governed by a legislation so imperfectly combined, and nature has taught and compelled them to separate into two divisions, the one above, and the other below, a certain large forest of oaks, which runs nearly in the middle of the country, from north to south. The inferior valley, below the forest, contains four communities; and the superior, above it, six. The principal or capital is Sarnen. The sovereign is the whole country, the sovereignty residing in the general assembly, where all the males of fifteen have entry and suffrage; but each valley apart has, with respect to its interior concerns, its land amman, its officers of administration, and its public assembly, composed

posed of fifty-eight senators, taken from the communities. As to affairs without, there is a general council, formed of all the officers of administration, and of fifty-eight senators chosen in the said councils of the two valleys. Besides this, there are, for justice and police, the chamber of seven, and the chamber of fifteen, for the upper valley, and the chamber of eleven for the lower.

Here again are arrangements more complicated, and aristocratical preferences more decided, in order to counterpoise the democratical assembly, than any to be found in America; and the land amman is as great a man in proportion as an American governor. Is this a simple democracy? Has this little clan of graziers been able to collect all authority into one center? Are there not three assemblies here to moderate and balance each other? and are not the executive and judicial powers separated from the legislative? Is it not a mixed government, as much as any in America? although its constitution is not by any means so well digested as ten at least of those of the United States; and although it would never be found capable of holding together a great nation.

LETTER

L E T T E R VII.

GLARIS.

MY DEAR SIR,

THE canton of Glaris is a mountainous country, of eight miles long and four wide, according to their own authors, perhaps intending German miles; but twenty-five miles in length and eighteen in breadth, according to some English accounts. The commerce of it is in cheese, butter, cattle, linen, and thread. Ten thousand cattle, and four thousand sheep, pastured in summer upon the mountains, constitute their wealth.

The inhabitants live together in a general equality, and most perfect harmony; even those of the different persuasions of Catholics and Protestants, who sometimes perform divine service in the same church, one after the other: and all the offices of state are indifferently administered by both parties, though the Protestants are more in number, and superior both in industry and commerce. All the houses are built of wood, large and solid, those of the richest inhabitants differing only from those of the poorer, as they are larger.

The police is well regulated here, as it is throughout Switzerland. Liberty does not degenerate into licentiousness. Liberty, independence, and an exemption from taxes, amply compensate for a want of the refinements of luxury. There are none so rich as to gain an ascendancy by largesses. If they err in their councils, it is an error of the judgement, and not of the heart. As
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there is no fear of invasion, and they have no conquests to make, their policy consists in maintaining their independence, and preserving the public tranquillity. As the end of government is the greatest happiness of the greatest number, saving at the same time the stipulated rights of all, governments like these, where a large share of power is preserved by the people, deserve to be admired and imitated. It is in such governments that human nature appears in its dignity, honest, brave, and generous.

Some writers are of opinion, that Switzerland was originally peopled by a colony of Greeks. The same greatness of soul, the same spirit of independence, the same love of their country, has animated both the ancients and the moderns, to that determined heroism which prefers death to slavery. Their history is full of examples of victories obtained by small numbers of men over large armies. In 1388 the Austrians made an irruption into their territory, with an army of fifteen thousand men; but, instead of conquering the country as they expected, in attacking about four hundred men posted on the mountains at Næfel, they were broken by the stones rolled upon them from the summit: the Swiss, at this critical moment, rushed down upon them with such fury, as forced them to retire with an immense loss. Such will ever be the character of a people who preserve so large a share to themselves in their legislature, while they temper their constitution, at the same time, with an executive power in a chief magistrate, and an aristocratical power in a wise senate.

The government here is by no means entirely democratical. It is true, that the sovereign is the whole country, and the sovereignty resides in
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the general assembly, where each male of fifteen, with his sword at his side, has his seat and vote. It is true, that this assembly, which is annually held in an open plain, ratifies the laws, lays taxes, enters into alliances, declares war, and makes peace.

But it has a first magistrate in a land amman, who is the chief of the republic, and is chosen alternately from among the Protestants and from among the Catholics. The Protestant remains three years in office; the Catholic two. The manner of his appointment is a mixture of election and lot. The people choose five candidates, who draw lots for the office. The other great officers of state are appointed in the same manner.

There is a council called a senate, composed of the land amman, a stadthalder, and sixty-two senators, forty-eight Protestants and fourteen Catholics, all taken from fifteen tagwen or corvees, into which the three principal quarters or partitions of the country are subdivided for its more convenient government. In this senate, called the council of regency, the executive power resides. Each tagwen or corvee furnishes four senators; besides the borough of Glaris, which furnishes six.

Instead of a simple democracy, it is a mixed government, in which the monarchical power in the land amman, stadthalder or pro-consul, the aristocratical order in the senate, and the democratical in the general assembly, are distinctly marked. It is, however, but imperfectly balanced; so much of the executive power in an aristocratical assembly would be dangerous in the highest degree in a large state, and among a rich people. If this canton could extend its dominion,

minion, or greatly multiply its numbers, it would soon find the necessity of giving the executive power to the land amman, in order to defend the people against the senate; for the senate, although it is always the reservoir of wisdom, is eternally the very focus of ambition.

LETTER VIII.

ZUG.

MY DEAR SIR,

THE canton of Zug is small, but rich, and divided into mountains and plains. The sovereign is the city of Zug, and part of the country. It is divided into five quarters, which possess the sovereignty; the city of Zug is two, and the country three, Mentzingen, Egeri, and Bar. The government is very complicated, and the sovereignty resides in the general assembly of the five quarters, where each male person of fifteen years of age has admittance and a voice. It assembles annually, to enact laws and choose their magistrates. Thus these five quarters make a body of a democratical republic which commands the rest of the canton. They furnish alternately the land amman, the head or chief of the state, who must always reside at Zug with the regency of the country, although he is chosen by the suffrages of all the quarters collectively. He continues three years in office when taken from the district of Zug, and but two when chosen from any of the others.

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The council of regency, to whom the general administration of affairs is entrusted, is composed of forty senators, thirteen from the city, and twenty-seven from the country.

The city, moreover, has its chief, its council, and its officers apart, and every one of the other quarters has the same.

It is a total misapplication of words to call this government a simple democracy; for, although the people are accounted for something, and indeed for more than in most other free governments; in other words, although it is a free republic, it is rather a confederation of four or five republics, each of which has its monarchical, aristocratical, and democratical branches, than a simple democracy. The confederation, too, has its three branches; the general assembly, the regency of senators, and the land amman; being different orders tempering each other, as really as the house, council, and governor, in any of the United States of America.

LETTER IX.

URI.

MY DEAR SIR,

THE canton of Uri, the place of the birth and residence of William Tell, shook off the yoke of Austria in 1308, and, with Switz and Underwald, laid the foundation of the perpetual alliance of the cantons in 1315. The canton consists only of villages and little towns or bourgades,

gades, and the whole is divided into ten genossamen, or inferior communities. It has no city. Altdorf, where the general assemblies are held, and the land amman and regency reside, is the principal village.

The land amman and the principal magistrates are elected in the general assembly, in which all the male persons of fifteen years of age have a right to a seat and a vote.

The senate or council of regency, in whom is vested the executive power, is composed of sixty members, taken equally from each genossamen, though they reside at the capital borough. From this council are taken all the necessary officers.

There are two other councils; one called the chamber of seven, and the other the chamber of fifteen, for the management of lesser affairs.

The valley of Urseren, three leagues in length and one in breadth, marches under the banners of Uri; but it is but an ally, connected by treaty in 1410. It has its proper land amman and council, and has also a bailiwick subject to it.

The village of Gersaw is a league in breadth, and two in length: there are about a thousand inhabitants. This is the smallest republic in Europe: it has, however, its land amman, its council of regency, and its general assembly of burgeses, its courts of justice and militia, although it is said there is not a single horse in the whole empire. Such a diminutive republic, in an obscure corner, and unknown, is interesting to Americans, not only because every spot of earth on which civil liberty flourishes deserves their esteem, but upon this occasion is particularly im-

portant, as it shews the impossibility of erecting even the smallest government among the poorest people, without different orders, councils, and balances.

LETTER X.

SWITZ.

MY DEAR SIR,

THE canton of Switz has the honour of giving the name to the whole confederation, because the first battle for independency was fought there: yet it consists only of villages divided into six quarters, the first of which is Switz, where the ordinary regency of the country resides. The sovereign is the whole country; that is to say, the sovereignty resides in the general assembly of the country, where all the males of fifteen years of age have a right of entry and suffrage.

Yet they have their land amman, and their ordinary regency, at which the land amman presides, composed of sixty counsellors, taken equally from the six quarters. All the necessary officers are taken from this council.

There are, besides, the secret chamber, the chamber of seven, and the chamber of nine, for finance, justice, and police.

LETTER

L E T T E R X I.

ARISTOCRATICAL REPUBLICS.

THE CANTON OF BERNE.

MY DEAR SIR,

IT is scarcely possible to believe that M. Turgot, by collecting all authority into one center, could have intended an aristocratical assembly. He must have meant, however, a simple form of government of some kind or other; and there are but three kinds of simple forms, democracy, aristocracy, and monarchy. As we have gone through most, if not all, the governments in Europe in which the people have any share, it will throw much light upon our subject if we proceed to the aristocracies and oligarchies; for we shall find all these under a necessity of establishing orders, checks, and balances, as much as the democracies. As the people have been always necessitated to establish monarchical and aristocratical powers, to check themselves from rushing into anarchy; so have aristocratical bodies ever been obliged to contrive a number of divisions of their powers to check themselves from running into oligarchy.

The canton of Berne has no other sovereign than the single city of Berne. The sovereignty resides in the grand council, which has the legislative power, and the power of making peace, war, and alliances, and is composed of two hun-

dred counsellors and ninety-nine assessors, the election of whom is made, by the seizeniers and the senate, from the citizens, from whom they are supposed virtually to derive their power; but a general assembly of the citizens is never called together on any occasion, or for any purpose, not even to lay taxes, nor to make alliances or war. To be eligible into the grand council, one must be a citizen of Berne, member of one of the societies or tribes, and at least in the thirtieth year of his age.

The executive power is delegated by the grand council to the senate or little council, which is composed of twenty seven persons, including the two avoyers or chiefs of the republic, the two treasurers of the German country, and of the pays de Vaud, and the four bannerets or commanders of the militia, taken from the four first tribes, for the four districts of the city. Vacancies in this senate are filled up by a complicated mixture of ballot and lot: twenty-six balls, three of which are gold, are drawn out of a box by the several senators; those who draw the golden ones nominate three electors out of the little council; in the same manner, seven members are designated from the grand council, who nominate seven electors from their body; these ten nominate ten candidates to be voted for in the grand council: the four of these who have the most votes draw each of them a ball out of a box, which has in it two of gold and two of silver; the two who draw the gold are voted for in the grand council, and he who has the most votes is chosen, provided he be married, and has been ten years in the grand council.

Vacancies in the grand council are filled up, at certain periods of about ten years, and two new members

members are appointed by each avoyer, one by each seizenier and senator, and two or three others by other officers of state: if there are more vacancies, they are filled by the election of the seizeniers and senators.

The seizeniers, who have this elective power, are drawn by lot from among those members of the grand council who have held the office of bailiffs, and who have finished the term of their administration. The bannerets and seizeniers have, by the constitution, an authority for three days in Easter, resembling that of the censors in ancient Rome, and may deprive any member of either council of his place; but, as their sentence must be confirmed by the great council, they never exercise their power. There are six noble families at Berne, who enjoy the precedence of all the other senators, although more ancient members, and have rank immediately after the bannerets.

The principal magistrates are, the two avoyers, who hold their offices for life, the two treasurers, who continue for six years, and the four bannerets, who remain only four. The avoyers officiate alternately a year; and the reigning avoyer, although he presides in council, in an elevated seat under a canopy, and has the public seal before him, has no vote except in cases of equal divisions, and never gives his opinion unless it is required. The avoyer, out of office, is the first senator and president of the secret council.

The secret council is composed of the avoyer out of office, the four bannerets, the two treasurers, and two other secret counsellors taken from the senate. In this body all affairs that re-

quire secrecy, and some of these are of great importance, are debated and determined.

The grand council assembles and deliberates by its own authority at stated times, and superintends all affairs, although the most important are delegated generally to the senate. The whole administration is celebrated for its uncommon moderation, precision, and dispatch.

There are seventy-two bailiwicks, distributed in four classes, comprehending a country of sixty leagues in length, or a third part of all Switzerland, subject to this city. The bailiffs are appointed by lot from the grand council. They were formerly chosen, but this method rendering all the members dependent upon a few who had the most influence, it had too strong a tendency to an oligarchy. The bailiwicks are the most profitable places, and are filled from the grand council. The bailiffs live in much splendour, and are able to lay up two or three thousand pounds sterling a year, besides discharging all their expences. They represent the sovereign authority, put the laws in execution, collect the revenues, act as judges in civil and criminal causes; but an appeal lies to Berne, in civil causes, to the courts of justice, and in criminal to the senate: but as the judges on appeal are persons who either have been or expect to be bailiffs, there is great reason to be apprehensive of partiality.

There is no standing army, but every male of sixteen is enrolled in the militia, and obliged to provide himself an uniform, a musket, powder and ball; and no peasant is allowed to marry without producing his arms and uniform. The arms are inspected every year, and the men exercised. There are arsenals of arms at Berne, and
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in every bailiwick, sufficient for the militia of the district, and a sum of money for three months pay. The dragoons are chosen from the substantial farmers, who are obliged to provide their own horses and accoutrements. There is a council of war, of which the avoyer out of place is president in peace; in war, a general is appointed to command all the forces of the state.

There is a political seminary for the youth, called the exterior state, which is a miniature of the whole government. The young men assemble and go through all the forms; they have their grand council, senate, avoyers, treasurers, bannerets, seizeniers, &c.: the post of avoyer is sought with great assiduity. They debate upon political subjects, and thus improve their talents by exercise, and become more capable of serving the public in future life.

The nobility in this country are haughty, and much averse to mixing in company, or any familiar conversation with the common people: the commons are taught to believe the nobles superiors, whose right it is to rule; and they believe their teachers, and are very willing to be governed.

L E T T E R XII.

F R I B O U R G.

MY DEAR SIR,

THE canton of Fribourg is aristocratical, not having more than forty families who can have any part in the government. These all live very nobly; that is to say, without commerce, manufactures, or trades.

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The sovereignty and legislative authorities reside in the council of two hundred persons, composed of the two avoyers, who are for life, twenty-two counsellors, four bannerets, sixty other counsellors, from whom the twenty-four who compose the senate, in which resides the executive power, are taken when they are to be replaced, and one hundred and twelve others, whom they call the grand senate of two hundred.

The two avoyers are elected by the plurality of suffrages of all the citizens. They hold their offices for life, and preside alternately a year. The twenty-two counsellors are also for life, and are designated by lot, as well as the bannerets, whose charges continue but three years. The sixty also are nominated by lot, and are drawn from the hundred and twelve, called the two hundred. These last come forward in the state by the presentation and nomination of the secret chamber, composed of twenty-four besides the bannerets, who are the chiefs of it. This chamber, which is sovereign, besides the right of nomination to the state, has alone that of correction, and of proposing regulations.

The two avoyers, the twenty-two counsellors, and the four bannerets, form the little senate, which hears and determines civil causes, and assembles every day.

The affairs of state are carried before the grand senate of two hundred.

The tribes are corporations of tradesmen, who have no part in government, and who assemble in the abbays, only for the affairs of their occupations, and all their statutes are approved or rejected by the senate.

There are thirty-one bailiwicks subject to this canton. The method of determining the members

bers of the little senate and secret council is another check. The names of the candidates in nomination are placed in a box, containing as many partitions as there are persons: the ballots are thrown into this box by the electors, without knowing how the names are placed; and the candidate whose name occupies the division, which receives by accident the most ballots, has the lot. This is to guard against the influence of families; for, among those few families from which alone any candidate can be taken, some have more influence than others. The canton contains sixty-six thousand souls. Its land produces good pasture, some corn, and little wine; it has no commerce, and not much literature. It has more troops in foreign service than any other canton in proportion. As the rivers and lakes have a direct communication with the sea, they might have a valuable commerce; but as none of the persons concerned in government can be merchants, no commerce can ever be in fashion, except that of their noble blood to foreign sovereigns. It is no doubt much to the honour of their fidelity and valour to be chosen so generally to be the life-guards of princes; but whether they can vindicate such a traffic, upon principles of justice, humanity, or policy, or from the imputation of a more mercenary spirit than that of ordinary commerce, is for them to consider. The conservation of the oligarchy is entirely owing, however, to this custom: for a youthful fiery nobility, at home in idleness, would necessarily become ambitious of popularity, and either procure, by intrigues and insurrections, a greater share of importance to the people, or set up one of the greatest genius and enterprize among them for a despot. In foreign service they exhaust their restless years, and re-

turn, after the deaths of their fathers, fatigued with dissipation, to enjoy their honours and estates; to support those laws which are so partial to their wishes; and to re-assume the manly simplicity of manners of their native country.

LETTER XIII.

SOLEURE.

MY DEAR SIR,

THE canton of Soleure, seven leagues in breadth and twelve in length, contains fifty thousand souls, and the Patrician families are in quiet possession of all the public offices. The sovereign is the city of Soleure; and the sovereignty resides in the grand council, consisting of two avoyers, who preside alternately, and whose election depends upon the council, and all the citizens in general, who are divided into eleven tribes; of twenty-three of the thirty-three senators taken from the tribes, each of which furnishes three; and of sixty-six members who represent the citizens, and are taken also from the tribes in equal numbers, viz. six from each tribe.

The senate is composed of the two avoyers, and the thirty-three senators taken from the tribes, making thirty-five in all, who are called the little council, conduct the affairs of state, and judge causes civil and criminal. The two councils make together the number of one hundred, without computing the avoyer in office, who presides in chief. This body, named the grand council, makes laws and statutes; treats of alliances, peace
and

and war; decides appeals in the last resort; elects the treasurer, the fourth in rank in the state, and the exterior bailiffs. The thirty-three senators consist of eleven alt-raths or senior counsellors, and twenty-two yunk-raths or juniors. Upon the removal by death of one of the alt-raths, the eldest of the yunk-raths succeeds him, and this vacancy is filled out of the great council, by election of the eleven alt-raths. From among the alt-raths, the two avoyers, the banneret, and the treasurer, the four principal magistrates of the commonwealth, are chosen; and on the death of an avoyer, the banneret succeeds to his place, after having gone through the formality of nomination by the general assembly of citizens. Vacancies in the grand council are supplied by the alt-raths from the same tribe to which the deceased member belonged. There is an annual meeting of the whole body of the citizens, in which the avoyers and banneret are confirmed in their places: the senior and junior counsellors at the same time mutually confirm each other. All these confirmations are matters of course, and mere form. All other public employments are disposed of by the senate.

The revenues of the public, and salaries of offices, are very considerable, and afford the few distinguished families very profitable emoluments. The grand sautier is annually elected by all the citizens. There are several tribunals and chambers: the secret council, formed of the two avoyers, the banneret, the treasurer, the most ancient of the senators of the first order or alt-raths, the secretary of state, and attorney-general: the council of war: the council of justice, which is composed of six members of the little council, and eleven members of the grand council, one
of

of whom is furnished by each tribe; the grand faulier presides in it, instead of the avoyer in office: the consistory, and the chamber of orphans. This canton has a large country subject to it, comprehending eleven bailiwicks.

The soil is extremely fertile, yet there is a want of hands for agriculture, and population decreases; although commodiously situated for commerce, they have none. These circumstances are enough to shew the blessings of a government by a few noble families. They shew another thing, still more curious; to wit, the consequences of mixing the nobles and commons together. The latter have here been induced to reduce their own constitutional share in the government to a mere form, and complaisantly to resign all the substance into the hands of those whom they think their natural superiors: and this will eternally happen, sooner or later, in every country, in any degree considerable for extent, numbers, or wealth, where the whole legislative and executive power are in one assembly, or even in two, if they have not a third power to balance them.

Let us by no means omit, that there is a grand arsenal at Soleure, as there is at Berne, well stored with arms in proportion to the number of inhabitants in the canton, and ornamented with the trophies of the valour of their ancestors.

Nor should it be forgotten, that a defensive alliance has subsisted between France and several of these cantons for more than a century, to the great advantage of both. These republicans have found in that monarchy a steady, faithful, and generous friend. In 1777 the alliance was renewed in this city of Soleure, where the French ambassador resides; and extended to all the cantons. In the former treaty an article was inserted,
that

that if any diffensions should arise between the cantons, his majesty should, at the request of one of the parties, interpose his mediation by all gentle means to bring about a reconciliation: but if these should fail, he should compel the aggressor to fulfil the treaties between the cantons and their allies. As this article was manifestly incompatible with that independence which republicans ought to value above all things, it has been wisely omitted in the new treaty; and it would have become the dignity of the Swiss character to have renounced equally those pensions, which are called *Argents de Paix et d'Alliance*, as inconsistent not only with a republican spirit, but with that equality which ought to be the foundation of an alliance.

LETTER XIV.

LUCERNE.

MY DEAR SIR,

THE canton of Lucerne comprehends a country of sixteen leagues long and eight wide, containing fifteen bailiwicks, besides several cities, abbays, monasteries, seigniories, &c. The inhabitants are almost wholly engaged in agriculture, and the exportation of their produce. Their commerce might be greatly augmented, as the river Reufs issues from the lake, passes through the town, and falls into the Rhine.

The city contains less than three thousand souls, has no manufactures, little trade, and no encouragement for learning: yet the sovereign is this single city, and the sovereignty resides in the little

little and great council, having for chiefs two avoyers, who are alternately regents. There are five hundred citizens in the town, from whom a council of one hundred are chosen, who are nominally the sovereignty; out of this body are formed the two divisions, the little council, senate, or council of state, consisting of thirty-six members, divided into two equal parts of eighteen each, one of which makes choice of the other every half year. The whole power is actually exercised by this body, the two divisions of which administer the government by turns. They are subject to no controul, are neither confirmed by the sovereign council, nor by the citizens; the division which retires confirming that which comes in. As the vacancies in the senate are filled up by themselves, all power is in possession of a few Patrician families. The son succeeds the father, and the brother his brother.

The grand council consists of sixty-four persons, taken from the citizens, who are said to have their privileges; but it is hard to guess what they are, as the elections are made by the little and great council conjointly.

The administration, the police, the finances, and the whole executive power, is in the senate, which is constantly sitting.

The grand council is assembled only upon particular occasions, for the purpose of legislation. The senate has cognizance of criminal causes, but in capital cases the grand council is convoked to pronounce sentence: in civil causes an appeal lies from the senate to the grand council; but these appeals can be but mere forms, the same senators being in both courts.

As the senate constitutes above a third of the grand council, choose their own members, confer
all

all employments, have the nomination to ecclesiastical benefices, two thirds of the revenues of the canton belonging to the clergy, their influence must be uncontrollable.

The two avoyers are chosen from the senate by the council of one hundred, and are confirmed annually. The relations of the candidates are excluded from voting: but all such checks against influence and family connections in an oligarchy are futile, as all laws are cyphers. There are also certain chambers of justice and police.

In some few instances, such as declaring war and making peace, forming alliances or imposing taxes, the citizens must be assembled and give their consent, which is one check upon the power of the nobles.

L E T T E R X V .

ZURICH.

MY DEAR SIR,

THE canton of Zurich contains one hundred and fifty thousand souls, upon an area of forty miles by thirty, abounds in corn, wine and all the ordinary productions of excellent pastures. Literature has been encouraged, and has constantly flourished in this country, from the time of Zuinglius to that of Gesner and Lavater. The inhabitants are industrious, their manufactures considerable, and their commerce extensive.

In the city is a public granary, an admirable resource against scarcity, and a magnificent arsenal well filled with cannon, arms, and ammunition, particularly musquets for thirty thousand
men;

men ; the armour of the old Swiss warriors, and the bow and arrow with which William Tell shot the apple on the head of his son—

Who with the generous rustics fate,
On Uri's rock, in close divan,
And wing'd that arrow, sure as fate,
Which fix'd the sacred rights of man.

The sovereign is the city of Zurich. The sovereignty resides in the two burgomasters, in the little council composed of forty-eight members, and the grand council composed of one hundred and sixty-two members ; all taken from thirteen tribes, one of which is of the nobles, and the other twelve of citizens.

Although there are twelve thousand souls in the capital, and one hundred and fifty in the canton, there are not more than two thousand citizens. In early times, when the city had no territory round it, or a small one, the citizens were in possession of the government ; when they afterwards made additions by conquest or purchase, they still obstinately held this power, and excluded all their new subjects. It is an hundred and fifty years since a new citizen has been admitted : besides electing all the magistrates and holding all offices, they have maintained a monopoly of commerce, and excluded all strangers, and even subjects of the canton, from conducting any in the town. Such are commons, as well as nobles and princes, whenever they have power unchecked in their hands !

There is even in this commercial republic a tribe of nobles, who consider trade as a humiliation.

The

The legislative authority is vested in the grand council of two hundred and twelve, including the senate.

The senate consists of twenty-four tribunes, and four counsellors chosen by the nobles, to these are added twenty, elected by the sovereign council; making in all, with the two burgomasters, fifty: half of them administer six months, and are then succeeded by the rest. The burgomasters are chosen annually by the sovereign council, and one of them is president of each division of the senate, which has the judicial power, in criminal matters, without appeal, and in civil, with an appeal, to the grand council.

The members of the senate are liable to be changed, and there is an annual revision of them, which is a great restraint.

The state is not only out of debt, but saves money every year against any emergency. By this fund they supported a war in 1712, without any additional taxes. There is not a carriage in the town, except it be of a stranger.

Zurich has great influence in the general diet, which she derives more from her reputation for integrity, and original Swiss independence of spirit, than from her power.

LETTER XVI.

SCHAFFHAUSE.

MY DEAR SIR,

THE sovereign is the city of Schaffhause. The citizens, about sixteen hundred, are divided into twelve tribes, one of which consists of nobles, and eleven are ordinary citizens.

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The

The sovereignty resides in the little and grand councils.

The senate, or little council of twenty-five, has the executive power.

The great council, comprising the senate, has the legislative, and finally decides appeals.

The burgomasters are the chiefs of the republic, and alternately preside in both councils.

Besides these, there are the secret council, of seven of the highest officers; the chamber of justice, of twenty-five, including the president; the prætorian chamber, of thirteen, including the president; the consistory, of nine; and the chamber of accounts, of nine. The city has ten bailiwicks subject to it.

THE CITY OF MULHOUSE.

THE sovereign is the city: the sovereignty resides in the little and the grand council. The lesser council is composed of twenty-four persons; viz. three burgomasters, who preside by turns, each one six months, nine counsellors, and twelve tribunes, who succeed by election, and are taken from the grand council.

The grand council is composed of seventy-eight, viz. the twenty-four of the lesser council, thirty-six members of the tribes, six from each, and eighteen taken from the body of the citizens, and elected three by each one of the six tribes.

THE CITY OF BIENNE.

THE republic of Bienne contains less than six thousand souls.

The

The regency is composed of the great council, in which the legislative authority resides, consisting of forty members; and of the little council, composed of twenty-four, who have the executive.

Each of these councils elect their own members, from the six confraternities of the city.

The burgomaster is chosen by the two councils, presides at their meetings, and is the chief of the regency; he continues in office for life, although he goes through the form of an annual confirmation by the two councils, when the other magistrates submit to the same ceremony. The burgomaster keeps the seal, and, with the banneret, the treasurers, and the secretary, forms the oeconomic chamber, and the chamber of orphans.

This town sends deputies to the general diets, ordinary and extraordinary.

LETTER XVII.

THE REPUBLIC OF ST. GALL.

MY DEAR SIR,

THE republic of St. Gall is a league and a half in circumference; and contains nine thousand souls. The inhabitants are very industrious in manufactures of linen, muslin, and embroidery; have an extensive commerce; and arts, sciences, and literature, are esteemed and cultivated

vated among them. They have a remarkable public library, in which are thirteen volumes of original manuscript letters of the first reformers. To see the different effects of different forms of government on the human character, and the happiness and prosperity of nations, it would be worth while to compare this city with Constance, in its neighbourhood.

This happy and prosperous, though diminutive republic, has its grand council of ninety persons, its little council of twenty-four, and three burgomasters. The little council consists of the three burgomasters, nine senators, and twelve tribunes. The grand council consists of all the little council, and eleven persons from each tribe; for the city is divided into the society of the nobles, and six tribes of the artisans, of whom the weavers are the principal.

Besides these there are, the chamber of justice, the chamber of five, and some others.

GENEVA.

IN the republic of Geneva, the sovereignty resides in the general council, lawfully convened, which comprehends all the orders of the state, and is composed of four *sindics*, chiefs of the republic, presidents of all the councils; of the lesser council of twenty-five; of the grand council of two hundred, though it consists of two hundred and fifty when it is complete; and of all the citizens of twenty-five years of age. The rights and attributes of all these orders of the state are fixed by the laws. The history of this city deserves to be studied with anxious attention
by

by every American citizen. The principles of government, the necessity of various orders, and the fatal effects of an imperfect balance, appear no where in a stronger light. The fatal slumbers of the people, their invincible attachment to a few families, and the cool deliberate rage of those families, if such an expression may be allowed, to grasp all authority into their own hands, when they are not controuled or over-awed by a power above them in a first magistrate, are written in every page. I need only refer you to Dr. d'Ivernois's Historical and Political View of the Constitution and Revolutions of Geneva in the eighteenth Century, which you received from the author, to convince you of this.

Let me add here, that the facts relating to the Swiss cantons, and their environs, mentioned in these letters, are taken from the *Quarante Tables Politiques de la Suisse*, par C. E. Faber, Bernois, Pasteur, à Bishviller, in 1746; with some additional observations from the beautiful Sketches of Mr. Coxe, which I send you with this letter, and which you will find as instructive as they are entertaining.

The petty council is indifferently called the council of *twenty-five*, the *petit council*, or the *senate*.

The council of sixty is a body elected by the senate, and meets only for the discussion of foreign affairs.

The grand council, and council of two hundred, are one and the same body; it is still called the council of two hundred, though it now consists of two and hundred fifty members.

The general council, called indiscriminately the *sovereign council*, the *general assembly*, the *sovereign*

reign assembly, the assembly of the people, or the council general, is composed of all the citizens or freemen of twenty-five years of age.

At the time of the Reformation, every affair, important or trifling, was laid before the general assembly; it was both a deliberating and acting body, that always left the cognizance of details to four *findics*: this was necessary, in that time of danger, to attach the affections of the citizens to the support of the commonwealth by every endearing tie. The city was governed by two *findics* of its own annual election. The multiplicity of affairs had engaged each *findic* to nominate some of the principal citizens to serve as assessors during his administration; these assessors, called counsellors, formed a council of twenty-five persons. In 1457 the general council decreed, that the council of twenty-five should be augmented to sixty. This body, in 1526, was augmented to two hundred.

Thus far the aristocratical gentlemen proceeded upon democratical principles, and all is done by the general assembly. At this instant commences the first overt act of aristocratical ambition.—Warm in their seats, they were loth to leave them, or hold them any longer at the will of the people. With all the subtlety, and all the sagacity and address which is characteristic of this order of men in every age and nation, they prevailed on the people to relinquish for the future the right of electing counsellors in the general assembly; and the people, with their characteristic of simplicity, and unbounded confidence in their rulers when they love them, became the dupes, and passed a law, that the two councils should for the future elect, or at least approve and affirm, each other,

other. This is a natural and unavoidable effect of doing all things in one assembly, or collecting all authority into one center. When magistrates and people meet in one assembly, the former will for ever do as they please, provided they proceed with any degree of prudence and caution.

The consequence was, that the annual reviews were a farce; only in a very few instances, for egregious faults, were any excluded; and the two councils became perpetual, and independent of the people entirely. The illusions of ambition are very subtle: if the motives of these magistrates, to extend the duration of their authority, were the public good, we must confess they were very ignorant. It is most likely they deceived themselves as well as their constituents, and mistook their own ambition for patriotism: but this is the progressive march of all assemblies; none can confine themselves within their limits, when they have an opportunity of transgressing them. These magistrates soon learned to consider their authority as a family property, as all others in general, in similar circumstances, ever did, and ever will.

They behaved like all others in another respect too: their authority being now permanent, they immediately attack the *sindics*, and transfer their power to themselves.

The whole history of Geneva, since that period, follows of course: the people, by their supineness, had given up all balances, and betrayed their own privileges, as well as the prerogatives of their first magistrates, into the hands of a few families.

The people of Geneva, as enlightened as any, have never considered the necessity of joining with the *sindics*, nor the *sindics* that of joining the people,

people, but have constantly aimed at an impossibility, that of balancing an aristocratical by a democratical assembly, without the aid of a third power.

L E T T E R XVIII.

LUCCA.

MY DEAR SIR,

THE government of this republic is said to be purely aristocratical; yet the supreme power is lodged in the hands of two hundred and forty nobles, with the chief magistrate at their head, who is called *confalloniero*, or standard-bearer, and has the executive power. This magistrate is assisted by nine counsellors, called *am-ziani*, whose dignity lasts but nine months; he has a life-guard of sixty Swiss, and lives in the republic's palace, as do his counsellors, at the public expence: after six years he may be re-chosen. The election of all officers is decided in the senate by ballot.

GENOA.

THE legislative authority of Genoa is lodged in the great senate, consisting of seniors, or the doge and twelve other members, with four hundred noblemen and principal citizens, annually elected. All matters of state are transacted by the

the seniors, the members of which hold their places for two years, assisted by some other councils; and four parts in five of the senate must agree in passing a law. The doge is obliged to reside in the public palace the two years he enjoys his office, with two of the seniors, and their families. The palace where he resides, and where the great and little council, and the two colleges of the procuratori and governatori assemble, is a large stone building in the center of the city. At the expiration of his time, he retires to his own house for eight days, when his administration is either approved or condemned; and in the latter case, he is proceeded against as a criminal. At the election of the doge a crown of gold is placed on his head, and a scepter in his hand, as king of Corsica; he is attended with life-guards, is clothed in crimson velvet, and styled Most Serene, the senators Excellencies, and the nobility Illustrious.

The nobility are allowed to trade in the wholesale way, to carry on velvet, silk, and cloth manufactures, and to have shares in merchant ships; and some of them, as the Palavacini, are actually the greatest merchants in Genoa.

The extent is about one hundred and fifty-two miles, the breadth from eight to twenty miles.

LETTER XIX.

VENICE.

MY DEAR SIR,

THE republic of Venice has existed longer than those of Rome or Sparta, or any other that is known in history. It was at first democratical, and their magistrates, under the name of tribunes, were chosen by the people in a general assembly of them. A tribune was appointed annually, to distribute justice on each of those islands which this people inhabited. Whether this can be called collecting all authority into one center, or whether it was not rather dividing it into as many parcels as there were islands, this simple form of government sufficed, in so small a community, to maintain order for some time; but the tyrannical administration of the tribunes, and their eternal discords, rendered a revolution necessary; and after long altercations, and many projects, the people, having no adequate idea of the only natural balance of power among three orders, determined that one magistrate should be chosen, as the center of all authority---the eternal resource of every ignorant people, harrassed with democratical distractions or aristocratical encroachments. This magistrate must not be called king, but duke, and afterwards doge; he was to be for life, but at his death another was to be chosen; he was to have the nomination of all magistrates, and the power of peace and war. The unbounded popularity and great real merit of Paul Luc Anafeste, added to the pressure of tribunary tyranny, and the danger of a foreign enemy,

enemy, accomplished this revolution. The new doge was to consult only such citizens as he should judge proper: this, instead of giving him a constitutional council, made him the master; he however sent polite messages to those he liked best, *praying* that they would come and advise him. These were soon called *pregadi*, as the doge's council is still called, though they are now independent enough of him. The first and second doge governed mildly; but the third made the people repent of their confidence: after serving the state by his warlike abilities, he enslaved it; and the people, having no constitutional means to restrain him, put him to death in his palace, and resolved to abolish the office. Hating alike the name of tribune and of doge, they would have a master of the militia, and he should be annually eligible. Factions too violent for this transient authority arose; and, only five years after, the people abolished this office, and restored the power of the doge, in the person of the son of him whom in their fury they had assassinated. For a long course of years after this, the Venetian history discloses scenes of tyranny, revolt, cruelty, and assassination, which excite horror. Doges, endeavouring to make their power hereditary, associating their eldest sons with them in office, and both together oppressing the people; these rising, and murdering them, or driving them into banishment, never once thinking of introducing a third order between them and their first magistrate, nor any other form of government by which his power or theirs might be limited. In the tenth century, a son of their doge took arms against his father, but was defeated, banished, and declared incapable of ever being doge; yet no sooner was the father dead, than this worthless son

son was elected, and brought back in great pomp to Venice: he became soon a tyrant and a monster, and the people tore him to pieces, but took no measure to frame a legal government. The city increased in commerce, and by conquests, and the new subjects were not admitted to the privileges of citizens: this accession of dominion augmented the influence of the doge. There was no assembly but that of the people, and another called the council of forty, for the administration of justice. This body, in the twelfth century, formed something like a plan of government.

Although the descendants of the ancient tribunes and doges were generally rich, and had a spontaneous respect shewn to the antiquity of their families, they were not properly a nobility, having no legal rights, titles, or jurisdictions. As any citizen might be elected to a public office, and had a vote in the assemblies, it was necessary for the proudest among them to cultivate the good will of the multitude, who made and murdered doges. Through all these contests and dissensions among a multitude, always impatient, often capricious, demanding, at the same time, all the promptitude and secrecy of an absolute monarchy, with all the licence of a simple democracy, two things wholly contradictory to each other, the people had, to their honour, still maintained their right of voting in assembly, which was a great privilege, and nobody had yet dared to aim a blow at this acknowledged right of the people.

The council of forty now ventured to propose a plan like that of Mr. Hume in his idea of a perfect commonwealth, and like that which our
friend,

friend, Dr. Price, informs us was proposed in the convention of Massachusetts.

The city was divided into six districts, called *sestieri*. The council of forty proposed, that each of these partitions should name two electors, amounting to twelve in all, who should have the power of choosing, from the whole city, four hundred and seventy, who should have the whole power of the general assembly, and be called the grand council.

The people were amused with fine promises of order and regularity, and consoled with assertions that their right of election still continued, and that those who should not be chosen one year, might be the next: and, not perceiving that this law would be fatal to their power, suffered that aristocracy to be thus founded, which subsists to this hour. The next proposal was, that a committee of eleven should be appointed to name the doge. Though the design of reducing the people to nothing might have been easily seen in these manœuvres, yet the people, wearied, irritated, and discouraged, by eternal discords, agreed to both.

The council of forty having thus secured the people, turned their eyes to the doge, whose authority had often been perverted to the purposes of oppression, and, having no legal check, had never been restrained but by violence, and all the confusions which accompany it. They proposed that a privy council of six should be appointed for the doge, one from each division of the city, by the grand council themselves, and that no orders should be valid without their concurrence: this passed into a law with unanimous applause. They then proposed a senate of sixty, who were to be elected out of the grand council,
and

and to be called the *pregadi*: this too was approved. The grand council of four hundred and seventy, the senate of sixty, the six counsellors, and eleven electors, were accordingly all chosen, and the last were sworn to choose a doge without partiality, favour, or affection: and the new-chosen doge, having taken care to distribute money among the multitude, was received with universal acclamations. In his reign was instituted, by permission of the pope, the curious ceremony of wedding the sea, by a ring cast into it, *in signum veri et perpetui imperii*. Under the next doge the *avogadors* were instituted to see that the laws were fully executed.

In the thirteenth century, six new magistrates, called correctors, were created by the senate, to inquire into all abuses during the reign of a deceased doge, and report them to the senate; and it was enacted, that the fortune of the doge should indemnify the state for whatever damage it had suffered during his administration: and these correctors have been appointed at the decease of every doge since that time. In the next reign, a new tribunal of forty was erected, for the trial of civil causes. In the thirteenth century, a new method of appointing the doge, by the famous ballot of Venice, a complicated mixture of choice and chance, was adopted.

Each of the grand counsellors, now augmented to forty-one to avoid the inconvenience of an equal division, draws a ball out of a box, containing thirty gilt, and the rest white; those who draw the gilt ones go into another room, where is a box with thirty balls, nine of which are gilt; draw again, and those who obtain the gilt balls are the *first electors*; who choose forty, comprehending themselves in that number; the forty,

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by

by repeating the whole process, are reduced to twelve *second electors*, the first of whom names three, and the rest two a piece: these twenty-five draw again from as many balls, nine of which are gilt; this reduces them to nine *third electors*, each of whom chooses five: which forty-five are reduced, by a repetition of the ballot, to eleven *fourth electors*, and they have the appointment of forty-one, who are the direct electors of the doge.

The choice generally turns upon two or three candidates, whose names are put into another box and drawn out: the first whose name is drawn retires, and proclamation is made for objections against him: if any are made, he comes in, and is heard in his defence: then the electors proceed to determine by ayes and noes; if there are twenty-five ayes, he is chosen, if not, another name is read, and the same decision repeated, until there are twenty-five in the affirmative.

The grand council, ever anxious to limit the power of the doge, soon thought it improper that the public acts should be signed by chancellors appointed by him, and accordingly determined to appoint this officer themselves.

The senate then began to think it too great a respect to the people to have the new doge presented to them for their acclamations, and ordained that a *sindic* should congratulate him in the name of the people on his election. The populace, who had weakly surrendered their rights, were very angry at being deprived of this show, and proclaimed a doge of their own; but he was afraid of the contest, and retired, and the people having no man of weight to head them, gave up this point.

The new doge, who had much contempt for popular government, and some resentment for the slight

flight opposition he had met with, procured a law to be passed, that all the members of the grand council should hold their places for life, and transmit them to their posterity, and that their elections by the people's electors should cease. This establishment of an hereditary legislative nobility, no doubt, shocked the citizens in general, but chiefly those of ancient families, who were not at that moment members of the grand council; to silence these, the most powerful of them were received into the grand council, and others were promised that they should be admitted at a future time. Commerce and wars soon turned the attention of the rest of the people from all thought about the loss of their privileges. Some few, however, some time after formed a plan not to convene the people in a body, and new-model the constitution, but to assassinate the doge and council all together. The plot, which was carried on by the plebeians, was discovered, and the chiefs executed. Another originated amongst the nobles, some of them of the grand council, who being of very ancient families, could not bear to see so many citizens raised to a level with themselves, and others of the most distinguished of these, who were not of the grand council, and had not been received afterwards according to promise. This produced a skirmish in the city, but some of the conspiring nobles were killed, the rest routed, and many executed; but it was thought prudent to admit several of the most distinguished families. These two conspiracies produced a council of ten, upon which were afterwards engrafted the state inquisition.

Great care is taken in Venice to balance one court against another, and render their powers mutual checks to each other. The college called
the

the seigniory, was originally composed of the doge and six counsellors ; to these were added six of the grand council chosen by the senate, and called the *savii* or sages ; then five more for land affairs, and then five for sea affairs, in the room of whom, five young noblemen are now chosen every six months, who attend, without a vote, for their education ; to these were added the three chiefs of the criminal court, from a jealousy of the power of the college, which is both the cabinet council, and the representative of the state, giving audience and answers to ambassadors, to agents of towns, and generals of the army ; receives all petitions, summons the senate, and arranges its business.

There is one instance of a doge's concerting a conspiracy to shake off the controul of the senate ; but as it was an old man of fourscore, whose young wife, on whom he doted, was not treated with sufficient respect by the nobility, we need not wonder, that he had not sense enough to think of introducing a regular, well-balanced constitution by a joint concurrence of the people, and the nobility ; the whole plan was to massacre the grand council ; and although he engaged in this design, some of the highest officers, and a large party, the plot was discovered, the doge himself tried, condemned, and beheaded, as so infamous a piece of mad villainy justly deserved.

A punctual execution of the laws is, no doubt, essential to the existence of this state, and there are striking instances of persons punishing their nearest relations with the most unrelenting severity ; without this, the doge on one hand, or the people on the other, would soon think of a union against the ruling nobility. The aristocracy is always sagacious, and knows the necessity of a rigorous impartiality, in order to preserve its

power, and all the barriers we have described have been erected for this purpose : but all would be insufficient to restrain their passions without the lions mouths and the state inquisitors ; these were engrafted on the council of ten. This terrible tribunal is sovereign in all crimes against the state ; it consists of ten chosen yearly by the grand council ; the six of the seigniory assist, and the doges preside when they please. Three chiefs, appointed monthly by lot, to open all letters, seize the accused, take examinations, and prosecute the prisoner, who is closely confined, allowed no council, and finally acquitted or condemned to death, in public or private, by the plurality of voices. This was the original tribunal, but it was not found sufficient, and the state inquisitors were erected in the beginning of the sixteenth century. This tribunal consists only of three persons, all taken from the council of ten, who have authority to decide, without appeal, on the life of every citizen, the doge himself not excepted. They employ what spies they please ; if they are unanimous, they may order a prisoner to be strangled in gaol, or drowned in the canal, hanged in the night, or by day, as they please ; if they are divided, the cause must go before the council of ten, but even here, if the guilt is doubtful, the rule is to execute the prisoner in the night. The three may command access to the house of every individual in the state, and have even keys to every apartment in the ducal palace, may enter his bed-chamber, break his cabinet, and search his papers. By this tribunal have doge, nobility, and people, been kept in awe, and restrained from violating the laws, and to this is to be ascribed the long duration of this aristocracy.

Such are the happy effects of the spirit of families, when they are not bridled by an executive authority, in the hands of a first magistrate on one hand, and by an assembly of the people in person, or by adequate representation, on the other. Such are the blessings which, in course of ages, spring from a neglect in the beginning, to establish three orders, and a perfect balance between them. There can be, in the nature of things, no balance without three powers. The aristocracy is always more sagacious than an assembly of the people collectively, or by representation, and always proves an overmatch in policy, sooner or later. They are always more cunning too than a first magistrate, and always make of him a doge of Venice, a mere ceremony, unless he makes an alliance with the people to support him against them. What is the whole history of the wars of the barons but one demonstration of this truth ! What are all the standing armies in Europe, but another ! These were all given to kings by the people, to defend them against aristocracies. The people have been generally of M. Turgot's mind, that balances, and different orders, were unnecessary, and, harraffed to death with the domination of noble families, they have generally surrounded the thrones with troops to humble them. They have succeeded so far as generally to make the nobles dependent on the crown, but having given up the balance which they might have held in their own hands, they are still subject to as much aristocratical domination, as the crowns think proper to permit. In Venice, the aristocratical passion for curbing the prince and the people has been carried to its utmost length. It is astonishing

ing to many, that any man will accept the office of doge. These sagacious nobles, who always know at least the vices and weakneses of the human heart better than princes or people, saw that there would be generally vanity enough in an individual to flatter himself, that he had qualities to go through his administration without incurring censure, and with applause; and farther, that the frivolous distinction of living in the ducal palace, and being the first man in the nation, though it were only the first among equals, would tempt most men to risque their lives and fortunes, and accordingly it has so happened. There has been an uncommon solicitude all along to restrain his power; this, no doubt, was to prevent him from a possibility of negotiating with the people against them: on the other hand, there has been uncommon exertions to annihilate every power, every hope in the people; this was to prevent them from having a legal possibility of applying to the doge for assistance. All this together would not, however, have succeeded, if death, in the shape of the inquisition, had not been made to stare both doge and people in the face upon the first thought of conferring together.

The nobles are divided into six classes.
1. Twelve of the most ancient families. 2. Four families that in the year 880 subscribed to the building of the abbey of St George. 3. Those whose names were written in the golden book, in 1296. 4. Those that were ennobled by the public in 1385. 5. Those who purchased their nobility for one hundred thousand ducats in 1646. And 6. The strangers who have been received into the number of nobility: the whole make about two thousand five hundred.

There

There are four councils : 1. The doge and six signoria. 2. The consiglio grande, in which all the nobles have seats and voices. 3. Consiglio de pregadi, of 250, and is the soul of the republic. 4. Consiglio proprio delli dieci—and the state inquisitors.

THE REPUBLIC OF THE UNITED PROVINCES OF
THE LOW COUNTRIES.

HERE were a Stadtholder, an assembly of the States General, a council of state : the Stadtholder hereditary had the command of armies and navies, and appointment of all officers, &c.

Every province had an assembly besides, and every city, burgomasters, counsellors, and sche-pens or judges, besides an hooft officer, and his dienders, for the police.

The history of this country, and its complicated constitutions, affords an inexhaustible store of materials to our purpose ; but, considering the critical situation of it, prudence dictates to pass it over : with all the sagacity, and more wisdom than Venice or Berne, it has always had more consideration of the people than either, and has given more authority to the first magistrate : they have never had any exclusive preferences of families or nobles. Offices have, by law at least, been open to all men of merit,

L E T T E R XX.

ENGLAND.

MY DEAR SIR,

POLAND and England. The histories of these countries would confirm the general principle we contend for: the last especially. But who can think of writing upon this subject after De Lolme, whose book is the best defence of the political balance of three powers that ever was written?

If the people are not equitably represented in the house of commons, this is a departure in practice from the theory.—If the lords return members of the house of commons, this is an additional disturbance of the balance: whether the crown and the people in such a case will not see the necessity of uniting in a remedy, are questions beyond my pretensions: I only contend that the English constitution is, in theory, the most stupendous fabric of human invention, both for the adjustment of the balance, and the prevention of its vibrations; and that the Americans ought to be applauded instead of censured, for imitating it as far as they have. Not the formation of languages, not the whole art of navigation and ship-building, does more honour to the human understanding than this system of government. The Americans have not indeed imitated it in giving a negative, upon their legislature, to the executive power; in this respect their balances are incomplete, very much, I confess, to my mortification: in other respects, they have some of them fallen short

short of perfection, by giving the choice of some militia officers, &c. to the people—these are however small matters at present. They have not made their first magistrates hereditary, nor their senators: here they differ from the English constitution, and with great propriety.

The Agrarian in America is divided into the hands of the common people in every state, in such a manner, that nineteen twentieths of the property would be in the hands of the commons, let them appoint whom they could for chief magistrate and senators: the sovereignty then, in fact, as well as morality, must reside in the whole body of the people; and an hereditary king and nobility, who should not govern according to the public opinion, would infallibly be tumbled instantly from their places: it is not only most prudent then, but absolutely necessary, to avoid continual violence, to give the people a legal, constitutional, and peaceable mode of changing these rulers, whenever they discover improper principles or dispositions in them. In the present state of society, and with the present manners, this may be done, not only without inconvenience, but greatly for the happiness and prosperity of the country. In future ages, if the present states become great nations, rich, powerful, and luxurious, as well as numerous, their own feelings and good sense will dictate to them what to do: they may make transitions to a nearer resemblance of the British constitution, by a fresh convention, without the smallest interruption to liberty. But this will never become necessary, until great quantities of property shall get into few hands.

The truth is, that the people have ever governed in America: all the weight of the royal governors and councils, even backed with fleets

and armies, have never been able to get the advantage of them, who have always stood by their houses of representatives in every instance, and carried all their points; and no governor ever stood his ground against a representative assembly: as long as he governed by their advice he was happy; as soon as he differed from them he was wretched, and soon obliged to retire.

LETTER XXI.

POLAND.

MY DEAR SIR,

THE king of Poland is the first magistrate in the republic, and derives all his authority from the nation.—He has not the power to make laws, raise taxes, contract alliances, or declare war, nor to coin money, nor marry, without the ratification of the diet.

The senate is composed of the clergy and nobility; the third estate, or people, is not so much as known. The grand marshal, the marshal of the court, the chancellor, vice chancellor, and the treasurer, are the first senators.

The nobility, or gentry, possess the dignities and employments, in which they never permit strangers, or the commonalty, to have any participation; they elect their king, and would never suffer the senate to make themselves masters of this election. The peasants are slaves to the gentry; having no property, all their acquisitions are made for their masters, and are exposed to all their passions, and are oppressed with impunity.

The

The general diets, which are usually held at Warsaw or Grodno, are preceded by particular assemblies of palatinates, in which the deputies are chosen for the general assembly, and instructed; the deputies assembled in general diet proceed to the election of a marshal, who has a very extraordinary power, that of imposing silence on whom he pleases; he is the chief or speaker of the assembly.

At the death, abdication, or deposition of a king, the primate calls the assembly of the electors to an open field near Warsaw. Here the electors take an oath not to separate until they shall have unanimously elected a king, nor to render him, when elected, any obedience, until he has sworn to observe the *pacta conventa*, and the laws.

The candidates must let their gold glitter, and give splendid entertainments, which must be carried into debauch: the nobility are captivated with the attractions of magnificence and Hungarian wine, and infallibly declare in favour of the candidate who causes it to flow in the greatest profusion. The ambassadors enter upon intrigues, even in public: the nobility receive their presents, sell their suffrages with impunity, and render the throne venal, but often behave with little fidelity to the candidate in whose interest they pretend to be engaged, and, forgetting the presents they have received, espouse the cause of a more wealthy competitor without hesitation. When the candidate has gained all the suffrages, he is declared king, and sworn to observe the *pacta conventa*, and the laws, and then crowned. The Poles are polite and friendly, but magnificence is the foible of the nobility, and they sacrifice all things to luxury: as they seldom see any person superior to
them

them in their own country, and treat their inferiors with an air of absolute authority, they live in all the splendor of princes. This is the account of the Abbe des Fontaines in the year 1736; it is to be hoped things are since changed for the better; but if this account was then true, who can wonder at what has happened since!

Here again is no balance; a king, and an assembly of nobles, and nothing more: the nobles here discover their unalterable disposition, whenever they have the power, to limit the king's authority; and there being no mediating power of the people, collectively or representatively, between them, the consequence has been, what it always will be in such a case, confusion and calamity.

LETTER XXII.

POLAND.

MY DEAR SIR,

SINCE the letter concerning Poland was sent you, Mr. Coxe's travels into that kingdom, &c. have fallen into my hands; and they contain so many facts material to our argument, that it is very proper to send you the substance of this account; indeed there is scarcely a book in the world, in any manner relative to the history of government, or to those branches of philosophy on which it depends, which is not much to our purpose.

In the most ancient times, which records or history elucidate, the monarchy of Poland, like
all

all others denominated feudal, was in theory and pretension absolute. The barons too, in this country as in all others, were very often impatient under such restraint. When the prince was an able statesman and warrior, he was able to preserve order ; but when he was weak and indolent, it was very common for two or three barons in conjunction to make war upon him ; and sometimes it happened that all together leagued against him at once. In every feudal country, where the people had not the sense and spirit to make themselves of importance, the barons became an aristocracy, incessantly encroaching upon the crown, and, under pretence of limiting its authority, took away from it one prerogative after another, until it was reduced down to a mere doge of Venice, or avoyer of Berne ; until the kings, by incorporating cities and granting privileges to the people, set them up against the nobles, and obtained by their means standing armies sufficient to controul both nobles and commons.

The monarchy of Poland, nearly absolute, sunk in the course of a few centuries, without any violent convulsion, into an aristocracy.

It came to be disputed whether the monarchy was hereditary or elective, and whether its authority was sovereign or limited. The first question is resolved, by supposing that the crown continued always in the same family, although, upon the death of a king, his successor was recognized in an assembly of the nobles. The second may be answered by supposing, that when the king was active and capable, he did as he pleased ; but when he was weak, he was dictated to by a licentious nobility. Cassimir the Great retrenched the authority of the principal barons, and granted immunities to the lesser nobility and gentry ;

gentry ; well aware that no other expedient could introduce order, except a limitation of the vast influence, possessed by the palatines or principal nobility. If this prince had been possessed of any ideas of a free government, he might easily have formed the people and inferior gentry into an assembly by themselves, and, by uniting his power with theirs, against the encroachments of the nobles upon both, have preserved it. His nephew, Louis of Hungary, who succeeded him, being a foreigner, was obliged by the nobility to subscribe conditions at his accession, not to impose any taxes by his royal authority, without the consent of the nation, that is, of the nobles, for no other nation is thought on : that in case of his demise without male heirs, the privilege of appointing a king should revert to the nobles. In consequence of this agreement Louis was allowed to ascend the throne : having no son, with a view of insuring the succession to Sigismund his son-in-law, he promised to diminish the taxes, repair the fortresses at his own expence, and to confer no offices or dignities on foreigners.

Louis died : but Sigismund was emperor, and therefore powerful, and might be formidable to the new immunities. The Poles, aware of this, violated the compact with Louis, neglected Sigismund, and elected Ladislaus, upon his ratifying Louis's promises, and marrying his daughter.

Ladislaus, having relinquished the right of imposing taxes, called an assembly of prelates, barons, and military gentlemen, in their respective provinces, in order to obtain an additional tribute. These provincial assemblies gave birth to the dietines : which now no longer retain the power of raising money in their several districts, but only elect the nuncios or representatives for the diet.

Ladislaus

Ladislaus the third, the son of the former, purchased his right to the succession, during the life of his father, by a confirmation of all the concessions before granted, which he solemnly ratified at his accession. Cassimir the third, brother of Ladislaus the third, consented to several further innovations, all unfavourable to regal prerogative.—One was the convention of a national diet, invested with the sole power of granting supplies. Each palatinate or province was allowed to send to the general diet, besides the palatines and other principal barons, a certain number of nuncios or representatives, chosen by the nobles and burghers. Is it not ridiculous, that this reign should be considered by the popular party, as the æra at which the freedom of the constitution was permanently established? This freedom, which consists in a king without authority; a body of nobles in a state of uncontrouled anarchy; and a peasantry groaning under the yoke of feudal despotism: the greatest inequality of fortune in the world; the extremes of riches and poverty, of luxury and misery, in the neighbourhood of each other; a universal corruption and venality pervading all ranks; even the first nobles not blushing to be pensioners of foreign courts; one professing himself publicly an Austrian, another a Prussian, a third a Frenchman, and a fourth a Russian; a country without manufactures, without commerce, and in every view the most distressed in the world.—But to proceed with an enumeration of the measures by which they have involved themselves in these pitiable circumstances:

Cassimir was involved in several unsuccessful wars, which exhausted his treasures: he applied to the diet for subsidies.

Every

Every supply was accompanied with a list of grievances, and produced a diminution of the royal prerogative. The barons, at the head of their vassals, were bound to fight, and the king could require such feudal services in defence of the kingdom: but Cassimir the third, to obtain pecuniary aids, gave up the power of summoning the nobles to his standard, and of enacting any law without the concurrence of the diet. John Albert, to procure an election in preference to his elder brother, assented to all the immunities extorted from his predecessors, and swore to their observance, in 1469. Alexander, his successor, declared in 1505, the following limitations of sovereign authority to be fundamental laws of the kingdom. 1. The king cannot impose taxes. 2. He cannot require the feudal services. 3. Nor alienate the royal domains. 4. Nor enact laws. 5. Nor coin money. 6. Nor alter the process in the courts of justice. Sigismund the first succeeded Alexander, and under his reign the Polish constitution was the most tolerable, as the property of the subject was best secured, and the crown had considerable influence: but this did not satisfy the nobles. Under Sigismund Augustus, son and successor of Sigismund the first, that favourite object of the Polish nobles, the free election of the king was publicly brought forward, and the king obliged to agree, that no future monarch should succeed to the throne, unless freely elected by the nation: before this, the sovereigns upon their accession, though formally raised by the consent of the nation, still rested their pretensions upon hereditary right, always styling themselves heirs of the kingdom of Poland. Sigismund Augustus was the last who bore that title; at his death, in 1572, all title to the crown from

from hereditary right was formally abolished, and the absolute freedom of election established upon a permanent basis: a charter of immunities was drawn up at a general diet, a ratification of which it was determined to exact of the new sovereign, prior to his election. This charter, called *pacta conventa*, contained the whole body of privileges obtained from Louis, and his successors, with the following additions: 1. That the king should be elective, and that his successor should never be appointed during his life. 2. That the diets, the holding of which depended solely upon the will of the kings, should be assembled every two years. 3. That every nobleman or gentleman in the realm should have a vote in the diet of election. 4. That in case the king should infringe the laws and privileges of the nation, his subjects should be absolved from their oaths of allegiance. From this period the *pacta conventa*, occasionally enlarged, have been confirmed by every sovereign at his coronation.

Henry of Valois, brother of Charles the ninth of France, who ascended the throne after the constitution was thus new-modelled, secured his election by private bribes to the nobles, and by stipulating an annual pension to the republic from the revenues of France. His example has been followed by every succeeding king, who, besides an unconditional ratification of the *pacta conventa*, has always been constrained to purchase the crown by a public largess, and private corruption. Such is Polish liberty, and such the blessings of a monarchy elective by a body of nobles.

Under Stephen Bathori, the royal authority, or rather the royal dignity, was farther abridged, by the appointment of sixteen senators, chosen at each diet, to attend the king, and to give their
opinion

opinion in all matters of importance, so that he could not issue any decree without their consent. Another fatal blow was given to the prerogative in 1578, by taking from the king the supreme jurisdiction of the causes of the nobles: it was enacted, that without the concurrence of the king, each palatinate should elect in their dietines their own judges, who should form supreme courts of justice, called *tribunalia regni*, in which the causes of the nobles shall be decided without appeal; a mode which prevails to this day.

In the reign of John Cassimir, in 1652, was introduced the *liberum veto*, or the power of each nuncio to interpose a negative, and break up a diet, a privilege which the king himself does not enjoy. When the diet was debating upon transactions of the utmost importance, which required a speedy decision, a nuncio cried out, "I stop the proceedings," and quitted the assembly: and a venal faction, who supported his protest, unheard-of as it was, obtained the majority, and broke up the assembly in confusion. The constitution was thus wholly changed, and an unlimited scope given to faction. The innovation was supported by the great officers of state, the general, treasurer, and marshal, who being once nominated by the king, enjoyed their offices for life, responsible only to the diets, conscious that they could at all times engage a nuncio to protest, and thus elude an inquiry into their administration; it was also supported by the adherents of many nobles accused of capital crimes before the diet, the only tribunal before which they could be tried: all the nuncios who opposed the raising of additional subsidies by taxes, which the exigencies of the state then demanded, seconded the proposal of putting an end to the assembly. But the principal
cause

cause of all were the foreign powers, interested to foment confusions in the Polish councils. Before this, they were obliged to secure a majority; afterwards, they might put an end to any diet unfriendly to their views, by corrupting a single member. This *veto* broke up seven diets in the reign of John Cassimir, four under Michael, seven under John Sobieski, and thirty during the reigns of the two Augusti. In consequence of this necessity of unanimity, which they call the dearest palladium of Polish liberty, Poland has continued above a hundred years almost without laws.

But as the king still bestowed the starosties, or royal fiefs, which are held for life, and conferred the principle dignities and great offices of state, he was still the fountain of honour, and maintained great influence in the councils of the nations; but this last branch of the royal prerogative was lately wrested from the crown at the establishment of the permanent council.

Thus it appears in the history of Poland, as in that of Venice, Genoa, Berne, Soleure, and all others, that the nobles have continued without interruption to scramble for diminutions of the regal authority, to grasp the whole executive power, and augment their own privileges; and have attained a direct aristocracy, under a monarchical name, where a few are above the controul of the laws, while the many are deprived of their protection.

The present wretched state of the towns, compared with their former flourishing condition; the poverty of the peasants, whose oppressions have increased in proportion to the power of the nobles, having lost a protector when the king

lost his weight in the constitution; the total confusion in all public affairs; the declension of importance, and loss of territory—all shew that absolute monarchy is preferable to such a republic. Would twelve millions of inhabitants, under an English constitution, or under the constitution of any one of the United States, have been partitioned and dismembered? No; not by a league of all the absolute sovereigns of Europe against them at once.—Such are the effects of collecting all authority into one center, of neglecting an equilibrium of powers, and of not having three branches in the legislature.

The practice of cantoning a body of soldiers near the plain where the kings are elected, has been adopted by several foreign powers for near a century; and, although it may be galling to the nobility, prevents the effusion of blood that formerly deluged the assembly. This was done, at the election of Stanislaus Augustus, by the empress of Russia and the king of Prussia; five thousand Russian troops were stationed at a small distance from the plain of Vola.

Stanislaus was in the thirty-second year of his age when he ascended the throne, in 1764. From his virtues and abilities, the fairest hopes were conceived of his raising Poland from its deplorable situation; but his exertions for the public good were fettered by the constitution, by the factions of a turbulent people, and the intrigues of neighbouring powers. His endeavours to introduce order at home, and independence abroad, which would have increased the power of his country, and her consideration with foreign nations, alarmed the neighbouring powers. The spirit of religious intolerance produced a civil war,

war, and the senate petitioned the ambassador from Petersburg, not to withdraw the Russian troops. The royal troops, aided by the Russians, whose discipline was superior, were in favour of religious liberty. The confederates, secretly encouraged by Austria, assisted by the Turks, and supplied with money and officers by the French, were able to protract hostilities from 1768 to 1772: during this period the attempt was made to assassinate the king.

Count Pulaski, who was killed in the service of the United States, is said to have planned an enterprize so much to his dishonour. No good cause ever was, or ever will be, served by assassination; and this is happily, in the present age, the universal sense of mankind. If a papal nuncio was found in Poland, capable of blessing the weapons of conspirators against this tolerant king, he was a monster, whose bloody bigotry the liberal spirit of the Pope himself must, at this enlightened period, abominate. The king did himself immortal honour by his intercession with the diet to remit the tortures and horrid cruelties decreed by the laws of most kingdoms in Europe against treason, and by his moderation towards all the conspirators.

We are now arrived at the consummation of all panegyrics upon a sovereignty in a single assembly—the partition.

Prussia was formerly in a state of vassalage to this republic; Russia once saw its capital and throne possessed by the Poles; and Austria was indebted to John Sobieski, a sovereign of this country, for compelling the Turks to raise the siege of Vienna, but a century ago. A republic so lately the protectors of its neighbours, would not, without the most palpable imperfections in

the orders and balances of its government, have declined in an age of general improvement, and become a prey to any invader—much less would it have forced the world to acknowledge, that the translation of near five millions of people, from a republican government to that of absolute empires and monarchies, whether it were done by right or by wrong, is a blessing to them. The partition was projected by the king of Prussia, who communicated it to the emperor and empress. The plague was one circumstance, and the Russian war against the Turks another, that favoured the design; and the partition-treaty was signed at Petersburg, in February 1772, by the Russian, Austrian, and Prussian plenipotentiaries. The troops of the three courts were already in possession of the greatest part of Poland, and the confederates were soon dispersed. The partitioning powers proceeded with such secrecy, that only vague conjectures were made at Warsaw, and that lord Cathcart, the English minister at Petersburg, obtained no authentic information of the treaty until two months after its signature. The formal notification, to the king and senate at Warsaw, was made by the Imperial and Prussian ambassadors, in September 1772, of the pretensions of their courts to the Polish territory. The remonstrances of the king and senate, as well as those of the courts of London, Paris, Stockholm, and Copenhagen, had no effect; and the most humiliating record that ever appeared in the annals of a republic is seen in the king's summons—" Since there are no hopes from any
" quarter, and any further delays will only tend
" to draw down the most dreadful calamities
" upon the remainder of the dominions which
" are left to the republic, the diet is convened
" for

“ for the 19th of April, 1773, according to the
 “ will of the three courts; nevertheless, in order
 “ to avoid all cause of reproach, the king, with
 “ the advice of the senate, again appeals to the
 “ guarantees of the treaty of Oliva.” It is not
 to be doubted, that if there had been in Poland
 a people in existence, as there is in Holland, to
 have given this amiable prince only the autho-
 rity of a stadtholder, he would have said, “ I will
 “ die in the last ditch.”

Of the dismembered provinces, the Russian,
 which is the largest territory, contains only one
 million and a half of souls; the Austrian, which
 is the most populous, contains two millions and
 a half; the Prussian, which is the most commer-
 cial, commanding the navigation of the Vistula,
 contains only eight hundred and sixty thousand,
 and has given a fatal blow to the commerce of
 Poland, by transferring it from Dantzick to Me-
 mel and Konigsburg.

The finishing stroke of all remains.—

The three ambassadors, on the 13th of Sep-
 tember, 1773, delivered, “ A part of those car-
 “ dinal laws, to the ratification of which our
 “ courts will not suffer any contradiction.

“ I. The crown of Poland shall be for ever
 “ elective, and all order of succession proscribed:
 “ any person who shall endeavour to break this
 “ law shall be declared an enemy to his country,
 “ and liable to be punished accordingly.

“ II. Foreign candidates to the throne, being
 “ the frequent cause of troubles and divisions,
 “ shall be excluded; and it shall be enacted,
 “ that, for the future, no person can be chosen
 “ king of Poland, and great duke of Lithuania,
 “ excepting a native Pole, of noble origin, and
 “ possessing land within the kingdom. The son,

“ or grandson, of a king of Poland, cannot be
 “ elected immediately upon the death of their
 “ father or grandfather; and are not eligible, ex-
 “ cepting after an interval of two reigns.

“ III. The government of Poland shall be for
 “ ever free, independent, and of a republican
 “ form.

“ IV. The true principle of said government
 “ consisting in the strict execution of its laws,
 “ and the equilibrium of the three estates, viz.
 “ the king, the senate, and the equestrian order,
 “ a permanent council shall be established, in
 “ which the executive power shall be vested. In
 “ this council the equestrian order, hitherto ex-
 “ cluded from the administration of affairs in
 “ the intervals of the diets, shall be admitted,
 “ as shall be more clearly laid down in the future
 “ arrangements.”

Thus the supreme legislative authority resides in the three estates of the realm, the king, the senate, and equestrian order, assembled in a national diet; but each estate has no negative upon the other, and therefore is no balance, and very little check. The great families and principal palatines will still govern, without any effectual controul.

The executive power is now vested in the supreme permanent council; but here neither have they any checks, all being decided by the majority, and the same principal families will always prevail.

These august legislators have acknowledged the principle of a free republican government, that it consists in a strict execution of the laws, and an equilibrium of estates or orders: but how are the laws to govern; and how is the equilibrium to be preserved? Like air, oil, and water,
 thaken

shaken together in one bottle, and left in repose; the first will rise to the top, the last sink to the bottom, and the second swim between.

Our countrymen will never run delirious after a word or a name. The name republic is given to things in their nature as different and contradictory as light and darkness, truth and falsehood, virtue and vice, happiness and misery. There are free republics, and republics as tyrannical as an oriental despotism. A free republic is the best of governments, and the greatest blessing which mortals can aspire to. Republics which are not free, by the help of a multitude of rigorous checks, in very small states, and for short spaces of time, have preserved some reverence for the laws, and been tolerable; but there have been oligarchies carried to such extremes of tyranny, that the despotism of Turkey, as far as the happiness of the nation at large is concerned, would perhaps be preferable. An empire of laws is a characteristic of a free republic only, and should never be applied to republics in general. If there should ever be a people in Poland, there will soon be a real king; and if ever there should be a king in reality, as well as in name, there will soon be *a people*: for, instead of the trite saying, "no bishop, no king," it would be a much more exact and important truth to say, no people, no king, and no king, no people, meaning by the word king, a first magistrate possessed exclusively of the executive power. It may be laid down as a universal maxim, that every government that has not three independent branches in its legislature will soon become an absolute monarchy: or, an arrogant nobility, increasing every day in a rage for splendour and magnificence, will annihilate the people, and, attended with

their horses, hounds, and vassals, will run down the king as they would hunt a deer, wishing for nothing so much as to be in at the death.

The philosophical king Stanislaus felt most severely this want of a people. In his observations on the government of Poland, published in the *OEuvres du Philosophe bienfaisant*, tom. iii. he laments in very pathetic terms, the miseries to which they were reduced.

“ The violences,” says he, “ which the patri-
“ cians at Rome exercised over the people of that
“ city, before they had recourse to open force,
“ and, by the authority of their tribunes, ba-
“ lanced the power of the nobility, are a striking
“ picture of the cruelty with which we treat our
“ plebeians. This portion of our state is more
“ debased among us than they were among the
“ Romans, where they enjoyed a species of li-
“ berty, even in the times when they were most
“ enslaved to the first order of the republic.
“ We may say with truth, that the people are,
“ in Poland, in a state of extreme humiliation.
“ We must, nevertheless, consider them as the
“ principal support of the nation ; and I am per-
“ suaded, that the little value we set on them
“ will have very dangerous consequences.—Who
“ are they, in fact, who procure abundance in
“ the kingdom ? who are they that bear the bur-
“ thens and pay the taxes ? who are they that
“ furnish men to our armies ? who labour in our
“ fields ? who gather in our crops ? who sustain
“ and nourish us ? who are the cause of our in-
“ activity ? the refuge of our laziness ? the re-
“ source for our wants ? the support of our lux-
“ ury ? and indeed the source of all our plea-
“ sures ? Is it not that very populace that we
“ treat

“ treat with so much rigour? Their pains,
 “ their sweat, their labours, do not they merit
 “ any better return than our scorn and disdain?
 “ We scarcely distinguish them from the brutes,
 “ which *they* maintain for the cultivation of *our*
 “ lands! we frequently have less consideration
 “ for their strength, than we have for that of
 “ those animals! and too frequently we sell them
 “ to masters as cruel as ourselves, who imme-
 “ diately force them, by an excess of hard la-
 “ bour, to repay the price of their new slavery!
 “ I cannot recollect without horror that law which
 “ imposes only a fine of fifteen livres upon a
 “ gentleman who shall have killed a peasant.—
 “ Poland is the only country where the populace
 “ are fallen from all the rights of humanity; we
 “ alone regard these men as creatures of another
 “ species, and we would almost refuse them the
 “ same air which they breathe with us. God, in
 “ the creation of man, gave him liberty—what
 “ right have we to deprive him of it? As it is
 “ natural to shake off a yoke that is rough, hard,
 “ and heavy, may it not happen that this people
 “ may make an effort to wrest themselves from
 “ our tyranny? Their murmurs and complaints
 “ must, sooner or later, lead to this. Hitherto,
 “ accustomed to their fetters, they think not of
 “ breaking them; but let one single man arise,
 “ among these unfortunate wretches, with a mas-
 “ culine and daring spirit, to concert and foment
 “ a revolt, what barrier shall we oppose to the
 “ torrent? We have a recent instance, in the
 “ insurrection in the Ukraine, which was only
 “ occasioned by the vexations of those among us
 “ who had there purchased lands. We despised
 “ the courage of the poor inhabitants of that
 “ country

“ country—they found a resource in despair, and
 “ nothing is more terrible than the despair of
 “ those who have no courage. What is the con-
 “ dition to which we have reduced the people of
 “ our kingdom? Reduced by misery to the state
 “ of brutes, they drag out their days in a lazy
 “ stupidity, which one would almost mistake for
 “ a total want of sentiment: they love no art,
 “ they value themselves on no industry; they
 “ labour no longer than the dread of chastisement
 “ forces them; convinced that they cannot enjoy
 “ the fruit of their ingenuity, they stifle their ta-
 “ lents, and make no essays to discover them.—
 “ Hence that frightful scarcity in which we find
 “ ourselves of the most common artificers! Should
 “ we wonder that we are in want of things the
 “ most necessary, when those who ought to fur-
 “ nish them, cannot hope for the smallest profit
 “ from their cares to furnish us! It is only
 “ where liberty is found, that emulation can
 “ exist.”

It would be a pleasure to translate the whole;
 but it is too long. It is a pity that the whole
 people, whose misery he describes and laments,
 were not as sensible of the necessity of a less cir-
 cumscribed royal authority.

LETTER

LETTER XXIII.

RECAPITULATION.

MY DEAR SIR,

AS we have taken a cursory view of those countries in Europe, where the government may be called, in any reasonable construction of the word, republican, let us now pause a few moments, and reflect upon what we have seen.

Among every people, and in every species of republics, we have constantly found a *first magistrate, a head, a chief*, under various denominations indeed, and with different degrees of authority, with the title of stadtholder, burgomaster, avoyer, doge, confalloniero, president, syndic, mayor, alcalde, capitaneo, governor, or king: in every nation, we have met with a distinguished officer: if there is no example in any free government, any more than in those which are not free, of a society without a principal personage, we may fairly conclude, that the body politic cannot subsist without one, any more than the animal body without a head. If M. Turgot had made any discovery, which had escaped the penetration of all the legislators and philosophers who had lived before him, he ought at least to have communicated it to the world for their improvement; but as he has never hinted at any such invention, we may safely conclude that he had none; and therefore, that the Americans are not justly liable to censures for instituting *governors*.

In

In every form of government, we have seen a *senate*, or *little council*, a composition, generally, of those officers of state who have the most experience and power, and a few other members selected from the highest ranks, and most illustrious reputations. On these lesser councils, with the first magistrate at their head, generally rests the principal burden of administration, a share in the legislative, as well as executive and judicial authority of government. The admission of such senates to a participation of these three kinds of power has been generally observed to produce in the minds of their members an ardent aristocratical ambition, grasping equally at the prerogatives of the first magistrate, and the privileges of the people, and ending in the nobility of a few families, and a tyrannical oligarchy: but in those states, where the senates have been debarred from all executive power, and confined to the legislative, they have been observed to be firm barriers against the encroachments of the crown, and often great supporters of the liberties of the people. The Americans, then, who have carefully confined their senates to the legislative power, have done wisely in adopting them.

We have seen, in every instance, another and a larger assembly, composed of the body of the people, in some little states; of representatives chosen by the people in others; of members appointed by the senates, and supposed to represent the people, in a third sort; and of persons appointed by themselves or the senate, in certain aristocracies; to prevent them from becoming oligarchies. The Americans, then, whose assemblies are the most adequate, proportional, and equitable representations of the people, that are
2 known

known in the world, will not be thought erroneous in appointing houses of representatives.

In every republic, in the smallest and most popular, in the larger and more aristocratical, as well as in the largest and most monarchical, we have observed a multitude of curious and ingenious inventions to balance, in their turn, all those powers, to check the passions peculiar to them, and to controul them from rushing into those exorbitancies to which they are most addicted—the Americans will then be no longer censured for endeavouring to introduce an equilibrium, which is much more profoundly meditated, and much more effectual for the protection of the laws, than any we have seen, except in England:—we may even question whether that is an exception.

In every country we have found a variety of *orders*, with very great distinctions. In America, there are different orders of *offices*, but none of *men*; out of office all men are of the same species, and of one blood; there is neither a greater nor a lesser nobility—Why then are they accused of establishing different orders of men? To our inexpressible mortification we must have remarked, that the people have preserved a share of power, or an existence in the government, in no country out of England, except upon the tops of a few inaccessible mountains, among rocks and precipices, in territories so narrow that you may span them with an hand's breadth; where, living unenvied, in extreme poverty, chiefly upon pasturage, destitute of manufactures and commerce, they still exhibit the most charming picture of life, and the most dignified character of human nature.

Wherever

Wherever we have seen a territory somewhat larger, arts and sciences more cultivated, commerce flourishing, or even agriculture improved to any great degree, an aristocracy has risen up in a course of time, consisting of a few rich and honourable families, who have united with each other against both the people and the first magistrate; wrested from the former, by art and by force, all their participation in the government, and even inspired them with so mean an esteem of themselves, and so deep a veneration and strong attachment to their rulers, as to believe and confess them a superior order of beings.

We have seen these noble families, although necessitated to have a head, extremely jealous of his influence, anxious to reduce his power, and constrain him to as near a level with themselves as possible; always endeavouring to establish a rotation by which they may all equally in turn be entitled to the pre-eminence, and equally anxious to preserve to themselves as large a share of power as possible in the executive and judicial, as well as the legislative departments of the state.

These patrician families have also appeared in every instance to be equally jealous of each other, and to have contrived, by blending lot and choice, by mixing various bodies in the elections to the same offices, and even by the horrors of an inquisition, to guard against the sin that so easily besets them, of being wholly influenced and governed by a junto or oligarchy of a few among themselves.

We have seen no one government, in which is a distinct separation of the legislative from the executive power, and of the judicial from both,
or

or in which any attempt has been made to balance these powers with one another, or to form an equilibrium between the one, the few, and the many, for the purpose of enacting and executing equal laws, by common consent, for the general interest, excepting in England.

Shall we conclude, from these melancholy observations, that human nature is incapable of liberty, that no honest equality can be preserved in society, and that such forcible causes are always at work as must reduce all men to a submission to despotism, monarchy, oligarchy, or aristocracy?

By no means.—We have seen one of the first nations in Europe, possessed of ample and fertile territories at home, and extensive dominions abroad, of a commerce with the whole world, immense wealth, and the greatest naval power which ever belonged to any nation, who have still preserved the power of the people, by the equilibrium we are contending for, by the trial by jury, and by constantly refusing a standing army. The people of England alone, by preserving their share of the legislature, at the expence of the blood of heroes and patriots, have enabled their kings to curb the nobility without giving him a standing army.

After, all let us compare every constitution we have seen with those of the United States of America, and we shall have no reason to blush for our country; on the contrary, we shall feel the strongest motives to fall upon our knees, in gratitude to heaven for having been graciously pleased to give us birth and education in that country, and for having destined us to live under her laws! We shall have reason to exult, if we
make

make our comparison with England and the English constitution. Our people are undoubtedly sovereign—all the landed and other property is in the hands of the citizens—not only their representatives, but their senators and governors, are annually chosen—there are no hereditary titles, honours, offices, or distinctions—the legislative, executive, and judicial powers are carefully separated from each other—the powers of the one, the few, and the many, are nicely balanced in their legislatures—trials by jury are preserved in all their glory, and there is no standing army—the *habeas corpus* is in full force—the press is the most free in the world—and where all these circumstances take place, it is unnecessary to add, that the laws alone can govern.

LETTER

L E T T E R XXIV.

ANCIENT REPUBLICS, AND OPINIONS
OF PHILOSOPHERS.

DR. SWIFT.

MY DEAR SIR,

THE authority of legislators and philosophers, in support of the system we contend for, is not difficult to find. The greatest lights of humanity, ancient and modern, have approved it, which renders it difficult to explain how it comes, in this enlightened age, to be called in question, as it certainly has been, by others as well as M. Turgot. I shall begin with one, who, though seldom quoted as a legislator, appears to have considered this subject, and furnished arguments enough for ever to determine the question. Dr. Swift, in his *Contests and Diffensions between the Nobles and Commons of Athens and Rome*, observes, that the best legislators of all ages agree in this, that the absolute power, which originally is in the whole body, is a trust too great to be committed to any one man or assembly: and therefore, in their several institutions of government, power in the last resort was always placed by them in balance, among the one, the few, and the many; and it will be an eternal rule in politics, among every free people, that there is a balance of power to be held by every state within itself. A mixed government, partaking of the known forms received in the

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schools,

schools, is by no means of Gothic invention, but hath place in nature and reason, and seems very well to agree with the sentiments of most legislators ; for, not to mention the several republics of this composition in Gaul and Germany, described by Cæsar and Tacitus, Polybius tells us, the best government is that which consists of three forms, *regno, optimatum, et populi imperio*. Such was that of Sparta in its primitive institution by Lycurgus, who, observing the depravations to which every one of these was subject, compounded his scheme out of all ; so that it was made up of *reges, seniores, et populus*. Such also was the state of Rome under its consuls ; and such, at Carthage, was the power in the last resort : they had their kings, senate, and people. A limited and divided power seems to have been the most ancient and inherent principle, both of the Greeks and Italians, in matters of government. The difference between the Grecian monarchies and Italian republics was not very great. The power of those Grecian princes who came to the siege of Troy, was much of a size with that of the kings of Sparta, the archon of Athens, the sufetes at Carthage, and the consuls at Rome. Theseus established at Athens rather a mixed monarchy than a popular state, assigning to himself the guardianship of the laws, and the chief command in war. This institution continued during the series of kings to the death of Codrus, from whom Solon was descended, who, finding the people engaged in two violent factions, of the poor and the rich, and in great confusion, refusing the monarchy which was offered him, chose rather to cast the government after another model, wherein he made due provision for *settling the balance of power*, choosing a senate of four hundred,

hundred, and disposing the magistracies and offices according to men's estates, leaving to the multitude their votes in electing, and the power of judging certain processes by appeal. This council of four hundred was chosen, one hundred out of each tribe, and seems to have been a body representative of the people, though the people collective reserved a share of power to themselves.

In all free states, the evil to be avoided is tyranny; that is to say, the *summa imperii*, or unlimited power, solely in the hands of the one, the few, or the many. Though we cannot prolong the period of a commonwealth beyond the decree of heaven, or the date of its nature, any more than human life beyond the strength of the seminal virtue; yet we may manage a sickly constitution, and preserve a strong one; we may watch, and prevent accidents; we may turn off a great blow from without, and purge away an ill humour that is lurking within; and render a state long-lived, though not immortal. Some physicians have thought, that if it were practicable to keep the several humours of the body in an exact *balance* of each with its opposite, it might be immortal; and so perhaps would a political body, if the *balance of power* could be always held exactly even.

All independent companies of men seem naturally to divide into the three powers, of the one, the few, and the many. A free people met together, as soon as they fall into any acts of civil society, do of themselves divide into three ranks. The first is, that of some one eminent spirit, who having signalized his valour and fortune in defence of his country, or by the practice of popular arts at home, comes to have great influence

on the people ; to grow their leader in warlike expeditions ; and to preside, after a sort, in their civil assemblies. The second is, of such men as have acquired large possessions, and consequently dependencies, or descend from ancestors who have left them great inheritances, together with an hereditary authority ; these, easily uniting in opinions, and acting in concert, begin to enter upon measures for securing their properties, which are best upheld by preparing against invasions from abroad, and maintaining peace at home : this commences a great council, or senate, for the weighty affairs of the nation. The last division is of the mass of the people, whose part of power is great and indisputable, whenever they can unite, either collectively or by deputation, to exert it.

The true meaning of a balance of power is best conceived by considering what the nature of a balance is. It supposes three things : first, the part which is held, together with the hand that holds it ; and then the two scales, with whatever is weighed therein. In a state within itself, the balance must be held by a third hand, who is to deal the remaining power with the utmost exactness into the several scales. The balance may be held by the weakest, who by his address, removing from either scale, and adding his own, may keep the scales duly poised : when the balance is broken by mighty weights falling into either scale, the power will never continue long in equal division between the two remaining parties, but, till the balance is fixed anew, will run entirely into one. This is made to appear by the examples of the Decemviri in Rome, the Ephori in Sparta, the four hundred in Athens, the thirty in Athens, and the Dominatio Plebis in Carthage and Argos.

In

In Rome, from the time of Romulus to Julius Cæsar, the commons were growing by degrees into power, gaining ground upon the patricians, inch by inch, until at last they quite overturned the balance, leaving all doors open to popular and ambitious men, who destroyed the wisest republic, and enslaved the noblest people, that ever entered on the stage of the world. Polybius tells us, that in the second Punic war, the Carthaginians were declining, because the balance was got too much on the side of the people; whereas the Romans were in their greatest vigour by the power remaining in the senate. The ambition of private men did by no means begin, or occasion, the war between Pompey and Cæsar, though civil dissensions never fail to introduce and spirit the ambition of private men; for while the balance of power is equally held, the ambition of private men, whether orators or commanders, gives neither danger nor fear, nor can possibly enslave their country; but that once broken, the divided parties are forced to unite each to its head, under whose conduct or fortune one side is at first victorious, and at last both are slaves. And to put it past dispute, that the entire subversion of Roman liberty was altogether owing to those measures which had broke the balance between the patricians and plebeians, whereof the ambition of private men was but the effect and consequence, we need only consider, that when the uncorrupted part of the senate, by the death of Cæsar, had made one great effort to restore their liberty, the success did not answer their hopes; but that whole assembly was so sunk in its authority, that these patriots were obliged to fly, and give way to the madness of the people, who, by their own dispositions,

tions, stirred up by the harangues of their orators, were now wholly bent upon single and despotic slavery; else how could such a profligate as Anthony, or a boy of eighteen like Octavius, ever dare to dream of giving law to such an empire and such a people? Wherein the latter succeeded, and entailed the vilest tyranny that Heaven in its anger ever inflicted on a corrupt and poisoned people.

It is an error to think it an uncontrollable maxim, that power is always safer lodged in many hands than in one: for if these many hands be made up from one of those three divisions, it is plain, from the examples produced, and easy to be paralleled in other ages and countries, that they are as capable of enslaving the nation, and of acting all manner of tyranny and oppression, as it is possible for a single person to be, though we should suppose their number not only to be four or five hundred, but three thousand. In order to preserve a balance in a mixed state, the limits of power deposited with each party ought to be ascertained and generally known: the defect of this is the cause of those struggles in a state about prerogative and liberty; about encroachments of the few upon the rights of the many, and of the many upon the privileges of the few; which ever did, and ever will, conclude in a tyranny; first either of the few or the many, but at last, infallibly of a *single person*: for whichever of the three divisions in a state is upon the scramble for more power than its own, as one of the three generally is (unless due care be taken by the other two); upon every new question that arises, they will be sure to decide in favour of themselves; they will make large demands, and scanty concessions, ever com-

ing off considerable gainers ;—thus at length the balance is broke, and tyranny let in, from which door of the three it matters not.

The desires of men are not only exorbitant, but endless: they grasp at all, and can form no scheme of perfect happiness with less. Ever since men have been formed into governments, the endeavours after universal monarchy have been bandied among them: the Athenians, the Spartans, the Thebans, and the Achaians, several times aimed at the universal dominion of Greece: the commonwealths of Carthage and Rome affected the universal empire of the world: in like manner has absolute power been pursued by the several powers in each particular state, wherein single persons have met with most success, though the endeavours of the few and the many have been frequent enough; yet, being neither so uniform in their designs, nor so direct in their views, they neither could manage nor maintain the power they had got, but were deceived by the popular ambition of some single person: so that it will be always a wrong step in policy, for the nobles or commons to carry their endeavours after power so far as to overthrow the balance. With all respect for popular assemblies be it spoken, it is hard to recollect one folly, infirmity, or vice, to which a single man is subject, and from which a body of commons, either collective or represented, can be wholly exempt; from whence it comes to pass, that in their results have sometimes been found the same spirit of cruelty and revenge, of malice and pride; the same blindness, and obstinacy, and unsteadiness; the same ungovernable rage and anger; the same injustice, sophistry, and fraud, that ever lodged in the breast of any individual. When a child grows easy by

being humoured, and a lover satisfied by small compliances without further pursuits, then expect popular assemblies to be content with small concessions. If there could one single example be brought from the whole compass of history, of any one popular assembly who, after beginning to contend for power, ever sat down quietly with a certain share; or of one that ever knew, or proposed, or declared, what share of power was their due, then might there be some hopes, that it was a matter to be adjusted by reasonings, conferences, or debates. An usurping populace is its own dupe, a mere under-worker, and a purchaser in trust for some single tyrant, whose state and power they advance to their own ruin, with as blind an instinct, as those worms that die with weaving magnificent habits for beings of a superior order. The people are more dexterous at pulling down and setting up, than at preserving what is fixed; and they are not fonder of seizing more than their own, than they are of delivering it up again to the worst bidder, with their own into the bargain. Their earthly devotion is seldom paid to above one at a time, of their own creation, whose oar they pull with less murmuring and more skill, than when they share the leading, or even hold the helm.

You will perceive by the style, that it is Dr. Swift that has been speaking; otherwise you might have been deceived, and imagined that I was entertaining you with further reflections upon the short account previously given you in these letters, of the modern republics. There is not an observation here that is not justified by the history of every government we have considered. How much more maturely had this writer weighed the subject than M. Turgot—Perhaps
there

Dr. Franklin.

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there is not to be found, in any library, so many accurate ideas of government expressed with so much perspicuity, brevity, and precision.

L E T T E R XXV.

DR. FRANKLIN.

MY DEAR SIR,

AS it is impossible to suppose that M. Turgot intended to recommend to the Americans a simple monarchy or aristocracy, we have admitted, as a supposition the most favourable to him, that, by collecting all authority into one center, he meant a single assembly of representatives of the people, without a governor, and without a senate; and although he has not explained, whether he would have the assembly chosen for life, or years, we will again admit, as the most benign construction, that he meant the representatives should be annually chosen.

Here we shall be obliged to consider the reputed opinion of another philosopher, I mean Dr. Franklin: I say reputed, because I am not able to affirm that it is really his: it is, however, so generally understood and reported, both in Europe and America, that his judgement was in opposition to two assemblies, and in favour of a single one, that in a disquisition like this it ought not to be omitted. To be candid with you, a little before the date of M. Turgot's letter, Dr. Franklin had arrived in Paris with the American constitutions, and among the rest that of Pennsylvania, in
which

which there was but one assembly : it was reported too, that the doctor had presided in the convention when it was made, and there approved it. M. Turgot, reading over the constitutions, and admiring that of Pennsylvania, was led to censure the rest, which were so different from it.—I know of no other evidence, that the doctor ever gave his voice for a single assembly, but the common anecdote which is known to every body. It is said, that in 1776, in the convention of Pennsylvania, of which the doctor was president, a project of a form of government by one assembly was before them in debate: a motion was made to add another assembly under the name of a senate or council; this motion was argued by several members, some for the affirmative, and some for the negative; and before the question was put the opinion of the president was requested: the president rose, and said, that “ Two assemblies
“ appeared to him, like a practice he had some-
“ where seen, of certain waggoners who, when
“ about to descend a steep hill with a heavy load,
“ if they had four cattle, took off one pair from
“ before, and chaining them to the hinder part
“ of the waggon, drove them up hill; while the
“ pair before, and the weight of the load, over-
“ balancing the strength of those behind, drew
“ them slowly and moderately down the hill.”

The president of Pennsylvania might, upon such an occasion, have recollected one of Sir Isaac Newton's laws of motion, viz. “ that re-action
“ must always be equal and contrary to action,” or there can never be any *rest*.—He might have alluded to those angry assemblies in the heavens, which so often overspread the city of Philadelphia, fill the citizens with apprehension and terror, threatening to set the world on fire, merely be-
cause

cause the powers within them are not sufficiently balanced. He might have recollected, that a pointed rod, a machine as simple as a waggoner, or a monarch, or a governor, would be sufficient at any time, silently and innocently, to disarm those assemblies of all their terrors, by restoring between them the balance of the powerful fluid, and thus prevent the danger and destruction to the properties and lives of men, which often happen for the want of it.

However, allusions and illustrations drawn from pastoral and rural life are never disagreeable, and in this case might be as apposite as if they had been taken from the sciences and the skies.—Harrington, if he had been present in convention, would have exclaimed, as he did when he mentioned his two girls dividing and choosing a cake; “Oh! the depth of the wisdom of God, which in the simple invention of a carter, has revealed to mankind the whole mystery of a commonwealth; which consists as much in dividing and equalizing forces; in controuling the weight of the load and the activity of one part, by the strength of another, as it does in dividing and choosing.” Harrington too, instead of his children dividing and choosing their cake, might have alluded to those attractions and repulsions by which the balance of nature is preserved: or to those centripetal and centrifugal forces by which the heavenly bodies are continued in their orbits, instead of rushing to the sun, or flying off in tangents among comets and fixed stars: impelled, or drawn by different forces in different directions, they are blessings to their own inhabitants and the neighbouring systems; but if they were drawn only by one, they would introduce anarchy wherever they should go. There is no objection to such allusions,

sions, whether simple or sublime, as they may amuse the fancy and illustrate an argument: all that is insisted on is, that whatever there is in them of wit or argument, is all in favour of a complication of forces, of more powers than one; of three powers indeed, because a balance can never be established between two orders in society, without a third to aid the weakest.

All that is surprising here is, that the real force of the simile should have been misunderstood: if there is any similitude, or any argument in it, it is clearly in favour of two assemblies. The weight of the load itself would roll the waggon on the oxen, and the cattle on one another, in one scene of destruction, if the forces were not divided and the balance formed, whereas by checking one power by another, all descend the hill in safety, and avoid the danger. It should be remembered too, that it is only in descending uncommon declivities that this division of strength becomes necessary. In travelling in ordinary plains, and always in ascending mountains, the whole team draws together, and advances faster as well as easier on its journey: it is also certain, there are oftener arduous steepes to mount, which require the united strength of all, with all the skill of the director, than there are precipices to descend, which demand a division of it.

Let us now return to M. Turgot's idea of a government consisting in a single assembly.—He tells us, our republics are “founded on the equality of all the citizens, and therefore “orders” “and “equilibriums” are unnecessary, and occasion disputes.”—But what are we to understand here by equality? Are the citizens to be all of the same age, sex, size, strength, stature, activity, courage, hardiness, industry, patience, ingenuity,

ity, wealth, knowledge, fame, wit, temperance, constancy, and wisdom? Was there, or will there ever be, a nation, whose individuals were all equal in natural and acquired qualities, in virtues, talents, and riches? The answer of all mankind must be in the negative.—It must then be acknowledged, that in every state, in the Massachusetts for example, there are inequalities which God and nature have planted there, and which no human legislator ever can eradicate. I should have chosen to have mentioned Virginia, as the most ancient state, or indeed any other in the union, rather than the one that gave me birth, if I were not afraid of putting suppositions which may give offence, a liberty which my neighbours will pardon: yet I shall say nothing that is not applicable to all the other twelve.

In this society of Massachusettensians, then, there is, it is true, a moral and political equality of rights and duties among all the individuals, and as yet no appearance of artificial inequalities of condition, such as hereditary dignities, titles, magistracies, or legal distinctions; and no established marks, as stars, garters, crosses, or ribbons: there are, nevertheless, inequalities of great moment in the consideration of a legislator, because they have a natural and inevitable influence in society. Let us enumerate some of them:
1. There is an inequality of wealth: some individuals, whether by descent from their ancestors, or from greater skill, industry, and success in business, have estates both in lands and goods of great value; others have no property at all; and all the rest of the society, much the greater number, are possessed of wealth, in all the variety of degrees, between these extremes: it will easily be conceived, that all the rich men will have many
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of the poor, in the various trades, manufactures, and other occupations in life, dependent upon them for their daily bread: many of smaller fortunes will be in their debt, and in many ways under obligations to them: others, in better circumstances, neither dependent nor in debt, men of letters, men of the learned professions, and others, from acquaintance, conversation, and civilities, will be connected with them, and attached to them. Nay farther, it will not be denied, that among the wisest people that lives, there is a degree of admiration, abstracted from all dependence, obligation, expectation, or even acquaintance, which accompanies splendid wealth, ensures some respect, and bestows some influence.

2. Birth. Let no man be surpris'd, that this species of inequality is introduced here. Let the page in history be quoted, where any nation, ancient or modern, civilized or savage, is mentioned, among whom no difference was made between the citizens on account of their extraction. The truth is, that more influence is allowed to this advantage in free republics, than in despotic governments, or than would be allowed to it in simple monarchies, if severe laws had not been made from age to age to secure it. The children of illustrious families have generally greater advantages of education, and earlier opportunities to be acquainted with public characters, and informed of public affairs, than those of meaner ones, or even than those in middle life; and what is more than all, an habitual national veneration for their names, and the characters of their ancestors described in history, or coming down by tradition, removes them farther from vulgar jealousy and popular envy, and secures them in some degree the favour, the affection, and respect of the public.

public. Will any man pretend that the name of Andros, and that of Winthrop, are heard with the same sensations in any village of New England? Is not gratitude the sentiment that attends the latter, and disgust the feeling excited by the former? In the Massachusetts, then, there are persons descended from some of their ancient governors, counsellors, judges, whose fathers, grandfathers and great grandfathers, are remembered with esteem by many living, and who are mentioned in history with applause, as benefactors to the country, while there are others who have no such advantage. May we go a step farther—Know thyself is as useful a precept to nations as to men. Go into every village in New England, and you will find that the office of justice of the peace, and even the place of representative, which has ever depended only on the freest election of the people, have generally descended from generation to generation, in three or four families at most. The present subject is one of those which all men respect, and all men deride. It may be said of this part of our nature, as Pope said of the whole :

Of human nature, wit her worst may write,
We all revere it in our own despight.

If, as Harrington says, the ten commandments were voted by the people of Israel, and have been enacted as laws by all other nations; and if we should presume to say, that nations had a civil right to repeal them, no nation would think proper to repeal the fifth, which enjoins honour to parents: if there is a difference between right and wrong; if any thing can be sacred; if there
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is one idea of moral obligation; the decree of nature must force upon every thinking being, and upon every feeling heart, the conviction that honour, affection, and gratitude are due from children, to those who gave them birth, nurture, and education. The sentiments and affections which naturally arise, from reflecting on the love, the cares, and the blessings of parents, abstracted from the consideration of duty, are some of the most forcible and most universal. When religion, law, morals, affection, and even fashion, thus conspire to fill every mind with attachment to parents, and to stamp deep upon the heart their impressions, is it to be expected that men should reverence their parents while they live, and begin to despise or neglect their memories as soon as they are dead? This is in nature impossible; on the contrary, every little unkindness and severity is forgotten, and nothing but endearments remembered with pleasure.

The son of a wise and virtuous father finds the world about him sometimes as much disposed as he himself is, to honour the memory of his father; to congratulate him as the successor to his estate; and frequently, to compliment him with elections to the offices he held. A sense of duty, his passions and his interest, thus conspiring to prevail upon him to avail himself of this advantage, he finds a few others in similar circumstances with himself; they naturally associate together, and aid each other. This is a faint sketch of the source and rise of the family spirit: very often the disposition to favour the family is as strong, in the town, county, province, or kingdom, as it is in the house itself. The enthusiasm is indeed sometimes wilder, and carries away, like a torrent, all before it.

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These observations are not peculiar to any age; we have seen the effects of them in St. Marino, Biscay, and the Grisons, as well as in Poland, and all other countries. Not to mention any notable examples, which have lately happened near us, it is not many months since I was witness to a conversation between some citizens of Massachusetts: one was haranguing on the jealousy which a free people ought to entertain of their liberties, and was heard by all the company with pleasure; in less than ten minutes the conversation turned upon their governor; and the jealous republican was very angry at the opposition to him: "The present governor," says he, "has done us such services, that he ought to rule us, he and his posterity after him for ever and ever." Where is your jealousy of liberty? demanded the other. "Upon my honour," replies the orator, "I had forgot that; you have caught me in an inconsistency; for I cannot know whether a child of five years old will be a son of liberty or a tyrant." His jealousy was the dictate of his understanding; his confidence and enthusiasm the impulse of his heart.

The pompous trumpery of ensigns, armorials, and escutcheons, are not indeed far advanced in America. Yet there is a more general anxiety to know their originals, in proportion to their numbers, than in any nation of Europe; arising from the easier circumstances and higher spirits of the common people: and there are certain families in every state, as attentive to all the proud frivolities of heraldry. That kind of pride which looks down on commerce and manufactures as degrading, may, indeed, in many countries of Europe, be a useful and necessary quality in the nobility: it may prevent, in some degree, the whole nation

from being delivered up entirely to the spirit of avarice: it may be the cause, why honour is preferred by some to money: it may prevent the nobility from becoming too rich, and acquiring too large a proportion of the landed property. In America, it would not only be mischievous, but would expose the highest pretensions of the kind to universal ridicule and contempt. Those other hauteurs, of keeping the commons at a distance, and disdaining to converse with any but a few of a certain race, may, in Europe, be a favour to the people, by relieving them from a multitude of assiduous attentions and humiliating compliances, which would be troublesome; it may prevent the nobles from caballing with the people, and gaining too much influence with them in elections and otherwise. In America, it would justly excite universal indignation; the vainest of all must be of the people, or be nothing. While every office is equally open to every competitor, and the people must decide upon every pretension to a place in the legislature, that of governor and senator, as well as representative, no such airs will ever be endured. It must be acknowledged still, that some men must take more pains to deserve and acquire an office than others, and must behave better in it, or they will not hold it.

We cannot presume that a man is good or bad, merely because his father was one or the other; and should always inform ourselves first, whether the virtues and talents are inherited, before we yield our confidence. Wise men beget fools, and honest men knaves; but these instances, although they may be frequent, are not general. If there is often a likeness in feature and figure, there is generally more in mind and heart, because education contributes to the formation of these as well

well as nature. The influence of example is very great, and almost universal, especially of parents over their children. In all countries it has been observed, that vices, as well as virtues, run down in families, very often, from age to age. Any man may run over in his thoughts the circle of his acquaintance, and he will probably recollect instances of a disposition to mischief, malice, and revenge, descending, in certain breeds, from grandfather to father and son. A young woman was lately convicted at Paris of a trifling theft, barely within the law, which decreed a capital punishment. There were circumstances, too, which greatly alleviated her fault; some things in her behaviour that seemed innocent and modest: every spectator, as well as the judges, was affected at the scene, and she was advised to petition for a pardon, as there was no doubt it would be granted. "No," says she, "my grandfather, father, and brother, were all hanged for stealing; it runs in the blood of our family to steal, and be hanged; if I am pardoned now, I shall steal again in a few months more inexcuseably: and therefore I will be hanged now."—An hereditary passion for the halter is a strong instance, to be sure, and cannot be very common: but something like it too often descends, in certain breeds, from generation to generation.

If vice and infamy are thus rendered less odious, by being familiar in a family, by the example of parents, and by education, it would be as unhappy as unaccountable, if virtue and honour were not recommended and rendered more amiable to children by the same means.

There are, and always have been, in every state, numbers possessed of some degree of family pride, who have been invariably encouraged, if not flattered

tered in it, by the people. These have most acquaintance, esteem, and friendship, with each other, and mutually aid each other's schemes of interest, convenience, and ambition. Fortune, it is true, has more influence than birth; a rich man of an ordinary family, and common decorum of conduct, may have greater weight than any family merit commonly confers without it. 3. It will be readily admitted, there are great inequalities of merit, or talents, virtues, services, and, what is of more moment, very often of reputation. Some, in a long course of service in an army, have devoted their time, health, and fortunes, signalized their courage and address, exposed themselves to hardships and dangers, lost their limbs, and shed their blood, for the people. Others have displayed their wisdom, learning, and eloquence in council, and in various other ways acquired the confidence and affection of their fellow citizens, to such a degree, that the public have settled into a kind of habit of following their example, and taking their advice. 4. There are a few, in whom all these advantages of birth, fortune, and fame are united.

These sources of inequality, which are common to every people, and can never be altered by any, because they are founded in the constitution of nature; this natural aristocracy among mankind, has been dilated on, because it is a fact essential to be considered in the institution of a government. It is a body of men which contains the greatest collection of virtues and abilities in a free government; it is the brightest ornament and glory of the nation; and may always be made the greatest blessing of society, if it be judiciously managed in the constitution; but if it is not, it is always the most dangerous; nay, it may be added,

added, it never fails to be the destruction of the commonwealth. What shall be done to guard against it? Shall they be all massacred? This experiment has been more than once attempted, and once at least tried. Guy Faux attempted it in England; and a king of Denmark, aided by a popular party, effected it once in Sweden; but it answered no good end. The moment they were dead, another aristocracy instantly arose, with equal art and influence, with less delicacy and discretion, if not principle, and behaved more intolerably than the former. The country, for centuries, never recovered from the ruinous consequences of a deed so horrible, that one would think it only to be met with in the history of the kingdom of darkness.

There is but one expedient yet discovered, to avail the society of all the benefits from this body of men, which they are capable of affording, and at the same time to prevent them from undermining or invading the public liberty; and that is, to throw them all, or at least the most remarkable of them, into one assembly together, in the legislature; to keep all the executive power entirely out of their hands as a body; to erect a first magistrate over them, invested with the whole executive authority; to make them dependent on that executive magistrate for all public executive employments; to give that first magistrate a negative on the legislature, by which he may defend both himself and the people from all their enterprises in the legislature; and to erect on the other side of them an impregnable barrier against them, in a house of commons, fairly, fully, and adequately representing the people, who shall have the power both of negating all their attempts at encroachments in the legislature, and of withholding both from them and the crown all sup-
plies,

plies, by which they may be paid for their services in executive offices, or even the public service carried on to the detriment of the nation.

We have seen, both by reasoning and in experience, what kind of equality is to be found or expected in the simplest people in the world. There is not a city nor a village, any more than a kingdom or commonwealth, in Europe or America; not a hord, clan, or tribe, among the negroes of Africa, or the savages of North or South America; nor a private club in the world, in which such inequalities are not more or less visible. There is, then, a certain degree of weight in the public opinion and deliberations, which property, family, and merit will have: if M. Turgot had discovered a mode of ascertaining the quantity which they ought to have, and had revealed it to mankind, so that it might be known to every citizen, he would have deserved more of their gratitude than all the inventions of philosophers. But, as long as human nature shall have passions and imagination, there is too much reason to fear that these advantages, in many instances, will have more influence than reason and equity can justify.

Let us then reflect, how the single assembly in the Massachusett's, in which our great statesman wishes all authority concentrated, will be composed. There being no senate nor council, all the rich, the honourable, and meritorious, will stand candidates for seats in the house of representatives, and nineteen in twenty of them obtain elections. The house will be found to have all the inequalities in it, that prevailed among the people at large. Such an assembly will be naturally divided into three parts.—The first is, of some great genius, some masterly spirit, who unites in himself all the

the qualities which constitute the natural foundations of authority; such as benevolence, wisdom, and power; and all the adventitious attractions of respect; such as riches, ancestry, and personal merit. All eyes are turned upon him for their president or speaker.—The second division comprehends a third, or a quarter, or, if you will, a sixth or an eighth of the whole; and consists of those who have the most to boast of resembling their head.—In the third class are all the rest, who are nearly on a level in understanding, and in all things. Such an assembly has in it, not only all the persons of the nation who are most eminent for parts and virtues, but all those who are most inflamed with ambition and avarice, and who are most vain of their descent. These latter will, of course, constantly endeavour to increase their own influence, by exaggerating all the attributes they possess, and by augmenting them in every way they can think of; and will have friends, whose only chance for rising into public view will be under their protection, who will even be more active and zealous than themselves in their service. Notwithstanding all the equality that can ever be hoped for among men, it is easy to see that the third class will, in general, be but humble imitators and followers of the second. Every man in the second class will have constantly about him a circle of members of the third, who will be his admirers; perhaps afraid of his influence in the districts they represent, related to him by blood, connected with him in trade, or dependent upon him for favours. There will be much envy too, among individuals of the second class, against the speaker, although a sincere veneration is shewn him by the majority, and great external respect by all. I said there

would be envy; because, there will be, among the second class, several, whose fortunes, families, and merits, in the acknowledged judgement of all, approach near to the first; and, from the ordinary illusions of self-love and self-interest, they and their friends will be much disposed to claim the first place as their own right. This will introduce controversy and debate, as well as emulation; and those who wish for the first place, and cannot obtain it, will of, course, endeavour to keep down the speaker as near upon a level with themselves as possible, by paring away the dignity and importance of his office, as we saw in Venice, Poland, and every where else.

A single assembly thus constituted, without any counterpoise, balance, or equilibrium, is to have all authority, legislative, executive, and judicial, concentrated in it. It is to make a constitution and laws by its own will, execute those laws at its pleasure, and adjudge all controversies that arise concerning the meaning and application of them, at discretion. What is there to restrain them from making tyrannical laws, in order to execute them in a tyrannical manner?

Will it be pretended, that the jealousy and vigilance of the people, and their power to discard them at the next election, will restrain them? Even this idea supposes a balance, an equilibrium, which M. Turgot holds in so much contempt; it supposes the people at large to be a check and controul to the representative assembly. But this would be found a mere delusion. A jealousy between the electors and the elected neither ought to exist, nor is possible to exist. It is a contradiction to suppose, that a body of electors should have at one moment a warm affection and entire confidence in a man, so as to intrust him
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Dr. Price.

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with authority, limited or unlimited, over their lives and fortunes; and, the next moment after his election, to commence a suspicion of him, that shall prompt them to watch all his words, actions, and motions, and dispose them to renounce and punish him. They choose him, indeed, because they think he knows more, and is better disposed, than the generality, and even than themselves very often. Indeed the best use of a representative assembly arises from the cordial affection and unreserved confidence which subsists between it and the collective body of the people. It is by such a kind and candid intercourse alone, that the wants and desires of the people can be made known, on the one hand, or the necessities of the public communicated or reconciled to them, on the other. In what did such a confidence in one assembly end, in Venice, Geneva, Biscay, Poland, but an aristocracy, and an oligarchy? There is no special providence for Americans, and their natures are the same with others.

LETTER XXVI.

DR. PRICE.

DEAR SIR,

TO demonstrate the necessity of two assemblies in the legislature, as well as of a third branch in it, to defend the executive authority, it may be laid down as a first principle, that neither liberty nor justice can be secured to the individuals of a nation, nor its prosperity promoted,

moted, but by a fixed constitution of government, and stated laws, known and obeyed by all.— M. Turgot, indeed, censures the “ falsity of the “ notion, so frequently repeated by almost all “ republican writers, ‘ that liberty consists in be- “ ing subject only to the laws ;’ as if a man could “ be free while oppressed by an unjust law. “ This would not be true, even if we could sup- “ pose, that all laws were the work of an assem- “ bly of the whole nation ; for certainly every “ individual has his rights, of which the nation “ cannot deprive him, except by violence, and an “ unlawful use of the general power.”

We often hear and read of free states, a free people, a free nation, a free country, a free kingdom, and even of free republics ; and we understand, in general, what is intended, although every man may not be qualified to enter into philosophical disquisitions concerning the meaning of the word liberty, or to give a logical definition of it.

Our friend Dr. Price has distinguished very well, concerning physical, moral, religious, and civil liberty : and has defined the last to be “ the power of a civil society to govern itself, “ by its own discretion, or by laws of its own “ making, by the majority, in a collective body, “ or by fair representation. In every free state, “ every man is his own legislator. Legitimate “ government consists only in the dominion of “ *equal laws*, made with *common consent*, and “ not in the dominion of any men over other “ men.”

M. Turgot, however, makes the doctor too great a compliment, at the expence of former English writers, when he represents him as “ the “ first of his countrymen who have given a “ just

“just idea of liberty, and shewn the falsity, so
“often repeated by almost all republican writers,
“that liberty consists in being subject only to the
“laws.”

I shall cheerfully agree with M. Turgot, that it is very possible that laws, and even equal laws made by common consent, may deprive the minority of the citizens of their rights. A society by a majority, may govern itself, even by equal laws, that is, by laws to which all, majority and minority, are *equally* subject, so as to oppress the minority. It may establish an uniformity in religion; it may restrain trade; it may confine personal liberty of all equally, and against the judgement of many, even of the best and wisest, without reasonable motives, use, or benefit. We may go farther, and say, that a nation may be unanimous in consenting to a law restraining their natural liberty, property, and commerce, and their moral and religious liberties too, to a degree that may be prejudicial to the nation and every individual in it. A nation of Catholics might unanimously consent to prohibit labour upon one half the days in the year, as feast days, The whole American nation might unanimously consent to a Sunday law, and a warden act, which should deprive them of the use of their limbs one day in seven. A nation may unanimously agree to a navigation act, which should shackle the commerce of all. Yet Dr. Price's definition of civil liberty is as liable to this objection as any other. These would all be *equal laws*, made with *common consent*: these would all be acts of legitimate government. To take in M. Turgot's idea, then, we must add to Dr. Price's ideas of *equal laws*, by *common consent*, this other—for the *general interest*, or the *public good*. But it is generally supposed, that
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nations understand their own interest better than another; and therefore they may be trusted to judge of the public good: and in all the cases above supposed, they will be as free as they desire to be; and therefore may, with great propriety, be called free nations, and their constitutions free republics. There can be no way of compelling nations to be more free than they choose to be.

But M. Turgot has mistaken the sense of republican writers, especially of the English ones. What republican writers he had in view I know not. There is none that I remember, of any name, who has given so absurd a definition of liberty. His countryman, Montesquieu, who will scarcely be denominated a republican writer, has said something the most like it; but it is manifest that his meaning was confined to equal laws, made by common consent. Although there may be unjust and unequal laws, obedience to which would be incompatible with liberty; yet no man will contend, that a nation can be free, that is not governed by fixed laws. All other government than that of permanent known laws, is the government of mere will and pleasure, whether it be exercised by one, a few, or many. Republican writers in general, and those of England in particular, have maintained the same principle with Dr. Price, and have said, that legitimate governments, or well-ordered commonwealths, or well-constituted governments, were those where the laws prevailed; and have always explained their meanings to be, *equal laws* made by *common consent*, or the *general will*—that is to say, made by the majority, and equally binding upon majority and minority. As it is of importance to rescue the good old republican writers from such an imputation,

tation, let me beg your patience while we look into some of them.

Aristotle says, that "a government where the laws alone should prevail, would be the kingdom of God." This indeed shows that this great philosopher had much admiration of such a government: but is not the assertion that M. Turgot condemns, viz. that liberty consists in being subject to the laws only.

Aristotle says too, in another place, "Order is law, and it is more proper that law should govern, than any one of the citizens: upon the same principle, if it is advantageous to place the supreme power in some particular persons, they should be appointed to be only guardians, and the servants of the laws." These two are very just sentiments, but not a formal definition of liberty.

Livy, too, speaks of happy, prosperous, and glorious times, when "*Imperia legum potentiora fuerunt quam hominum.*" But he no where says that liberty consists in being subject only to the *legum imperio*.

Sidney says, "No sedition was hurtful to Rome, until, through their prosperity, some men gained a power above the laws."

In another place he tells us too, from Livy, that some, whose ambition and avarice were impatient of restraint, complained that "*leges rem surdam esse, inexorabilem, salubriorem inopi quam potenti.*"

And in another, that "no government was thought to be well constituted, unless the laws prevailed against the commands of men." But he has no where defined liberty to be subjection to the laws only.

Harrington

Harrington says, Government *de jure*, or according to ancient prudence, is an art, whereby a civil society of men is instituted and preserved upon the foundation of *common interest*; or, to follow Aristotle and Livy, it is an empire of laws and not of men. And government, to define it according to modern prudence, or *de facto*, is an art, by which some man, or some few men, subject a city or a nation, and rule it according to his or their private interest; which, because the laws in such cases are made according to the interest of a man, or a few families, may be said to be the empire of men, and not of laws."

Harrington, Politicaster, scene 2. agrees, that law proceeds from the will of man, whether a monarch or people; and that this will must have a mover; and that this mover is interest: but the interest of the people is one thing—it is the public interest; and where the public interest governs, it is a government of laws, and not of men: the interest of a king, or of a party, is another thing—it is a private interest; and where private interest governs, it is a government of men, and not of laws. If, in England, there has ever been any such thing as a government of laws, was it not *magna charta*? and have not our kings broken *magna charta* thirty times? Did the law govern when the law was broken? or was that a government of men? On the contrary, hath not *magna charta* been as often repaired by the people? and, the law being so restored, was it not a government of laws, and not of men? Why have our kings, in so many statutes and oaths, engaged themselves to govern by law, if there were not in kings a capacity of governing otherwise? It is true, that laws are neither
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made by angels, nor by horses, but by men. The voice of the people is as much the voice of men, as the voice of a prince is the voice of a man; and yet the voice of the people is the voice of God, which the voice of a prince is not. The government of laws, said Aristotle, is the government of God. In a monarchy, the laws, being made according to the interest of one man, or a few men, must needs be more private and partial than suits with the nature of justice; but in a commonwealth, the laws being made by the whole people, must come up to the public interest, which is common right and justice—and if a man know not what is his own interest, who should know it? and that which is the interest of the most or greatest number of particular men, being summed up in the common vote, is the public interest.

Sidney says, “Liberty consists solely in an
“independency on the will of another; and, by
“a slave, we understand a man who can neither
“dispose of his person or goods, but enjoys all
“at the will of his master.” And again, “As
“liberty consists only in being subject to no
“man’s will, and nothing denotes a slave, but a
“dependence upon the will of another; if there
“be no other law in a kingdom but the will of a
“prince, there is no such thing as liberty.”

Mr. Turgot might have perceived in these writers, that a government of laws, and not of men, was intended by them as a description of a commonwealth, not a definition of liberty. There may be various degrees of liberty established by the laws, and enjoyed by the citizens, in different commonwealths; but still the general will, as well as the general interest, as far as it is understood by the people, prevails in all that can
be

be denominated free: as the society governs itself, it is free, according to the definition of Dr. Price. The inquiry of these writers, in such passages, was not into the highest point of liberty, or greatest degree of it, which might be established by the general will, and the common sense of interest, in their results or laws. They have taken it for granted, that human nature is so fond of liberty, that, if the whole society were consulted, a majority would never be found to put chains upon themselves, by their own act and voluntary consent.

But all men, as well as republican writers, must agree, that there can be no uninterrupted enjoyment of liberty, nor any good government in society, without laws, or where standing laws do not govern. In despotic states, in simple monarchies, in aristocracies, in democracies, in all possible mixtures of these, the individual enjoys continually the benefit of law, as he does those of light and air, although, in most of those governments, he has no security for the continuance of it. If the laws were all repealed at once, in any great kingdom, and the event made known suddenly to all, there would scarcely a house remain in possession of its present inhabitants, in the great cities.

The great question therefore is, What combination of powers in society, or what form of government, will compel the formation of good and equal laws, an impartial execution, and faithful interpretation of them, so that the citizens may constantly enjoy the benefit of them, and be sure of their continuance. The controversy between M. Turgot and me is—whether a single assembly of representatives be this form. He maintains the affirmative. I am for the negative: because

Such an assembly will, upon the first day of its existence, be an aristocracy ; in a few days, or years at least, an oligarchy ; and then it will soon divide into two or three parties, who will soon have as many armies ; and, when the battle is decided, the victorious general will govern without or with the advice of any council or assembly, as he pleases : or, if the assembly continues united, they will in time exclude the people from all share even in elections, and make the government hereditary in a few families. In order to be fully convinced of this, we must take an extensive view of the subject ; and the first inquiry should be, what kind of beings men are ? You and I admire the fable of Tristram Shandy more than the fable of the Bees, and agree with Butler rather than Hobbes. It is weakness rather than wickedness which renders men unfit to be trusted with unlimited power. The passions are all unlimited ; nature has left them so : if they could be bounded, they would be extinct ; and there is no doubt they are of indispensable importance in the present system. They certainly increase too, by exercise, like the body. The love of gold grows faster than the heap of acquisition : the love of praise increases by every gratification, till it stings like an adder, and bites like a serpent ; till the man is miserable every moment when he does not snuff the incense : ambition strengthens at every advance, and at last takes possession of the whole soul so absolutely, that the man sees nothing in the world of importance to others, or himself, but in his object. The subtilty of these three passions, which have been selected from all the others because they are aristocratical passions, in subduing all others,

and even the understanding itself, if not the conscience too, until they become absolute and imperious masters of the whole mind, is a curious speculation. The cunning with which they hide themselves from others, and from the man himself too ; the patience with which they wait for opportunities ; the torments they voluntarily suffer for a time, to secure a full enjoyment at length ; the inventions, the discoveries, the contrivances they suggest to the understanding, sometimes in the dullest dunces in the world, if they could be described in writing, would pass for great genius.

We are not enough acquainted with the physical or metaphysical effects they may have on our bodies or minds, to be able to explain the particular reason why every instance of indulgence strengthens and confirms the subsequent emotions of desire. The cause has been hitherto too deep, remote, and subtle, for the search of corporeal or intellectual microscopes ; but the fact is too decided to deceive or escape our observation. Men should endeavour at a *balance* of affections and appetites, under the monarchy of reason and conscience, within, as well as at a balance of power without. If they surrender the guidance, for any course of time, to any one passion, they may depend upon finding it, in the end, an usurping, domineering, cruel tyrant. They were intended by nature to live together in society, and in this way to restrain one another, and in general are very good kind of creatures ; but they know each other's imbecility so well, that they ought never to lead one another into temptation. The passion that is long indulged, and continually gratified, becomes mad ; it is a species

cies of delirium ; it should not be called guilt, but insanity ; but who would trust his life, liberty, and property, to a madman, or an assembly of them ? it would be safer to confide in knaves. Five hundred or five thousand together, in an assembly, are not less liable to this extravagance than one. The nation that commits its affairs to a single assembly, will assuredly find that its passions and desires augment as fast as those of a king ; and therefore such a constitution must be essentially defective.

Others have seen this quality in human nature through a more gloomy medium.

Machiavel says, those who have written on civil government lay it down as a first principle, and all historians demonstrate the same, that whoever would found a state, and make proper laws for the government of it, must presume that all men are bad by nature ; and that they will not fail to shew that natural depravity of heart, whenever they have a fair opportunity ; and, though possibly it may lie concealed for a while, on account of some secret reason, which does not then appear to men of small experience, yet time, which is therefore justly called the father of truth, commonly brings it to light in the end. Machiavel's translator remarks, that although this seems a harsh supposition, does not every Christian daily justify the truth of it, by confessing it before God and the world ? and are we not expressly told the same in several passages of the holy scriptures, and in all systems of human philosophy ?

Montesquieu says, " Constant experience shews
" us, that every man invested with power is apt
" to abuse it : he pushes on, till he comes to
" something that limits him. Is it not strange,

though true, to say, that virtue itself has need of limits? to prevent the abuse of power, it is necessary, that, by the very disposition of things, power should be a check to power. A government may be so constituted, as no man shall be compelled to do things to which the law does not oblige him, nor forced to abstain from things which the law permits.

Swift.—So endless and exorbitant are the desires of men, that they will grasp at all, and can form no scheme of perfect happiness with less. It is hard to recollect one folly, infirmity, or vice, to which a single man is subjected, and from which a body of commons, collective or representative (and he might have added a body of nobles) can be wholly exempt.

Junius.—Laws are intended, not to trust to what men will do, but to guard against what they may do.

Beccaria.—*Ogni uomo si fa centro di tutte le combinazioni del globo.*

Rochefaucault.—The ambitious deceive themselves, when they propose an end to their ambition; for that end, when attained, becomes a means.

De Lolme.—Experience evinces, that the happiest dispositions are not proof against the allurements of power, which has no charms but as it leads on to new advances. Authority endures not the very idea of restraint; nor does it cease to struggle, till it has beaten down every boundary.

Hobbes, Mandeville, Rochefaucault, have drawn still more detestable pictures; and Rousseau, in his *Inequalities among Mankind*, gives a description of a civilized heart, too black and horrible to be transcribed.

Even our amiable friends, those benevolent Christian philosophers, Dr. Price and Dr. Priestley, acquaint

acquaint us, that they are constrained to believe human nature no better than it should be. The latter says, there is no power on earth but has grown exorbitant, when it has met with no controul.

The former : “ Such are the principles that govern human nature ; such the weakness and folly of men ; such their love of domination, selfishness, and depravity, that none of them can be raised to an elevation above others, without the utmost danger. The constant experience of the world has verified this, and proved that nothing intoxicates the human mind so much as power. In the establishment, therefore, of civil government, it would be preposterous to rely on the discretion of any men. A people will never oppress themselves, or invade their own rights ; but if they trust the arbitrary will of a body or succession of men, they trust enemies.”

Shall we say that all these philosophers were ignorant of human nature ? With all my soul, I wish it were in my power to quote any passages in history or philosophy, which might demonstrate all these satires on our species to be false. But the phenomena are all in their favour ; and the only question to be raised with them is, whether the cause is wickedness, weakness or insanity ? In all events, we must agree, that human nature is not fit to be trusted with M. Turgot’s system, of all authority in a single assembly.

A single assembly will never be a steady guardian of the laws, if Machiavel is right, when he says, “ Men are never good but through necessity : on the contrary, when good and evil are left to their choice, they will not fail to throw every thing into disorder and confusion. Hunger and poverty may make men industrious, but laws only can

“ make them good; for, if men were so of them-
 “ selves, there would be no occasion for laws; but,
 “ as the case is far otherwise, they are absolutely
 “ necessary. After the Tarquins were dead, who
 “ had been such a check upon the nobility, some
 “ other expedient was wanting to have the same
 “ effect; so that, after much confusion and disorder,
 “ and many dangerous contests between the
 “ patricians and plebeians, certain officers, called
 “ tribunes, were created for the security of the latter;
 “ who, being vested with such privileges and
 “ authority as enabled them to become arbiters
 “ betwixt those two estates, effectually curbed the
 “ insolence of the former:” or, in the language of
 Dr. Franklin, the people insisted upon hitching a
 yoke of cattle behind the waggon, to draw up hill,
 when the patricians before should attempt to go
 too fast: or, in the stile of Harrington, the commons,
 finding the patricians disposed to divide the cake
 unequally, demanded the privilege of choosing.

If Harrington's authority is not of great weight
 with some men, the reasons he assigns in support of
 his judgement are often eternal, and unanswerable
 by any man. In his *Oceana* he says, “ Be the in-
 “ terest of popular government right reason, a
 “ man does not look upon reason as it is right or
 “ wrong in itself, but as it makes for him or
 “ against him: wherefore, unless you can shew
 “ such *orders* of a government, as, like those of God
 “ in nature, shall be able to constrain this or that
 “ creature to shake off that inclination which is
 “ more peculiar to it, and take up that which re-
 “ gards the common good or interest; all this is to
 “ no more end, than to persuade every man, in a
 “ popular government, not to carve for himself
 “ of that which he likes best or desires most, but
 “ to

“ to be mannerly at the public table, and give the
 “ best from himself to decency and the *common in-*
 “ *terest*. But that such *orders* may be established, as
 “ may, nay must, give the upper hand in all cases to
 “ common right and interest, notwithstanding the
 “ nearness that sticks to every man in private,
 “ and this in a way of equal certainty and facility,
 “ is known even to girls; being no other than
 “ those which are of common practice with them
 “ in diverse cases. For example: Two of them
 “ have a cake, yet undivided, which was given
 “ between them. That each of them, therefore,
 “ might have that which is due, ‘ Divide,’ says
 “ one, ‘ and I will choose; or let me divide, and
 “ you shall choose.’ If this be but once agreed
 “ upon, it is enough; for the one dividing un-
 “ equally, loses, in regard that the other takes the
 “ better half; wherefore she divides equally, and
 “ so both have right. And thus, what great philo-
 “ sophers are disputing upon in vain, is brought
 “ to light by two harmless girls; even the whole
 “ mystery of a commonwealth, which lies only in
 “ dividing and choosing.”

Now, if all authority is to be collected into one central assembly, it will have the whole power of division and choice; and we may easily conjecture what division and choice it will be. It will soon have possession of all the cakes, loaves, and fishes.

Harrington proceeds: “ Nor has God, if his
 “ works in nature be understood, left so much to
 “ mankind to dispute upon, as who shall divide
 “ and who choose, but distributed them for ever
 “ into two orders; whereof the one has the natural
 “ right of dividing, and the other of choosing.
 “ For example: A commonwealth is but a civil
 “ society of men; let us take any number of men,

“ as twenty, and immediately make a common-
 “ wealth. Twenty men, if they be not all ideots,
 “ perhaps if they be, can never come so together,
 “ but there will be such a difference in them, that
 “ about a third will be wiser, or at least less foolish,
 “ than all the rest. These, upon acquaintance,
 “ though it be but small, will be discovered, and
 “ (as stags that have the largest heads) lead the
 “ herd : for while the six, discoursing and arguing
 “ one with another, shew the eminence of their
 “ parts, the fourteen discover things that they
 “ never thought on, or are cleared in diverse truths
 “ that formerly perplexed them : wherefore, in mat-
 “ ters of common concernment, difficulty, or dan-
 “ ger, they hang upon their lips, as children upon
 “ their fathers ; and the influence thus acquired by
 “ the six, the eminence of whose parts are found to
 “ be a stay and comfort to the fourteen, is the au-
 “ thority of the fathers--*auctoritas patrum*. Where-
 “ fore this can be no other than a *natural aristocracy*,
 “ diffused by God throughout the whole body of
 “ mankind, to this end and purpose ; and there-
 “ fore such as the people have not only a natural,
 “ but a positive obligation to make use of as their
 “ guides ; as where the people of Israel are com-
 “ manded to take wise men, and understanding, and
 “ known among their tribes, to be made rulers over
 “ them. The six then approved of, as in the pre-
 “ sent case, are the senate ; not by hereditary right,
 “ or in regard to the greatness of their estates
 “ only, which would tend to such power as would
 “ force or draw the people ; but by election for
 “ their excellent parts, which tends to the advance-
 “ ment of the influence of their virtue or authority,
 “ that leads the people. Wherefore the office of
 “ the senate is not to be commanders, but coun-
 “ sellors

“ fellows of the people ; and that which is proper
 “ for counsellors, is first to debate, and after-
 “ wards to give advice in the business whereon
 “ they have debated ; whence the decrees of the
 “ senate are never laws, nor so called--*senatus con-*
 “ *sulta* ; and these, being maturely framed, it is
 “ their duty to propose to the people : wherefore
 “ the senate is no more than the debate of the com-
 “ monwealth. But to debate is to discern, or put
 “ a difference between things, that, being alike,
 “ are not the same ; or it is separating and weigh-
 “ ing this reason against that, and that reason
 “ against this ; which is *dividing*.

“ The senate then having divided, who shall
 “ choose ? Ask the girls ; for if she that divided
 “ must have chosen also, it had been little worse
 “ for the other, in case she had not divided at
 “ all, but kept the whole cake to herself ; in re-
 “ gard that, being to choose too, she divided ac-
 “ cordingly.

“ Wherefore, if the senate have any further
 “ power than to divide, the commonwealth can
 “ never be equal. But, *in a commonwealth consisting*
 “ *of a single council, there is no other to choose than*
 “ *that which divided* : whence it is, that such a
 “ council fails not to *scramble*, that is, to be fac-
 “ tious ; there being no dividing of the cake, in
 “ that case, but among themselves : *nor is there any*
 “ *other remedy, but to have another council to choose.*
 “ The wisdom of the few may be the light of
 “ mankind ; but the interest of the few is not the
 “ profit of mankind, nor of a commonwealth ;
 “ wherefore, seeing we have granted interest to be
 “ reason, they must not choose, lest they put out
 “ their light. But as the council dividing consists
 “ of the wisdom of the commonwealth, so the as-
 “ sembly

“sembly or council choosing should consist of the
 “interest of the commonwealth; as the wisdom of
 “the commonwealth is in the aristocracy, so the in-
 “terest of the commonwealth is in the whole body
 “of the people: and whereas this, in case the
 “commonwealth consists of a whole nation, is too
 “unwieldy a body to be assembled, this council is
 “to consist of such a representative as may be
 “equal, and so constituted as it can never contract
 “any other interest than that of the whole people.
 “But, in the present case, the six dividing, and the
 “fourteen choosing, must of necessity take in the
 “whole interest of the twenty. Dividing and
 “choosing, in the language of a commonwealth, is
 “debating and resolving; and whatever, upon de-
 “bate of the senate, is proposed to the people, and
 “resolved by them, is enacted by the authority of
 “the fathers, and by the power of the people—
 “*auctoritate patrum et jussu populi*; which concur-
 “ring, make a law.”

Upon these principles, and to establish a method
 of enacting laws that must of necessity be wise
 and equal, the people of most of the United States
 of America agreed upon that division of the le-
 gislative power into two houses, the house of repre-
 sentatives and the senate, which has given so much
 disgust to M. Turgot. Harrington will shew us,
 equally well, the propriety and necessity of the
 other branch, the governor: but before we proceed
 to that, it may be worth while to observe the simi-
 litude between this passage, and some of those senti-
 ments and expressions of Swift, which were quoted
 in a former letter; and there is in the *Idea of a*
Patriot King, written by his friend Lord Boling-
 broke, a passage to the same purpose, so nobly ex-
 pressed, that I cannot forbear the pleasure of tran-
 scribing

scribing it: " It seems to me, that, in order to
 " maintain the moral system of the universe at
 " a certain point, far below that of ideal perfec-
 " tion (for we are made capable of conceiving
 " what we are not capable of attaining), it has
 " pleased the author of Nature to mingle, from
 " time to time, among the societies of men, a few,
 " and but a few, of those on whom he has been
 " graciously pleased to confer a larger proportion of
 " the ethereal spirit, than in the ordinary course of
 " his providence he bestows on the sons of men.
 " These are they who engross almost the whole
 " reason of the species. Born to direct, to guide,
 " and to preserve, if they retire from the world
 " their splendour accompanies them, and en-
 " lightens even the darkness of their retreat. If
 " they take a part in public life, the effect is never
 " indifferent: they either appear the instruments
 " of divine vengeance, and their course through the
 " world is marked by desolation and oppression,
 " by poverty and servitude; or they are the guar-
 " dian angels of the country they inhabit, studious
 " to avert the most distant evil, and to procure
 " peace, plenty, and the greatest of human bles-
 " sings—liberty.

If there is then, in society, such a natural aristo-
 cracy as these great writers pretend, and as all
 history and experience demonstrate, formed partly
 by genius, partly by birth, and partly by riches,
 how shall the legislator avail himself of their in-
 fluence for the equal benefit of the public? and
 how, on the other hand, shall he prevent them from
 disturbing the public happiness? I answer, by ar-
 ranging them all, or at least the most conspicuous
 of them, together in one assembly by the name of
 a senate; by separating them from all pretensions
 to

to the executive power; and by controuling, in the legislative, their ambition and avarice, by an assembly of representatives on one side, and by the executive authority on the other. Thus you will have the benefit of their wisdom without fear of their passions. If among them there are some of Lord Bolingbroke's guardian angels, there will be some of his instruments of divine vengeance too: the latter will be here restrained by a three-fold tie; by the executive power, by the representative assembly, and by their peers in the senate. But if these were all admitted into a single popular assembly, the worst of them might in time obtain the ascendancy of all the rest. In such a single assembly, as has been observed before, almost the whole of this aristocracy will make its appearance; being returned members of it by the election of the people: these will be one class. There will be another set of members, of middling rank and circumstances, who will justly value themselves upon their independence, their integrity, and unbiaſſed affection to their country, and will pique themselves upon being under no obligation. But there will be a third class, every one of whom will have his leader among the members of the first class, whose character he will celebrate, and whose voice he will follow; and this party, after a course of time, will be the most numerous. The question then will be, whether this aristocracy in the house will unite or divide? and it is too obvious, that destruction to freedom must be the consequence equally of their union or of their division. If they unite generally in all things, as much as they certainly will in respecting each other's wealth, birth, and parts, and conduct themselves with prudence, they will strengthen themselves by insensible degrees, by playing into each

each other's hands more wealth and popularity, until they become able to govern elections as they please, and rule the people at discretion. An independent member will be their aversion; all their artifices will be employed to destroy his popularity among his constituents, and bring in a disciple of their own in his place.

But if they divide, each party will, in a course of time, have the whole house, and consequently the whole state, divided into two factions, which will struggle in words, in writing, and at last in arms, until Cæsar or Pompey must be emperor, and entail an endless line of tyrants on the nation. But long before this catastrophe, and, indeed, through every scene of the drama, the laws, instead of being permanent, and affording constant protection to the lives, liberties, and properties of the citizens, will be alternately the sport of contending factions, and the mere vibrations of a pendulum. From the beginning to the end it will be a government of men, now of one set, and then of another; but never a government of laws.

L E T T E R XXVII.

MIXED GOVERNMENTS.

MACHIAVEL'S DISCOURSES UPON THE FIRST
DECADE OF LIVY. BOOK I. C. 2.

MY DEAR SIR,

THE whole chapter is very much to the purpose, but the following paragraphs more particularly so.—According to some authors, there are but three sorts of governments, viz. monarchy or

or principality, aristocracy, and democracy; and that those who intend to erect a new state must have recourse to some one of these which he likes best. Others, and with more judgement, as many think, say there are six sorts; three of which are very bad, and the other three good in themselves, but liable to be so corrupted that they may become the worst. The three good sorts have been just now mentioned; the other three proceed from these; and every one of them bears such a resemblance to that on which it respectively depends, that the transition from one to the other is short and easy; for monarchy often degenerates into tyranny, aristocracy into oligarchy, and democracy into licentious anarchy and confusion: so that whoever sets up any one of the former three sorts of government, may assure himself it will not be of any long duration; for no precaution will be sufficient to prevent its falling into the other that is analogous to it, on account of the affinity which there seems to be in this case betwixt virtue and vice, perfection and imperfection.

This variety of governments among mankind appears to have been the effect of chance: for in the beginning of the world, the inhabitants being few, they sometimes lived separate from each other, like beasts; but afterwards, as they multiplied, they began to unite for their mutual defence, and put themselves under the protection of such as were most eminent amongst them for courage and strength, whom they engaged to obey and acknowledge as their chiefs. Hence arose the distinction betwixt honest and dishonest, just and unjust: for when any one injured his benefactor, his ingratitude excited a sort of fellow-feeling and indignation in others, as well as kindness and respect for those that behaved differently; and, as they considered that they might some time or other, perhaps,
be

be treated in the same manner themselves, if proper measures were not taken to prevent it, they thought fit to make laws for the reward of good men, and the punishment of offenders. This first gave rise to justice in the world; and from this consideration it came to pass, in process of time, that, in the election of a new chief, they had not so much regard to courage and bodily strength, as to wisdom and integrity: but afterwards, as this kind of government became gradually hereditary instead of elective, the heirs of these chieftains soon began to degenerate from the virtue of their ancestors, and to behave themselves as if they thought the main duty of a prince consisted in surpassing all other men in luxury, extravagance, effeminacy, and every sort of voluptuousness; by which, in a while, they first grew odious to their subjects, and then so jealous for themselves, that they were forced to distress and cut off others for their own security, and at last to become downright tyrants. This first occasioned combinations and conspiracies for the destruction of princes; not amongst the weak and pusillanimous part of their subjects, but among such as being more eminent for their generosity, magnanimity, riches, and birth, could not endure any longer to submit to these pitiful and oppressive governments.

The multitude, therefore, swayed by the authority of the nobles, rose in arms against their prince; and being freed from his yoke, transferred their allegiance to their deliverers, who, being thoroughly disgusted at monarchy, changed the form of government, and took it into their own hands: after which they conducted both themselves and the state according to the plan they had formed, preferring the common good to any particular advantage; and behaving, in private as well as public
affairs,

affairs, with assiduity and moderation; whilst the remembrance of their past sufferings continued fresh upon their minds. But this authority afterwards devolving upon their sons, who had not seen these changes, nor experienced the miseries of tyranny, they began to grow so dissatisfied with that sort of civil equality, that they cast off all restraint, and giving themselves up to rapine, ambition, and lust, soon changed the government again from aristocracy into an oligarchy. Their administration, however, becoming as insupportable, in a while, as the tyranny of the other had formerly been, the people naturally began to look out for some deliverer; and, having fixed upon a leader, they put themselves under his banners, and established oligarchy. But when they had done this, and came to reflect upon the oppressions they sustained under a tyrant, they resolved never to be again governed by any one man, and therefore agreed to set up a popular government, which was constituted in such a manner, that the chief authority was not vested either in a prince or in a junto of the nobility.

Now, as all new establishments are held in some degree of reverence and veneration at first, this form subsisted for some time; though no longer than those people lived, who had been the founders of it: for, after their death, their descendants degenerated into licentiousness, and such a contempt for all authority and distinction, that, every man living after his own caprice, there was nothing to be seen but confusion and violence: so that, either by the advice of some good and respectable man, or compelled by the absolute necessity of providing a remedy for these disorders and enormities, they at last determined once more to submit to the dominion of one: from which state they fell again in time, through the same gradations, and from the above-

above-mentioned causes, into misrule and licentiousness. Such is the rotation to which all states are subject; nevertheless they cannot often revert to the same kind of government, because it is not possible that they should so long exist as to undergo many of these mutations: for it frequently happens, that when a state is labouring under such convulsions, and is destitute both of strength and counsel, it falls a prey to some other neighbouring community or nation that is better governed; otherwise it might pass through the several above-mentioned revolutions again and again to infinity.

All these sorts of government then, in my opinion, are infirm and insecure; the three former from the usual shortness of their duration, and the three latter from the malignity of their own principles. The wisest legislators, therefore, being aware of these defects, never established any one of them in particular, but contrived another that partakes of them all, consisting of a prince, lords, and commons, which they looked upon as more firm and stable, because every one of these members would be a check upon the other; and of those legislators, Lycurgus certainly merits the highest praise, who constituted an establishment of this kind at Sparta, which lasted about eight hundred years, to his own great honour, as well as the tranquillity of the citizens.

Very different was the fate of the government established by Solon at Athens, which, being a simple democracy only, was of so short continuance, that it gave way to the tyranny of Pisistratus before the death of the legislator: and though, indeed, the heirs of that tyrant were expelled about forty years after, and the Athenians not only recovered their liberty, but re-establish-

ed Solon's laws and plan of government, yet they did not maintain it above one hundred years, notwithstanding they made several new regulations to restrain the insolence of the nobles, and the licentiousness of the commons; the necessity of which Solon had not foreseen: so that for want of tempering his democracy with a share of aristocracy and princely power, it was of short duration in comparison of the constitution of Sparta.

But to return to Rome.—Though that city had not a Lycurgus to model its constitution at first, in such a manner as might preserve its liberty for a long course of time, yet so many were the accidents which happened in the contests betwixt the patricians and plebeians, that chance effected what the lawgiver had not provided for: so that if it was not perfect at the beginning, it became so after a while; for though the first laws were deficient, yet they were neither incapable of amendment, nor repugnant to its future perfection; since not only Romulus, but all the rest of the kings that succeeded him, made several good alterations in them, and such as were well calculated for the support of liberty. But, as it was their intention to found a monarchy, and not a republic; when that city had shaken off the yoke of a tyrant, there seemed to be many provisions still wanting for the further maintenance of its freedom. And notwithstanding tyranny was at last eradicated by the ways and means above-mentioned yet those who had chiefly contributed to it, created two consuls to supply the place of royalty; by which it came to pass, that the name alone, and not the authority of princes, was extinguished: so that the supreme power being lodged only in the consuls and senate, the govern-
ment

ment consisted of no more than two of the three estates, which we have spoken of before, that is, of royalty and aristocracy; it remained, therefore, still necessary to admit the people into some share of the government: and the patricians growing so insolent in time (as I shall shew hereafter) that the plebeians could no longer endure it, the latter took arms, and obliged them to relinquish part of their authority, lest they should lose the whole: on the other hand, the consuls and senators still retained so much power in the commonwealth, as enabled them to support their rank and dignity with honour. This struggle gave birth to certain officers, called tribunes of the people; after the creation of whom, the state became more firm and compact, every one of the three degrees abovementioned having its proper share in the government; and so propitious was fortune to it, that although it was changed from a monarchy into an aristocracy, and afterwards into a democracy, by the steps and for the reasons already assigned, yet the royal power was never entirely abolished and given to the patricians, nor that of the patricians wholly to the plebeians: on the contrary, the authority of the three estates being duly proportioned and mixed together, gave it the highest degree of perfection that any commonwealth is capable of attaining to;—and this was owing in a great measure, if not altogether, to the dissensions that happened betwixt the patricians and plebeians, as shall be shewn more at large in the following chapters.

L E T T E R XXVII.

MIXED OR COMPOSED GOVERN-
MENTS.

SIDNEY, PAGE 22, §. 10.

DEAR SIR,

SOME small numbers of men, living within the precincts of one city, have, as it were, cast into a common stock, the right which they had of governing themselves and children, and, by common consent, joining in one body, exercised such power over every single person as seemed beneficial to the whole; and this men call perfect democracy. Others chose rather to be governed by a select number of such as most excelled in wisdom and virtue; and this, according to the signification of the word, was called aristocracy. When one man excelled all others, the government was put into his hands under the name of monarchy. But the wisest, best, and by far the greatest part of mankind, rejecting these simple species, did form governments mixed or composed of the three, as shall be proved hereafter, which commonly received their respective denomination from the part that prevailed, and did receive praise or blame, as they were well or ill-proportioned.

Sidney, p. 138. §. 16.—The best governments of the world have been composed of monarchy, aristocracy, and democracy.

As for democracy, I believe it can suit only with the convenience of a small town, accompanied with such circumstances as are seldom found.

found. But this no way obliges men to run into the other extreme, in as much as the variety of forms, between mere democracy and absolute monarchy, is almost infinite. And if I should undertake to say, there never was a good government in the world, that did not consist of the three simple species of monarchy, aristocracy, and democracy, I think I may make it good. This, at the least, is certain, that the government of the Hebrews, instituted by God, had a judge, the great Sanhedrim, and general assemblies of the people. Sparta had two kings, a senate of twenty-eight chosen men, and the like assemblies. All the Dorian cities had a chief magistrate, a senate, and occasional assemblies. The cities of Ionia, Athens, and others, had an Archon, the Areopagitæ, &c.; and all judgements concerning matters of the greatest importance, as well as the election of magistrates, were referred to the people. Rome, in the beginning, had a king and a senate, while the election of kings and judgements upon appeals remained in the people; afterwards, consuls representing kings, and vested with equal power, a more numerous senate, and more frequent meetings of the people. Venice has at this day, a duke, the senate of the *pregadi*, and the great assembly of the nobility, which is the whole city; the rest of the inhabitants being only *incolæ*, not *cives*; and those of the other cities or countries are their subjects, and do not participate in the government.

Genoa is governed in like manner; Lucca not unlike to them. Germany is at this day governed by an emperor, the princes or great lords in their several precincts; the cities by their own magistrates; and by general diets, in which the whole power of the nation resides, and where the emper-

ror, princes, nobility, and cities have their places in person, or by their deputies. All the northern nations which, upon the dissolution of the Roman empire, possessed the best provinces that had composed it, were under that form which is usually called the Gothic polity. They had king, lords, commons, diets, assemblies of estates, cortes, and parliaments, in which the sovereign powers of those nations did reside, and by which they were exercised. The like was practised in Hungary, Bohemia, Sweden, Denmark, Poland: and, if things are changed in some of those places within these few years, they must give better proofs of having gained by the change than are yet seen in the world, before I think myself obliged to change my opinion.

Some nations, not liking the name of king, have given such a power as kings enjoyed in other places to one or more magistrates, either limited to a certain time, or left to be perpetual, as best pleased themselves: others, approving the name, made the dignity purely elective. Some have in their elections principally regarded one family as long as it lasted: others considered nothing but the fitness of the person, and reserved to themselves a liberty of taking where they pleased. Some have permitted the crown to be hereditary as to its ordinary course; but restrained the power, and instituted officers to inspect the proceedings of kings, and to take care that the laws were not violated. Of this sort were the Ephori of Sparta, the Maires du Palais, and afterwards the constable of France, the justiciar in Arragon, the reichshofmeeter in Denmark, the high steward in England; and in all places, such assemblies as are beforementioned under several names, who had the power of the whole nation, &c.

Sidney,

Sidney, p. 147. §. 18.—It is confessed, that a pure democracy can never be good, unless for a small town, &c.

Sidney, p. 160. §. 19.—As to popular government in the strictest sense, that is, pure democracy, where the people in themselves, and by themselves, perform all that belongs to government, I know of no such thing; and, if it be in the world, have nothing to say for it.

Sidney, p. 161.—If it be said, that those governments, in which the democratical part governs most, do more frequently err in the choice of men, or the means of preserving that purity of manners which is required for the well-being of a people, than those wherein aristocracy prevails, I confess it, and that in Rome and Athens, the best and wisest men did for the most part incline to aristocracy. Xenophon, Plato, Aristotle, Thucydides, Livy, Tacitus, Cicero, and others, were of this sort. But if our author there seek patrons for his absolute monarchy, he will find none but Phalaris, Agathocles, Dionysius, Catiline, Cethegus, Lentulus, with the corrupted crew of mercenary rascals who did, or endeavoured to set them up: these are they, *quibus ex honesto nulla est spes*: they abhor the domination of the law, because it curbs their vices, and make themselves subservient to the lusts of a man who may nourish them.

Sidney, p. 165. §. 21.—Being no way concerned in the defence of democracy, &c. I may leave our knight, like Don Quixote, fighting against the phantasms of his own brain, and saying what he pleases against such governments as never were, unless in such a place as St. Marino, near Sinigaglia in Italy, where a hundred clowns govern

a barbarous rock that no man invades, and relates nothing to our question. The republic of St. Marino, next to that of Millingen in Switzerland, is the smallest republic in Europe. The limits of it extend no farther than the base of the mountain on which it is seated. Its insignificance is its security. No neighbouring prince ever thought it worth his while to destroy the independency of such a beehive. See Blainville's Travels, vol. ii. p. 227. Addison's Remarks on several parts of Italy.

Sidney, p. 258.—However, more ignorance cannot be expressed, than by giving the name of democracy to those governments that are composed of the three simple species, as we have proved that all the good ones have ever been: for, in a strict sense, it can only suit with those, where the people retain to themselves the administration of the supreme power; and more largely, when the popular part, as in Athens, greatly overbalances the other two, and the denomination is taken from the prevailing part.

L E T T E R XXVIII.

MIXED GOVERNMENTS.

MONTESQUIEU, SPIRIT OF LAWS, B. II. C. VI.
OF THE CONSTITUTION OF ENGLAND.

MY DEAR SIR,

IN every government there are three sorts of power; the legislative, the executive in respect of things dependent on the law of nations, and the executive in regard to things that depend on the civil law.

By virtue of the first (i. e. the legislative power) the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the citizen is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted, as that one citizen need not be afraid of another citizen.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate, should enact tyrannical

nical laws, to execute them in a tyrannical manner.

Again; there is no liberty, if the power of judging be not separated from the legislative and executive powers: were it joined with the legislative, the life and liberty of the citizens would be exposed to arbitrary controul; for the judge would then be legislator: and were it joined to the executive power, the judge might behave with all the violence of an oppressor.

There would be an end of every thing (*tout feroit perdu*) were the same man, or the same body, whether of princes, or of the nobles, or of the people, to exercise those three powers; that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.

Most kingdoms in Europe enjoy a moderate government, because the prince, who is invested with the two first powers, leaves the third to his subjects. In Turkey, where these three powers are united in the Sultan's person, the subjects groan under the weight of a most frightful oppression. In the republics of Italy, where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to as violent methods for its support, as even that of the Turks; witness the state inquisitors of Venice, and the lion's mouth, into which every informer may at all hours throw his written accusations: what a situation must the poor citizen be in under those poor republics! the same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They might plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen

citizen may be ruined by their particular decisions. The whole power is here united in one body ; and though there is no external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is, that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting in their own persons all the branches of magistracy, and all the great offices of state.

I allow, indeed, that the mere hereditary aristocracy of the Italian republics does not answer exactly to the despotic power of the eastern princes. The number of magistrates sometimes softens the power of the magistracy ; the whole body of the nobles do not always concur in the same designs ; and different tribunals are erected that temper each other. Thus, at Venice, the legislative power is in the council, the executive in the *pregadi*, and the judiciary in the *quarantia*. But the mischief is, that these different tribunals are composed of magistrates all belonging to the same body ; which constitutes almost one and the same power.

The judiciary power ought not to be given to a standing senate ; it should be exercised by persons taken from the body of the people, as at Athens, at certain times of the year, and pursuant to a form and manner prescribed by law, in order to erect a tribunal that should last only as long as necessity requires.

By this means the power of judging, a power so terrible to mankind, not being annexed to any particular state or profession, becomes, as it were, invisible. People have not then the judges continually present to their view ; they fear the office, but not the magistrate.

In

In accusations of a deep or criminal nature, it is proper the person accused should have the privilege of chusing, in some measure, his judges, in concurrence with the law ; or, at least, he should have a right to except against so great a number, that the remaining part may be deemed his own choice. The other two powers may be given rather to magistrates or permanent bodies, because they are not exercised on any private subject ; one being no more than the general will of the state, and the other the execution of that general will.

But though the tribunals ought not to be fixed, yet the judgements ought, and to such a degree as to be always conformable to the exact letter of the law. Were they to be the private opinion of the judge, people would then live in society without knowing exactly the obligations it lays them under.

The judges ought likewise to be in the same station as the accused, or, in other words, his peers, to the end that he may not imagine he is fallen into the hands of persons inclined to treat him with rigour.

If the legislative leaves the executive power in possession of a right to imprison those subjects who can give security for their good behaviour, there is an end of liberty, unless they are taken up in order to answer without delay to a capital crime ; in this case they are really free, being subject only to the power of the law.

But should the legislative think itself in danger, by some secret conspiracy against the state, or by a correspondence with a foreign enemy, it might authorise the executive power, for a short and limited time, to imprison suspected persons ; who, in that case, would lose their liberty only for a while, to preserve it for ever. And this is the

only reasonable method that can be substituted to the tyrannical magistracy of the Ephori, and to the state inquisitors of Venice, who are also despotical.

As, in a free state, every man who is supposed a free agent, ought to be his own governor; so the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniencies, it is fit the people should execute by their representatives what they cannot execute by themselves.

The inhabitants of a particular town are much better acquainted with its wants and interests, than with those of other places; and are better judges of the capacity of their neighbours, than of that of the rest of their countrymen. The members therefore of the legislature should not be chosen from the general body of the nation; but it is proper, that in every considerable place, a representative should be elected by the inhabitants.

The great advantage of representatives is, their being capable of discussing affairs; for this the people collectively are extremely unfit, which is one of the greatest inconveniencies of a democracy.

It is not at all necessary that the representatives who have received a general instruction from their electors, should wait to be particularly instructed on every affair, as is practised in the diets of Germany. True it is, that by this way of proceeding, the speeches of the deputies might with greater propriety be called the voice of the nation: but, on the other hand, this would throw them into infinite delays; would give each deputy a power of controuling the assembly; and

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on the most urgent and pressing occasions, the springs of the nation might be stopped by a single caprice.

L E T T E R X I X .

ANCIENT REPUBLICS, AND OPINIONS
OF PHILOSOPHERS.

MY DEAR SIR,

I N searching for the principles of government, we may divide them into two kinds: the principles of authority, and the principles of power. The first are virtues of the mind and heart, such as wisdom, prudence, courage, patience, temperance, justice, &c.: the second are the goods of fortune, such as riches, extraction, knowledge, and reputation. I rank knowledge among the goods of fortune, because it is the effect of education, study, and travel, which are either accidents, or usual effects of riches or birth, and is by no means necessarily connected with wisdom or virtue: but, as it is universally admired and respected by the people, it is clearly a principle of power. The same may be said of reputation, which, abstracted from all consideration whether it is merited or not, well or ill-founded, is another source of power.

Riches will hold the first place in civilised societies at least, among the principles of power, and will often prevail not only over all the principles of authority, but over all the advantages of birth, knowledge, and fame. For, as Harrington
says,

says, "Men are hung upon riches, not of choice as upon the other, but of necessity and by the teeth: for as much as he who wants bread, is his servant that will feed him; and if a man thus feeds a whole people, they are under his empire." It already appears, that there must be in every society of men, superiors and inferiors, because God has laid in the constitution and course of nature the foundation of the distinction. And indeed, as Harrington says, "an army may as well consist of soldiers without officers, or of officers without soldiers, as a commonwealth consist of a people without a gentry, or of a gentry without a people."

"Let states take heed," says Lord Bacon, "how their nobility and gentlemen multiply too fast, for that makes the common subject grow to be a peasant and base swain driven out of heart, and in effect but a gentleman's labourer. How shall the plow then be kept in the hands of the owners, and not mere hirelings? how shall the country attain to the character which Virgil gives of ancient Italy? *Terra potens armis, atque ubere gleba?* how, but by the balance of dominion or property?"

Notwithstanding M. Turgot's aversion to balances, Harrington discovered, and made out, as Toland his biographer informs us, that "empire follows the balance of property, whether lodged in one, a few, or many hands." A noble discovery, of which the honour solely belongs to him, as much as the circulation of the blood to Harvey, printing to Laurence Coster, or of guns, compasses, or optic glasses, to the several authors. If this balance is not the foundation of all politics, as Toland asserts, it is of so much importance, that no man can be thought a master of the subject

subject without having well weighed it. M. Turgot, it is plain, had not the least idea of it.

"Tillage," says Harrington, "bringing up a good soldiery, brings up a good commonwealth: for where the owner of the plow comes to have the sword too, he will use it in defence of his own. Whence it has happened, that the people of England, in proportion to their property, have been always free, and the genius of this nation has ever had some resemblance with that of ancient Italy, which was wholly addicted to commonwealths, and where Rome came to make the greatest account of her rustic tribes, and to call her consuls from the plow: for in the way of parliaments, which was the government of this realm, men of country lives have been still intrusted with the greatest affairs, and the people have constantly had an aversion to the ways of the court. Ambition, loving to be gay and to fawn, has been a gallantry looked upon as having something in it of the livery; and husbandry, or the country way of life, though of a grosser spinning, as the best stuff of a commonwealth, according to Aristotle; such a one being the most obstinate assertress of her liberty, and the least subject to innovation or turbulence. Commonwealths, upon which the city life has had the greatest influence, as Athens, have seldom or never been quiet; but at best are found to have injured their own business by overdoing it. Whence the Urban tribes of Rome, consisting of the *turba forensis* and *libertinus*, that had received their freedom by manumission, were of no reputation in comparison of the rustics. A commonwealth, consisting but of one city, would doubtless be stormy, in regard that ambition would be every man's trade: but where it consists of a country, the plow in the hands of the owner finds him

him a better calling, and produces the most innocent and steady genius of a commonwealth.

Oceana, p. 37.—Domestic empire is founded upon dominion, and dominion is property, real or personal; that is to say, in lands, or in money and goods. Lands, or the parcels of a territory, are held by the proprietor or proprietors of it, in some proportion: and such (except it be in a city that has little or no land, and whose revenue is in trade) as is the proportion or balance of dominion or property in land, such is the nature of the empire. If one man be sole landlord of a territory, or over-balance the people—for example, three parts in four—he is grand seignior: for so the Turk is called from his property; and his empire is absolute monarchy. If the few, as a nobility and clergy, be landlords, or over-balance the people to the like proportion, it makes the Gothic balance, and the empire is mixed monarchy, as that of Spain, Poland, and once of England: and if the whole people be landlords, or hold the lands so divided among them, that no one man, or number of men, within the compass of the few, or aristocracy, over-balance them, the empire is a commonwealth.

If force be interposed in any of these three cases, it must either frame the government to the foundation, or the foundation to the government; or, holding the government not according to the balance, it is not natural, but violent: and therefore if it be at the devotion of a prince, it is tyranny; if at the devotion of the few, oligarchy; or if in the power of the people, anarchy. Each of which confusions, the balance standing otherwise, is but of short continuance, because against the nature of the balance: which not destroyed, destroys that which opposes it.

Here it would be entertaining to apply these observations to the force of fleets and armies, &c. applied by Great Britain in the late contest with America. The balance of land, especially in New England, where the force was first applied, was neither in the king nor a nobility, but immensely in favour of the people. The intention of the British politicians was to alter this balance, "frame the foundation to the government, by bringing the lands more and more into the hands of the governors, judges, counsellors, &c. &c. who were all to be creatures of a British ministry. We have seen the effects."—The balance destroyed that which opposed it.

Harrington proceeds—But there are certain other confusions, which being rooted in the balance, are of longer continuance, and of worse consequence; as, first, where a nobility holds half the property, or about that proportion, and the people the other half; in which case, without altering the balance, there is no remedy, but the one must eat out the other; as the people did the nobility in Athens, and the nobility the people in Rome. Secondly, where a prince holds about half the dominion, and the people the other half, which was the case of the Roman Emperors, (planted partly upon their military colonies, and partly upon the senate and the people) the government becomes a very shambles, both of the princes and the people. It being unlawful in Turkey that any should possess land but the grand seignior, the balance is fixed by the law, and that empire firm. Nor, though the kings often fell, was the throne of England known to shake, until the statute of alienations broke the pillars, by giving way to the nobility to sell their estates. While Lacedemon held to the division of land made by Lycurgus,

Lycurgus, it was immoveable; but, breaking that, could stand no longer. This kind of law, fixing the balance in lands, is called Agrarian, and was first introduced by God himself, who divided the land of Canaan to his people by lot.

The public sword, without a hand to hold it, is but cold iron. The hand which holds this sword is the militia of a nation; and the militia of a nation is either an army in the field, or ready for the field upon occasion. But an army is a beast that has a great belly, and must be fed; wherefore this will come to what pastures you have, and what pastures you have will come to the balance of property, without which the public sword is but a name. He that can graze this beast with the great belly, as the Turk does his timariots, may well deride him that imagines he received his power by covenant. But if the property of the nobility, stocked with their tenants and retainers, be the pasture of that beast, the ox knows his master's crib; and it is impossible for a king, in such a constitution, to reign otherwise than by covenant; or, if he breaks it, it is words that come to blows.

Aristotle is full of this balance in divers places, especially where he says, that immoderate wealth, as where one man or the few have greater possessions than the equality or the frame of the commonwealth will bear, is an occasion of sedition, which ends, for the greater part, in monarchy; and that, for this cause, the ostracism has been received in divers places, as in Argos and Athens; but that it were better to prevent the growth in the beginning, than, when it has got head, to seek the remedy of such an evil.

Machiavel, not perceiving that if a commonwealth be galled by the gentry, it is by their

over-balance, speaks of the gentry as hostile to popular governments, and of popular governments as hostile to the gentry; which can never be proved by any one example, unless in civil war; seeing that, even in Switzerland, the gentry are not only safe, but in honour. But the balance, as I have laid it down, though unseen by Machiavel, is that which interprets him, where he concludes, "That he who will go about to make a commonwealth where there be many gentlemen, unless he first destroys them, undertakes an impossibility. And that he who goes about to introduce monarchy, where the condition of the people is equal, shall never bring it to pass, unless he cull out such of them as are the most turbulent and ambitious, and make them gentlemen or noblemen, not in name, but in effect; that is, by enriching them with lands, castles, and treasures, that may gain them power among the rest, and bring in the rest to dependence upon them; to the end that they, maintaining their ambition by the prince, the prince may maintain his power by them."

Wherefore, as in this place I agree with Machiavel, that a nobility, or gentry, over-balancing a popular government, is the utter bane and destruction of it, so I shall shew in another, that a nobility or gentry, in a popular government, not over-balancing it, is the very life and soul of it.

The public sword, or right of the militia, be the government what it will, or let it change how it can, is inseparable from the over-balance in dominion.

HARRINGTON'S PREROGATIVE OF POPULAR
GOVERNMENT, c. iii. p. 226.

The balance of dominion in land is the natural cause of empire; and this is the principle which makes politics a science undeniable throughout, and the most demonstrable of any whatever.—If a man, having one hundred pounds a year, may keep one servant, or have one man at his command, then, having one hundred times so much, he may keep one hundred servants; and this multiplied by a thousand, he may have one hundred thousand men at his command.—Now that the single person, or nobility, of any country in Europe, that had but half so many men at command, would be king or prince, is that which I think no man can doubt. But, “No money, no Swiss.”—The reason why a single person, or the nobility, that has one hundred thousand men, or half so many, at command, will have the government, is, that the estate in land, whereby they are able to maintain so many, in any European territory, must over-balance the rest that remains to the people, at least three parts in four. Now, for the same reason, if the people hold three parts in four of the territory, it is plain there can neither be any single person or nobility able to dispute the government with them. In this case, therefore, except force be interposed, they govern themselves. So that by this computation of the balance of property or dominion in the land, you have, according to the three-fold foundation of property, the root or generation of the three-fold kind of government or empire. If one man be sole landlord of a territory, or over-balance the whole people, three parts in four, or thereabouts, he is grand seignior; for so the Turk, not from

his empire, but property, is called; and the empire, in this case, is absolute monarchy. If the few, or a nobility, or a nobility with a clergy, be landlords to such a proportion as over-balances the people in the like manner, they may make whom they please king; or, if they be not pleased with their king, down with him, and set up whom they like better; a Henry the fourth, or seventh, a Guise, a Montfort, a Nevil, or a Porter, should they find that best for their own ends and purposes: for as not the balance of the king, but that of the nobility, in this case, is the cause of the government, so not the estate of the prince or captain, but his virtue or ability, or fitness for the ends of the nobility, acquires that command or office. This for aristocracy, or mixed monarchy. But if the whole people be landlords, or hold the lands so divided among them, that no one man or number of men, within the compass of the few, or aristocracy, over-balance them, it is a commonwealth. Such is the branch in the root, or the balance of property naturally producing empire.

Then follows a curious account of the laws in Israel against usury, and in Lacedemon against trade, &c. which are well worth studying.

Page 254.—That which introducing two estates causes division, or makes a commonwealth unequal, is not that she has a nobility, without which she is deprived of her most special ornament, and weakened in her conduct, but when the nobility only is capable of magistracy, or of the senate; and where this is so ordered, she is unequal, as Rome. But where the nobility is no otherwise capable of magistracy, nor of the senate, than by election of the people, the commonwealth consists but of one order, and

is equal, as Lacedemon or Venice. Where the nobility holds half the property, or about that proportion, and the people the other half, the shares of the land may be equal; but in regard the nobility have much among few, and the people little among many, the few will not be contented to have authority, which is all their proper share in a commonwealth, but will be bringing the people under power, which is not their proper share in a commonwealth; wherefore this commonwealth must needs be unequal; and, except by altering the balance, as the Athenians did by the recision of debts, or as the Romans went about to do, by an Agrarian, it be brought to such an equality, that the whole power be in the people, and there remain no more than authority in the nobility, there is no remedy, but the one, with perpetual feuds, will eat out the other, as the people did the nobility in Athens, and the nobility the people in Rome. Where the carcase is, there will be the eagles also; where the riches are, there will be the power: so if a few be as rich as all the rest, a few will have as much power as all the rest; in which case the commonwealth is unequal, and there can be no end of staving and tailing till it be brought to equality.

The estates, be they one, or two, or three, are such, as was said by virtue of the balance upon which the government must naturally depend: exemplified in France, &c.

Page 256.—All government is of three kinds: a government of servants, a government of subjects, or a government of citizens. The first is absolute monarchy, as that of Turkey; the second, aristocratical monarchy, as that of France; the

third, a commonwealth, as Israel, Rome, Holland. Of these, the government of servants is harder to be conquered, and the easier to be held. The government of subjects is the easier to be conquered, and the harder to be held. The government of citizens is both the hardest to be conquered, and the hardest to be held.

The reason why a government of servants is hard to be conquered, is, that they are under a perpetual discipline and command. Why a government of subjects is easily conquered, is on account of the factions of the nobility.

The reasons why a government of citizens, where the commonwealth is equal, is hardest to be conquered, are, that the invader of such a society must not only trust to his own strength, inasmuch as, the commonwealth being equal, he must needs find them united; but in regard that such citizens, being all soldiers, or trained up to their arms, which they use not for the defence of slavery, but of liberty, a condition not in this world to be bettered, they have, more specially upon this occasion, the highest soul of courage, and, if their territory be of any extent, the vastest body of a well-disciplined militia that is possible in nature: wherefore an example of such a one, overcome by the arms of a monarch, is not to be found in the world.

In the Art of Law-giving, chap. i. he enlarges still farther upon this subject, and instances Joseph's purchase of all the lands of the Egyptians for Pharaoh, whereby they became servants to Pharaoh; and he enlarges on the English balance, &c.

In America, the balance is nine-tenths on the side of the people: indeed there is but one order;
and

and our senators have influence chiefly by the principles of authority, and very little by those of power; but this must be postponed.

L E T T E R X X X .

ANCIENT REPUBLICS, AND OPINIONS
OF PHILOSOPHERS.

MY DEAR SIR,

MY design is more extensive than barely to shew the imperfection of M. Turgot's idea. This might be done in a few words, and a very short process of reasoning: but I wish to assemble together the opinions and reasonings of philosophers, politicians, and historians, who have taken the most extensive views of men and societies, whose characters are deservedly revered, and whose writings were in the contemplation of those who framed the American constitutions. It will not be contested, that all these characters are united in Polybius, who, in a fragment of his sixth book, translated by Edward Spelman, p. 391. at the end of his translation of the Roman Antiquities of Dionysius Hallicarnassensis, says, "It is customary to establish three sorts of governments; kingly government, aristocracy, and democracy: upon which one may very properly ask them, whether they lay these down as the only forms of government, or as the best? for in both cases they seem to be in an error, since it is manifest,

manifest, that the best form of government is that which is *compounded of all three*.—This is founded not only in reason but in experience, Lycurgus having set the example of this form of government in the institution of the Lacedemonian commonwealth.”

Six kinds of government must be allowed: kingly government and monarchy, aristocracy and oligarchy, democracy, and the government of the multitude.

Lycurgus concluded, that every form of government that is simple, by soon degenerating into that vice that is allied to it, must be unstable. The vice of kingly government is monarchy; that of aristocracy, oligarchy; that of democracy, rage and violence; into which, in process of time, all of them must degenerate. Lycurgus, to avoid these inconveniences, formed his government not of one sort, but united in one all the advantages and properties of the best government; to the end that no branch of it, by swelling beyond its due bounds, might degenerate into the vice which is congenial to it; and that, while each of them were mutually acted upon by *opposite powers*, no one part might incline any way, or *out-weigh* the rest; but that the commonwealth, being equally *poised* and *balanced*, like a *ship* or a *waggon*, acted upon by *contrary powers*, might long remain in the same situation; while the king was restrained from excess by the fear of the people, who had a proper share in the commonwealth; and, on the other side, the people did not dare to disregard the king, from their fear of the senate, who, being all elected for their virtue, would always incline to the justest side; by which means, that branch which happened to be oppressed became always superior, and, by the accessional weight of the senate, *out-balanced*

balanced the other.—This system preserved the Lacedemonians in liberty longer than any other people we have heard of ever enjoyed it.

All the three principal orders of government were found in the Roman commonwealth; every thing was constituted and administered with that equality and propriety by these three, that it was not possible, even for a Roman citizen, to assert positively, whether the government, in the whole, was aristocratical, democratical, or monarchical: for when we cast our eyes on the power of the consuls, the government appeared entirely monarchical and kingly; when on that of the senate, aristocratical; and when any one considered the power of the people, it appeared plainly democratical.

The consuls, when they are at Rome, and before they take the field, have the administration of all public affairs; for all other magistrates obey them, except the tribunes of the people: they introduce ambassadors into the senate; they also propose to the senate those subjects of debate that require immediate dispatch; and are solely entrusted with the execution of the decrees: to them belongs the consideration of all public affairs of which the people have cognizance, whom they are to assemble upon all occasions, and lay before them the decrees of the senate, then pursue the resolutions of the majority. They have almost an absolute power in every thing that relates either to the preparations of war, or to the conduct of it in the field; for they may give what orders they please to their allies, and appoint the tribunes; they may raise forces, and enlist those who are proper for the service: they also have a power, when in the field, of punishing any who serve under them; and of expending as much as they please

please of the public money, being always attended by a quæstor for that purpose, whose duty it is to yield a ready obedience to all their commands. So that whoever casts his eyes on this branch, may with reason affirm, that the government is merely monarchical and kingly.

The senate have, in the first place, the command of the public money: for they have the conduct of all receipts and disbursements; since the quæstors cannot issue money for any particular service without a decree of the senate, except those sums they pay by the direction of the consuls.

It has the power over all disbursements made by the censors, every fifth year, in erecting and repairing public buildings;—takes cognizance of all crimes committed in Italy, such as treasons, conspiracies, poisonings, and assassinations;—sends embassies out of Italy to reconcile differences, use exhortations, signify commands, admit alliances, or declare war;—determines, when ambassadors come to Rome, in what manner they are to be treated, and the answer to be given them. For these reasons, when a foreigner comes to Rome in the absence of the consuls, the government appears to him purely aristocratical.

There is still a most considerable share in the government left for the people. They only have the power of distributing honours and punishments, to which alone both monarchies and commonwealths, in a word, all human institutions, owe their stability: for wherever the difference between rewards and punishments is not understood, or judiciously applied, there nothing can be properly administered, since the worthy and unworthy are equally honoured!

They often take cognizance of those causes where the fine is considerable, if the criminals are persons

persons who have exercised great employments ; and in capital cases they alone have jurisdiction ; and a custom prevails with them, to give those who are tried for their lives a power of departing openly to voluntary banishment.

They have the power of conferring the magistracy upon those they think worthy of it, which is the most honourable reward of merit any government can bestow.

They have the power of rejecting and confirming laws, and determine concerning peace and war, alliances, accommodations, and conventions.

So that, from hence again, one may with reason assert, that the people have the greatest share in the government, and that the commonwealth is democratical.

These orders, into which the commonwealth is divided, have the power to oppose, assist, and balance each other, as occasion may require.

Though the consul at the head of his army in the field, seems to have an absolute power to carry every thing he proposes into execution, yet he still stands in need of the people and senate, and without their assistance can effect nothing ; for neither corn, clothes, nor pay, can be furnished to the army without the consent of the senate ; who have also the power of sending another general to succeed him, as soon as the year is expired, or of continuing him in the command. Again, they may either magnify and extol, or obscure and extenuate, the victories of the generals ; for these cannot celebrate their triumphs unless the senate consents to it, and furnishes the necessary expence.

As the power of putting an end to the war is in the *people*, the generals are under a necessity of having their approbation, who have the right of ratifying and annulling all accommodations and conven-

conventions. It is to the people that the generals, after the expiration of their command, give an account of their conduct: so that it is by no means safe for them to disregard the favour either of the senate, or of the people.

The senate is under a necessity of shewing a regard to the people, and of aiming at their approbation; as not having the power to punish crimes of the first magnitude with death, unless the people confirm the previous decree: if a law is proposed, by which part of the power of the senate is to be taken away, their dignities abolished, or even their fortunes diminished, the people have it in their power either to receive or reject it. If one of the tribunes of the people opposes the passing of a decree, the senate are so far from being able to enact it, that it is not even in their power to consult or assemble at all. For all these reasons, the senate stands in awe of the people.

The people also are subject to the power of the senate, and under an obligation of cultivating the good-will of all the senators, who have many opportunities both of prejudicing and advantaging individuals. Judges are appointed out of the senate in most causes that relate to contracts, public or private. There are many rivers, ports, gardens, mines, and lands, and many works relating to erecting and repairing public buildings, let out by the censors, under the care of the senate; all these are undertaken by the people; some are purchasers, others partners, some sureties for the contracts. All these things are under the controul of the senate, which has power to give time, to mitigate, and, if any thing has happened to render the performance of the contract impracticable, to cancel it. The people, thus dependent on the senate, and apprehending the uncertainty of the occasions,

occasions in which they may stand in need of their favour, dare not resist or oppose their will.

In like manner, they are not easily brought to obstruct the designs of the consuls, because all of them in general, and every one in particular, become subject to their authority when in the field.

Such being the power of each order to hurt and assist each other, their union is adapted to all contingencies, and *it is impossible to invent a more perfect system*. When the common fear of a foreign enemy compels them to act in concert, such is the strength of the government, that nothing necessary is omitted, or comes too late, since all vie with each other in directing their thoughts to the public good, and their endeavours to carry their designs into execution. The commonwealth, from the peculiar frame of it, becomes irresistible, and attains whatever it proposes.

When, in consequence of victory, they live in prosperity and affluence, enjoying their good fortune free from the fear of a foreign enemy, they grow, through ease and flattery, insolent and proud; their commonwealth is then chiefly observed to relieve itself: for when any branch of it becomes ambitious, and, swelling beyond its bounds, aims at unwarrantable power, being subject to the controul of the other two, it cannot run into any excess of power or arrogance; but all three must remain in the terms prescribed by the constitution.

Thus, my dear Sir, you see that Polybius's opinion of different orders, checks, and balances, in a commonwealth, is very different from that of M. Turgot. The Roman constitution formed the noblest people, and the greatest power that has ever existed. But if all the powers of the consuls,

consuls, senate, and people, had been centered in a single assembly of the people, collectively or representatively, will any man pretend to believe that they would have been long free, or ever great?

The distribution of power was, however, never accurately or judiciously made in that constitution: the executive was never sufficiently separated from the legislative, nor had these powers a controul upon each other defined with sufficient accuracy: the executive had not power to interpose and decide between the people and the senate.

As we advance in this correspondence, we may see cause to differ widely from the judgement of Polybius, "*that it is impossible to invent a more perfect system of government.*" We may be convinced that the constitution of England, if its balance is seen to play, in practice, according to the principles of its theory—that is to say, if the people are fairly and fully represented, so as to have the power of *dividing or choosing*, of *drawing up hill or down*, instead of being disposed of by a few lords—is a system much more perfect. The constitutions of several of the United States, it is hoped, will prove themselves improvements, both upon the Roman, the Spartan, and the English commonwealths.

LETTER