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The Roman Catholic Claim & the Relative Principle by Charles Francis Sheridan Esq. 1793

2. Speech at the Wexford Co. Meeting upon Edward Byrne's Plan for Delegates to prepare a Petition by Edward Sweetman — — — 1792.

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7. Essay towards a Proposal for Catholic Communion — by a Minister of the Church of England. first printed 1704. & reprinted 1801.

THE

ROMAN CATHOLIC CLAIM

TO THE

ELECTIVE FRANCHISE DISCUSSED,

IN

AN ESSAY

UPON THE

TRUE PRINCIPLES OF CIVIL LIBERTY

AND OF

FREE GOVERNMENT.

By CHARLES FRANCIS SHERIDAN, Esq.

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M DCC XCIII.

PREFACE.

IT has been judiciouſly remarked by an eminent hiſtorian, that " when the human mind is " rouſed by grand objects, and agitated by ſtrong " paſſions, its operations acquire ſuch force that " they are apt to become irregular and extrava- " gant;—and " that ſuch irregularities abound " moſt at that particular period, *when men having* " *thrown off the authority of their ancient princi-* " *ples, do not fully comprehend the nature, or feel* " *the obligation of thoſe new ones which they have* " *embraced.* The mind in that ſituation puſhing " forward with the boldneſs which prompted it " to reject eſtabliſhed opinions, and not guided " by a clear knowledge of the ſyſtem ſubſtituted " in their place, *diſdains all reſtraint and runs* " *into wild notions*, that often lead to ſcandalous " or immoral conduct."

Though theſe obſervations are applied by Dr. Robertſon, to that revolution in the minds of men upon the ſubject of religion, which early in the 16th century produced the reformation; yet they will be found equally juſt if applied to the preſent period, when towards the cloſe of the eighteenth century ſo extraordinary a revolution has taken place in the minds of a great nation upon the ſubject of government.

The public mind of France having thrown off all the authority of ancient principles, and puſhing

forward with the boldneſs which prompted it to reject them, may truly be ſaid to diſdain all reſtraint, and to run into wild notions, which have led not meerly to ſcandalous or immoral conduct, but to crimes of the blackeſt die, to the tearing aſunder all the bonds of ſociety, to the extinction of every principle of ſubordination, and nearly to the extinction even of the poſſibility of the future exiſtence of any government whatever in that kingdom.

It is wonderful how ſimilar the march of the human mind has been in the two revolutions—the one religious, the other political, which have marked the ſixteenth and eighteenth centuries.—The conſtiuent aſſembly in France corrected the deſpotiſm of the government, but preſerved its monarchical form—Luther corrected the abuſes in the chriſtianity of the times, but preſerved the religion—he had this advantage over the conſtituent aſſembly, he had a ſtandard to refer to,—the goſpel; his principles were therefore juſt and have ſtood the teſt of time.—The conſtituent aſſembly could refer to no political goſpel, they had no guides but the arrogance of the human mind and the pride of the human heart—"We have endeavoured" (ſay they) "to trace a new route by "the light of principles only." *—They ſhould have been very ſure of thoſe principles which were to produce *all their light* in the route they were to trace—they eſtabliſhed liberty, and preſerved the crown; for this they are to be applauded; but they alſo eſtabliſhed among many juſt, ſome falſe principles, which in leſs than half

* Firſt addreſs of the National Aſſembly to their conſtituents, September 28th 1789.

the

the time they had employed in framing their conſtitution, involved the crown, they had been ſo anxious to preſerve, and their own work, in one common ruin.

Perſons were not wanting in 1791, who thought the conſtituent aſſembly had not gone far enough in the reduction of monarchical power.

In 1526 perſons were not wanting who thought Luther had not gone far enough in the reformation of the church—a man who had been his diſciple, one MUNCER, and *his* name too was THOMAS, the *Paine* of that century, began in Saxony to preach other doctrines, among which were—to level every diſtinction among mankind—to depoſe all ſovereigns—to depoſe all magiſtrates in cities—to ſeize the lands of the nobles—and to oblige them to be ſatisfied with the appellation given to people in the loweſt claſs of life, *inſtead of their former titles*:—theſe were the doctrines of Thomas Muncer, the predeceſſor of Thomas Paine——and Thomas Muncer had more followers than his ſucceſſor Thomas Paine has had readers—But who will not have followers and readers, whoſe doctrines flatter that pride which was never flattered before, the pride of the ignorant and the illiterate.—The followers of Thomas Muncer, who aſſumed the appellation of anabaptiſts, reduced to practice thoſe doctrines which we have had at ſecond-hand from Mr. Thomas Paine, ſo that if we are not now convinced of their theoretical truth, we can at leaſt be certain of their practical reſult, which was inſurrection—univerſal plunder—the burning of the houſes of the gentry—the murder of the owners, and the devaſtation of their lands—and all this Mr. Thomas Muncer

Muncer ſaid was to eſtabliſh true chriſtian *liberty, and equality*.—Luther at length preached againſt thoſe infatuated inſurgents—as Mirabeau had he been living muſt have thundered his eloquence againſt the demolition of the throne in France—eight thouſand of thoſe deluded men were killed in a pitched battle, and their principles for a time were laid aſleep.—If Mr. *Thomas Paine* ſhould wiſh to know what became of Mr. *Thomas Muncer*, I can inform him that he was *hanged*: If he wiſhes to know what became of their principles from the time Mr. Thomas Muncer was hanged, till he Mr. Paine took them up and favoured the inhabitants of theſe countries with them, I can alſo acquaint him that in the year 1534, juſt eight years after Mr. Thomas Muncer was hanged, the anabaptiſts broke out again in the Netherlands and Weſtphalia, where one Mr. John Mathias, a baker, and one Mr. John Boccald, a journeyman taylor, ſettled in Munſter, and began to preach their old doctrines, that all diſtinctions occaſioned by birth and rank, or wealth * being contrary to the ſpirit of the goſpel which conſiders all men as equal, and contrary alſo to true chriſtian liberty, ſhould be entirely aboliſhed, theſe doctrines the baker and the journeyman taylor preached with ſuch effect, and made ſo many proſelytes, that having ſecretly called in their aſſociates from the neighbouring country, they drove the ſenators, the clergy, the nobility and gentry, and all the better ſort of

* The French have not as yet equaliſed property, but there has been much talk among them of an Agrarian law—one body of inſurgents did actually proclaim it, and certainly upon *their* principles it is impoſſible to deny the juſtice of it—we ſhall yet ſee France bleeding under that claim!

citizens

citizens out of the imperial city of Munſter, of which they made themſelves compleatly maſters.—This being done, their leader John Mathias, prophet and baker, in order the better to ſecure true chriſtian liberty, enacted that it ſhould be inſtant death to diſobey any of his commands, or to find fault with the new government—he then ſent emiſſaries to proffer chriſtian liberty to all the inhabitants of the neighbouring countries to aſſure them of his ſupport, and to invite all the anabaptiſts in the low countries to repair to Munſter, that from thence they might ſet out to ſpread their tenets among mankind, and reduce all the nations of the earth under their dominion.

Mr. Paine I preſume, will think, that all was now as it ſhould be—but what was the end of this chriſtian liberty and equality; Mr. John Mathias, the baker and prophet, having got himſelf knocked on the head in a fooliſh ſally he made from his capital againſt the troops of the biſhop of Munſter, who had ſurrounded it. In a very ſhort time afterwards, Mr. John Boccald, the journeyman taylor, was, contrary to the true principles of equality and liberty, proclaimed king of the Anabaptiſts, and a very arbitrary monarch the journeyman taylor proved; he uſed to hang two or three of his ſubjects every day for his amuſement?—he married fourteen wives, and cut off the head of one of them with his own hand, in the preſence, and to the great edification of the remaining thirteen.

But the reign of the Anabaptiſts was ſhortly to end, their city was taken, and if Mr. Thomas Payne

Payne wiſhes to know what became of Mr. journeyman taylor, king Boccald,—I can inform him, he was worſe than hanged.

The numbers of Anabaptiſts in Germany, amounted at that time to many hundred thouſands;—and let no man tell me, that theſe were *religious* enthuſiaſts. Enthuſiaſm is a diſeaſe of the human mind, which may be produced by other cauſes, as well as by religion. We now ſee *political* enthuſiaſm, arrived at as high a pitch in a neighbouring country, as *religious* enthuſiaſm ever reached, and cauſing the ſame calamities. It is a diſeaſe as contagious to the human mind, as the plague is to the human body.—A ſort of peſtilential inſanity which ſpreads its dire miſchiefs far and wide; and againſt which a wiſe man ſhould as carefully guard his mind, as he would his body, againſt the peſtilence that might come from the Levant.—For this mental plague is worſe than the other, with which, if you do not come into contact, you are ſafe—but neither diſtance, nor ſeas preſerve you from the former; publications inoculate for it.

Such is the conſequence of *ſuddenly* throwing off the authority of all ancient principles.—The reaſon is obvious, the *capacity* to *form* a principle, falls to the lot of a very ſmall portion of mankind.—There are many men, who go about the world very well dreſſed, and talking very good proſe, who perſuade themſelves, and perſuade others, that they have opinions of their own—yet who never in the whole courſe of their lives, poſſeſſed the capacity of producing a ſingle opinion, which was the growth of their own minds—no,

it

it is all transplantation; the opinions of the minds of others transplanted into their own;—and he is no small man, who has the capacity even to *select judiciously* what he thus transplants. If this be the case with educated men, what must be that of the illiterate and untaught,

Remove from the mind of the unlettered peasant those opinions, which living in civilized society, he must unavoidably have imbibed from his infancy, and you convert him into a savage. Do not imagine, that any opinions you may have provided for him, to substitute in the room of those, you shall have rooted out of his mind, will either be understood by him, or have the same influence on his conduct that those principles had, of which you have deprived him,—no, you will have destroyed all moral influence in his mind, and have left him under that of his passions alone; and hence the enthusiasm, which is ever founded in some passion of the mind, never in the understanding. Must then the mind of the ignorant and prejudiced man, remain for ever the slave of the opinions taught him when a child by his mother or his nurse?—No,—but the change must be *gradual;* each new opinion should have time to grow in his mind to become part of it, and to have the same influence on his conduct which *that* had, in the room of which it is substituted. We shall then avoid that dangerous period, so often fatal to the peace of society, when men having thrown off the authority of their ancient principles, "do not fully comprehend the nature, "or feel the obligation of those new ones, which "they have embraced."

I shall

I ſhall now ſpeak of another natural propenſity of the human mind, the propenſity to imitation. This is one of the ſtrongeſt impulſes of the mind of man—by this the child learns to ſpeak, and as he advances in years acquires the arts. But this impulſe of the mind given by the creator for the beſt purpoſes, may be perverted to the worſt.

Imitation, for imitations ſake, where we have not the ſame reaſons for imitating, which they had to adopt, the conduct we imitate, may be at once the moſt ludicrous, and the moſt fatal proof of human abſurdity.

But here the contagion of mind of which I have ſpoken, comes in aid of the natural impulſe to imitation.

Infected by that contagion, and influenced by that impulſe, there has appeared among ſome of the ſubjects of theſe realms, a tendency to imitate the French. But ſurely it is truly ludicrous, becauſe, the naked footed *ſans culottes* Frenchman, ſtripped to the ſkin by the oppreſſions of his former government, ſhould have danced to the tune of ÇA-IRA to keep himſelf warm, that the impulſe of imitation, for imitations ſake, ſhould be ſo ſo ſtrong, as to perſuade the Engliſh yeoman in his good leathern ſhoes, and comfortable warm cloathing, to think it was neceſſary that *he* alſo ſhould dance to the ſame tune.

But if any thing could increaſe the abſurdity, it is the *time*, at which this impulſe to imitation ſeems to operate.

Were

Were I a republican, or leveller, which I thank my God I am not, I truſt, I ſhould give no other proof of my inſanity, but that of being a leveller; that in all other reſpects, common ſenſe would not entirely forſake me—And I ſhould ſay to my brother levellers, " my dear friends, you are " premature in your ſcheme of teaching grown " gentlemen to dance to the tune of ÇA-IRA, be- " cauſe we do not yet know how the dance is to " *end*, we have not got the *finale*; and it would " be a fooliſh thing to begin, and leave off in the " middle."

If this had no effect upon then, I would further urge.—" Suppoſe your neighbours had gone " to ſea, to explore an unknown ocean, and in " ſearch of an unknown harbour, would you not " think it prudent, before you ventured to fol- " low them, to wait at leaſt till you had heard " whether they had *found* the harbour or not? " But if you had certain intelligence, that in- " ſtead of having found the harbour, they had " been driven among rocks, and ſhoals, and " quick ſands, with their veſſel crazy, their rud- " der half gone, and their compaſs loſt, would " you then cry to your comrades,—Huzza! my " boys—There they are! They are fine fellows! " Let's after them!—?"

That any ſubject under the Britiſh conſtitution ſhould dream of imitating the French!——In the name of common ſenſe for what?——Compare what the ſituation of the Britiſh ſubject *is*, with

with what that of the French ſubject *was*, and then aſk yourſelves the queſtion.

Firſt—As to Life.

As protected againſt the power of government.

What the French ſubject *was*.—What the Britiſh ſubject *is*.

The life of the French ſubject *was* wholly at the diſpoſal of government, which by a lettre de catchet could ſeize any individual it thought proper, confine and ſecretly put him to death, not only without being obliged to aſſign any reaſon for it, but his friends and relations dared not even call for a reaſon.

But the life of the French ſubject not only was not ſecure againſt his government, it alſo was not ſecure againſt a fellow ſubject, when a perſon of high rank and power: Many are the inſtances where ſuch perſons in a fit of paſſion have murdered their inferior, few or none are the inſtances where they have been puniſhed for it.

The life of the Britiſh ſubject *is* held ſacred, he holds it in abſolute and total independence of the government, all whoſe united powers could not deprive the loweſt individual in the kingdom of it. With the life of the Britiſh ſubject his government has nothing to do—life never comes within the ſphere of its action, but when a *pardon* is to be granted.

As to his being protected againſt his powerful fellow ſubjects, there is but one law for him and for the firſt peer of the realm, who would ſuffer the ſame puniſhment with him if he committed the ſame crime. The duke who murdered the beggar, would ſuffer the ſame death the beggar would have done had he murdered the duke.——Where is the reſemblance?

Second.

Second.—As to Life.

As judicially protected.

What the French ſubject *was*.—What the Britiſh ſubject *is*.

When a charge was brought againſt a French ſubject, which affected his life, one and the ſame party at his own arbitrary will and diſcretion, was to determine whether the charge was ſufficient to juſtify the putting the accuſed upon his trial, was afterwards to try the accuſed, to find him guilty, to paſs ſentence, or to acquit; and this party a judge who bought his place, and repaid himſelf by the buſineſs of his court.—Could the rich man ever ſuffer, or the poor man ever eſcape when thus tried?

The Britiſh ſubject cannot even be put upon his trial upon any accuſation whatever, unleſs it ſhall appear to at leaſt twelve of his fellow citizens, that the accuſation furniſhes a ſufficient ground for it, he is then tried by twelve other fellow citizens, who alone can pronounce him guilty or acquit him; and a judge who did not buy his place but who is wholly independent both of the crown and of the people pronounces ſentence.——Where is the reſemblance?

Thirdly.—As to personal Freedom.

After what has been ſaid reſpecting the inſecurity of the life of the French ſubject, it is obvious his perſonal freedom

The perſonal freedom of the Britiſh ſubject is held as ſacred as his life, This too is what comes not within the ſphere of action

What the French ſubject *was*.—What the Britiſh ſubject *is*.

dom muſt have been equally inſecure. — In cities and towns every magiſtrate and every *lieutenant de Roi* could by pronouncing the words *de part le Roi*, impriſon individuals at their arbitrary will and pleaſure. In the country every lord of a manor had a ſort of priſon or black-hole where he confined his tenants or his peaſants juſt as he thought proper—but theſe were ſlight evils.—No individual of whatever rank was ſecure, that in the dead of the night his houſe might not be ſurrounded by a band of ſoldiers, himſelf forced out of it, torn from his family and dragged he knew not whether, till he found himſelf plunged in a dungeon, there to remain perhaps for life—his wife, his children, his friends not knowing where he was, nor daring to enquire.

action of the government.—The Britiſh ſubject who has not offended againſt the laws, no magiſtrate, no judge, not the crown itſelf can deprive of liberty for a ſingle hour—the cottage of the Britiſh peaſant is to him a caſtle, which no power in the kingdom dares to violate.

On

What the French subject *was*.—What the British subject *is*.

On the other hand, in the case of any criminal accusation, the French subject was clapped into confinement and continued there at the mercy of a judge who had bought his place.—No grand jury to find a true bill, or to ignore and set the accused free—no habeas corpus to enable him to obtain a speedy trial.

The British subject if criminally accused of any offence not capital he is allowed his bail, and if capital his habeas corpus to have a speedy trial, and that by a jury of twelve of his fellow citizens.——Where is the resemblance?

Fourthly.—As to Property.

The French subjects as to property, between man and man, it must readily be conceived, that where judges who had bought their offices and were to repay themselves out of the profits of their courts, when such judges were to decide not only upon the point of law, but upon the point of fact, on which the title might depend, the poor man could have little chance against the rich one—the peasant but a small security

The British subjects, as to property between man and man, stand all the highest and the lowest upon the same ground—If the property in dispute depends upon a matter of fact, that fact is tried by a jury, if upon a point of law, that point is decided by judges who did not buy their places, and who hold too high a station in their country, and are too independent to render the presumption possible, that they should refuse

What the French ſubject *was*.—What the Britiſh ſubject *is*.

ſecurity that he ſhould be able to preſerve his little field againſt the neighbouring lord who ſhould fancy he had a title to it.

refuſe juſtice from any intereſted motives.

But as to property between the ſubject and government; the French ſubjects, at leaſt of the lower order, could hardly be ſaid to have any thing which he could call his own. Plundered between the farmers general and the intendants of provinces, the former forced from him what price they pleaſed for almoſt every article of his conſumption; the latter demanded and took what price they pleaſed for his very exiſtence: A bag of ſalt was laid at his door ſo many times a year, which he was obliged to pay for whether he conſumed it or not, or his bed was taken from under him and ſold: And if the intendant of the province ſaw any ſymptom

As to property between the ſubject and government the Britiſh laws know of no diſtinction of ranks between Britiſh ſubjects. No individual can be authoriſed by government to levy or augment a tax at his arbitrary will and pleaſure: No tax can be levied but ſuch as not the crown but parliament have impoſed, but ſuch as thoſe who impoſe them muſt themſelves pay, No law can bind the Britiſh ſubject, whether for taxation or any other purpoſe, but that which equally binds all the ſubjects, and the legiſlators themſelves.

The

What the French ſubject *was*.—What the Britiſh ſubject *is*.

tom of increaſing proſperity in a ſubject of the lower order, he augmented his capitation tax juſt as he thought proper *.

But a principal grievance of the lower order of French ſubjects was, that the law was not equal: They who could beſt afford to pay taxes, the higher orders were taxed the leaſt; and this happened becauſe the laws were made and the taxes impoſed by the ſole authority of the *ſovereign*; the *ſubject* had no ſhare whatever in making the one, or impoſing the other.

The Britiſh law knows of no diſtinction of perſons, its equality is its eſſence. They are laws made by ſubjects, not by the ſovereign, by ſubjects who are members of the ſame community, of which the people are themſelves members; by ſubjects who are again to fall into the ranks of the people, who muſt themſelves obey all the laws they enact, and pay their fair proportion of all the taxes they impoſe.——Where then is the reſemblance?

* I once aſked a man who held a ſmall vineyard, and from his induſtry appeared to be tolerably thriving, why he did not indulge himſelf in the uſe of ſhoes and ſtockings? —" Sir (replied he) if *Monſieur l'Intendant* learned that I " wore ſhoes and ſtockings, he would double my capi- " tation tax next year."

There were a thouſand other circumſtances of degradation and miſery in the ſituation of the French ſubject, which it would fill a volume to detail, in every one of which the ſtate of the Britiſh ſubject is directly the reverſe—but confining myſelf to the three great articles of life, liberty, and property, let any ſubject of theſe realms caſt his eye upon the comparative view I have here drawn, between what the ſituation of the French ſubject *was*, and what that of the Britiſh ſubject actually *is*, in every one of theſe points, and if he be not deprived of all underſtanding by the contagious inſanity of the times; if his heart be not contaminated by the ruthleſs ferocity which accompanies that madneſs; and at which aſtoniſhed humanity ſtands appalled, let him lay his hand upon that heart and aſk himſelf, has *he* the ſame inducements to ape the French in the courſe they have run, that *they* had to commence it?—Of the compariſon I have preſented to his view, let him deny the truth in a ſingle point if he can, or if not, let him anſwer this queſtion in the affirmative, if he dare!—But he may ſay, "according "to your own ſtatement of what the ſituation of "the French ſubject *was*, ſurely he had as good "a right to reform the deteſtable ſyſtem of go-"vernment of which he was ſo miſerably the "victim, as Luther had to reform thoſe enormous "abuſes which in his time diſgraced chriſtianity?" —Very true Sir—but what has this to do with your inclination, *wantonly* to imitate that conduct which *he* from *neceſſity* purſued?

Suppoſe a ſecond Luther were to ariſe in thoſe countries, which are ſtill Roman Catholic, and that he were to be as ſucceſsful in making proſelytes, as his predeceſſor.—Suppoſe theſe proſelytes acted

acted in the same manner as the former proselytes did, who were *their* predecessors, and proceeded to *demolish* whatever was inconsistent with their new faith. Would you for this reason think it right, to demolish your own good old protestant churches, because they happened *to be already* precisely what the new converts *wished to render their's?*

But Luther knew when to stop, he was as formidable an antagonist to Thomas Muncer, as he was to the abuses, which then degraded christianity?—He knew when to stop, because his object was to reform, not destroy religion.—He opposed Thomas Muncer, because *his* principles went to destroy, and not to reform, as the event proved.—The constituent assembly of France, aimed at the reform, not the destruction of government.—Mirabeau, one of the ablest, and his coadjutors, some of the best men in France, all knew when to stop; as reformers they went perhaps beyond Luther, probably as far as Calvin; but they gave their country a constitution, and would have disdained to adopt the principles of Thomas Muncer, the visionary and bloody enthusiast, and pretended reformer, who was the contemporary of Luther.—They would have disdained to have become the political *anabaptists* of the eighteen century.*

But the king had betrayed the successors of the constituent assembly! Well, supposing every thing to be true, which has been alledged against that unfortunate fallen monarch,

* Let the reader consult Dr. Robertson's history of the Emperor Charles V. vol. 1. book iv.—for an account of the Anabaptists of the 16th century, under Thomas Muncer, John Mathias, and John Boccald.

narch, whose situation and calamities, would excite respectful commiseration in every mind but in their's, who are to be his judges—and let me add, of whose supposed crimes, the most malignant assiduity has not yet been able to produce a shadow of proof: still the measures, which the successors of the constitutional assembly ought to have pursued are obvious—because they were grown out of humour with the principal *tenant* of the edifice, which had been reared by the most enlightened men in France, for their use, and for that of their posterity; they had no occasion to demolish the *edifice itself*.—They had no occasion to *recommence* reformers, and leaving in their reforming career both *Luther* and *Calvin* far behind them, to rush with blind precipitancy, upon the very footsteps of *Muncer*, to retrace the march of horror and devastation, till like

> A matron, butchered by her sons, and cast
> Beside some common way, a spectacle
> Of horror and affright to passers by,
> Their growning country bled at every vein!

I have observed in the course of this preface, that among many just principles adopted by the constituent assembly, there were some false ones, to which I have attributed the speedy demolition of the constitution, they had laboured with so much diligence to form.—It appears to me, that it is those very principles, to which the work of the constituent assembly owed its destruction, which have gained most ground upon the public mind, and which have most misled the public understanding.—To detect the falacy of those principles, and to endeavour to point out what really are the true principles of civil liberty, and the

true

true nature of a free government, are therefore the objects of the following eſſay;

I have at the ſame time diſcuſſed the Roman Catholic queſtion, both from its great importance at the preſent period—and from its neceſſary and intimate connection with the ſubject of the work.

I ſhall conclude with obſerving, that the doctrines and principles laid down in the following pages, upon the nature of repreſentation, and upon that of the elective franchiſe, were not made on the ſpur of the occaſion, nor fabricated for the purpoſes of the day—for the ſame doctrine upon the ſame ſubjects, is briefly laid down in a letter to Sir William Blackſtone, written and publiſhed by me in the year 1779, the object of which letter was to aſſert, *that* independence of the Iriſh legiſlature, which it has ſince obtained againſt ſome doctrines of Sir William Blackſtone, which went to deny the rights of Ireland in this reſpect.

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THE

THE

ROMAN CATHOLIC CLAIM, &c.

SECTION I.

The Popery Code a departure from one of the fundamental principles of the British constitution.

EVERY thing ſhort of political power, I would concede to the Catholic *. Man has a natural right to freedom, the Catholic ſhould therefore be free: but let him, and let his proteſtant advocate firſt underſtand what freedom is—let them not confound *liberty* with *power*; and under the pretence of claiming the former, as a natural right, in reality graſp at the latter, to which no *individuals* whatever, either have, or can have a natural right.

* I truſt the period is not diſtant, and for my own part I ſincerely wiſh it may be near, when a due ſhare of *political power* may alſo be conceded to the Catholic. What circumſtances would conſtitute ſuch a period, will be conſidered in a ſubſequent Section.

As to the real nature of political power without the *perſonal individual* poſſeſſion of which, according to theſe gentlemen, no individuals can enjoy civil liberty——I would ſtake my credit, my life, and all that I hold dear, that upon this ſubject, both the Catholic and his advocates have fallen into a groſs and dangerous error.

They are in ſome degree infected by the mania of the day,—or if I may ſo expreſs myſelf, by that political Atheiſm, which in the fury of its zeal, for the detection of error, has overſhot itſelf, and turned its back upon the God of Truth.

Much of frothy, much of inflamatory declamation, much of miſtaken principle and of miſchievous doctrine, glare in the eye of common ſenſe, when it ſurveys the late publications either of the Catholics themſelves, or of the greater part of their proteſtant ſupporters:—They contain not an inveſtigation of the truth, but an aſſumption of it; not an appeal to the underſtanding to enlighten the minds of men, but a call upon their paſſions to rekindle their prejudices.

The popery laws have long been juſtly ſtyled a diſgrace to our ſtatute book. But they are alſo a departure from a fundamental principle of our conſtitution, which is, "that thoſe who "make the law ſhall themſelves be bound by "the law!*" It is this univerſality of the law, it's

* This principle, "That thoſe who make the law, ſhall themſelves be bound by the law," is here deſigned, and indeed can be deſigned only to relate to all ſuch laws as *immediately* bind the ſubject in his *capacity of ſubject*; and from the

it's being equally binding upon the legiſlators and the legiſlated, which in ſtrictneſs conſtitutes the ſecurity of the civil liberty of the whole community.—This is the only hold which thoſe who are legiſlated have over thoſe who legiſlate. —This forms the vital principle of all repreſentative governments. While the univerſality of the law is held ſacred, all the members of the community muſt be equally free.—But when it is evaded,—when legiſlators make partial laws immediately bearing upon others in their capaſity of ſubjects, and which can not by poſſibility bear upon themſelves, they reſign their function of guardians of the liberty of all the members of the community, and aſſume the tyrant. Nor is there any ſpecies of tyranny which the departure from this principle may not induce, even under the freeſt forms of government ever deviſed by human ingenuity, of which the hiſtory of the ancient democracies of Greece will furniſh a thouſand inſtances.

What have been ſtyled the Popery Laws, were in fact not laws, but rather deſpotic *ſentences*; and ſentences pronounced by thoſe who were both judge and party.

They

the obligation of which he has it not at his option to free himſelf. It is obvious it can not apply to thoſe laws which ſerve only to regulate inſtitutions civil or political, and which can only *eventually* bind the ſubject, who has it at his option either to avail himſelf of the benefits of the inſtitution, and ſubmit to the laws which regulate it, or to forego thoſe benefits, and free himſelf from the obligation of thoſe laws. Yet even here the principle of univerſality ſhould ſo far prevail that ſuch laws of regulation ſhould be the *ſame* to *all perſons* availing themſelves of the benefits of the inſtitution.

They differed in nothing from ſpecial acts of attainder paſt againſt any individual, but in extending the pains and penalties impoſed upon the anceſtor to all his poſterity, and were therefore by ſo much the more unjuſt. Whenever the legiſlature has recourſe to acts of this nature, it in truth travels out of the conſtitution of the land—it ſuſpends the laws—it annihilates the regular adminiſtration and free courſe of juſtice—it abrogates the rights both of the man and of the citizen, and acts upon no other principle than that of the deſpot whoſe will alone ſets limits to his power. It is a deſperate expedient, which like the abſolute authority confered upon the Roman Dictators, a fatal neceſſity may ſometimes compel the legiſlature to adopt, but which that neceſſity alone can juſtify.

As the neceſſity which induced the adoption of the penal code againſt the Catholic has long ſince ceaſed, let the legiſlature return to the ſacred principle of the univerſality of the law, and depart from it no more. Let it reſtore *identity* of code of law to the Catholic and the Proteſtant. The Penal Statutes againſt the former, divided one nation into two diſtinct communities, for diverſity of code of law, for different deſcriptions of people, tho' inhabiting the ſame country and living intermixed, will as effectually divide them into diſtinct communities, as if ſeas or deſarts had parted them from each other.

To this diviſion of the nation into two diſtinct communities the Catholic owed his ſervitude; and as this diviſion was produced by diverſity of code of law, ſo identity of laws, will as neceſſarily conſtitute identity of community. That people

people truly form but *one community*, among whom the law is common to all—equally binding upon all—upon the legiſlators, in the ſame degree as upon thoſe who are legiſlated—equally protecting all in their perſonal ſafety, in their perſonal liberty, in their private property, whether the fruits of their induſtry, or an inheritance from their forefathers, in their right to diſpoſe of that property, and to the means of rendering that induſtry productive, which confers in ſhort equally upon all, every *civil* right, and the benefit of every *civil* inſtitution.——Such a people, I ſay, can form but one community; and granting to the Catholics every thing ſhort of political power, confers directly upon them, the enjoyment of all thoſe rights, in common with the Proteſtants, which I have here deſcribed, as requiſite to form, and as inevitably forming of *one people, one community*.

I would repeal every penal, every diſqualifying ſtatute reſpecting the Catholic.—The very names of Catholic or Papiſt, or indeed of any other religious ſect, I would expunge from our ſtatutes, wherever they are introduced for the purpoſe of rendering the bearers of them objects of penalty, of coerſion, or of diſqualification. Let there be but *one* law for the Proteſtant and the Catholic—let the latter be reſtored to every right *purely civil*, and enjoy it in common with the former. Nor do I ſee why the Catholics ſhould not be elegible to be ſheriffs, jurors, and magiſtrates in counties.—Why in addition to the bar, the navy and the army ſhould not be open to them, or even why they ſhould not be enabled to hold any office under government which gave no ſhare of political power to the poſſeſſor.—I think on the contrary, it would be

wiſe

wiſe to grant all theſe to the Catholics—it would be more—it would be juſt.

See what the ſituation of the Catholic would then be—poſſeſſing identity of code of law, with the Proteſtant, which conſtitutes identity of community with him—he is *civily* reſtored to the Proteſtant community.—He is no longer member of an enſlaved community, becauſe governed by laws, by which thoſe who made them were *not* governed themſelves, but he is become a *member of a free community*, where the law-makers are themſelves governed by the laws which govern thoſe, for whom they legiſlate,—where the laws are conſequently, common to all,—equally binding upon all, equally protecting all in their perſonal ſafety, in their perſonal freedom, in the ſecurity of their property, the complete enjoyment of which three fundamental rights of man, conſtitutes civil liberty.

Granting all that I have here ſtated, I ſhall be told, that the Catholic would ſtill be a ſlave—and why?—becauſe he might ſtill be debarred from voting for a repreſentative in parliament—for admitting (it will be ſaid) that the principle of the *univerſality* of the law were ſtrictly adhered to, as according to the ſpirit of the conſtitution it moſt certainly ought to be, yet ſtill the *ſame* law, might affect the Proteſtant and the Catholic in a *different* manner—it might require a *teſt* from voters for repreſentatives in parliament which the Proteſtant could, and the Catholic could not take—the latter might therefore be rendered incapable of voting by the ſame law which left the former in compleat poſſeſſion of his franchiſe.—

franchiſe.———Perfectly true,—and yet I ſhall maintain that this could no wiſe injure his civil liberty.—We (exclaim the Catholic advocates) maintain the contrary—prevented from voting, the civil liberty of the Catholic can not exiſt, for he will be deprived of any ſhare of political power—and civil liberty and political power are inſeparable.

To this I anſwer, in the firſt place, care ſhould be taken to diſtinguiſh, between *defenſive* and *offenſive* acts of power, on the part of the legiſlature.—When the legiſlature requires a teſt to qualify individuals for any ſhare of power in the ſtate, this is no more than a *defenſive* act of authority, which may indeed preclude individuals from political power, but cannot of itſelf by poſſibility, invade their civil liberty, which nothing but an *offenſive* act of power can do—and as long as the principle of the *univerſality* of the law ſhall be held ſacred, no offenſive act of power can take place, to injure the Catholic in his liberty, which would not equally injure the Proteſtant and the legiſlatures themſelves in their liberty—and that the legiſlature would be *felo-de-ſe* of its own liberty meerly for the ſake of injuring the Catholic, is a preſumption which cannot be admitted. What is to ſecure to the Catholics a ſacred adherence to this principle of the univerſality of the law, on the part of a legiſlature in which they have no ſhare, I ſhall have occaſion to ſhew hereafter. For the preſent I ſhall only obſerve, that a *ſhare* in the legiſlature, or that the elective franchiſe would *not* be that ſecurity. For the ſevereſt penal ſtatutes were paſſed againſt the Catholic, at the very time when he *had* a *ſhare* in the legiſlature and *poſſeſſed* the

elective

elective franchise, he was deprived of civil liberty, while he ſtill retained political power; which proves they are not inſeparable. He became enſlaved therefore, not becauſe he loſt the elective franchiſe, but he loſt the elective franchiſe becauſe he had been previouſly and for a length of time enſlaved—and he owed his ſlavery to the departure of the legiſlature in his caſe, from the principle of the univerſality of the law.—Had the legiſlature of thoſe times adhered to this principle, had they contented themſelves with only defenſive acts of authority precluding the Catholic from political power, and leaving his civil liberty untouched by any *offenſive* act, inſtead of leaving him political power and deſtroying his civil freedom, the Catholic could never have diſcovered that he was a ſlave, nor could his advocate have diſcovered it for him, for he never would have been bound by any law, but ſuch as equally bound the Proteſtant, and the Proteſtant legiſlator himſelf.

In the next place, the poſition that, "political power and civil liberty are inſeparable"—is either perfectly true or perfectly falſe as it happens to be applied It is in the miſapplication of this principle that conſiſts the radical error of the Catholic and of his advocates—which I have ſtyled dangerous, becauſe it is alſo the error of all the levellers of the day.

It is falſe when applied to *individuals*, that they can have no civil liberty, unleſs they exerciſe in their own perſons a ſhare of political power.—It is falſe when applied to *individuals*, that their civil liberty *conſiſts* in their being bound only

only by laws made with their own consent, actually or virtually given.

This latter position however popular it may be, is in truth a gross vulgar error, which has crept into the public mind and misled the public understanding, under the conceited form of a maxim, although when misapplied as it has been, it is a maxim which asserts a falsehood and inculcates an impossibility.—Let us examine it.

SECT. II.

Whether the position that the freedom of the individual *consists in his being governed only by laws made with his own consent, be founded in truth.*

POLITICAL power as contradistinguished from civil liberty, is strictly speaking the power of legislation. In representative governments it also includes the power of nominating legislators.

That form of government which confers on the individual members of a community the greatest degree of political power, which they can by possibility possess—is where they actually legislate for themselves, and make their own laws in person, without the intervention of representatives. This was practised in many of the ancient democracies of Greece, particularly at Athens.

If

If the maxim, that to be free consists in being bound only by laws made by the *consent* of the individuals who are to obey them, could be true under any form of government, it most assuredly must be so under this, where the people possess the greatest possible degree of political power.—Will it hold good even here?

I decidedly answer—NO.—Admitting what I shall for the present neither assert nor deny, that the individuals of which the community is composed, had *previous* to the formation of their political union, a right to be free from the obligation of laws not made with their own consent, yet the very first act of their political union must be *quoad* each individual in his *separate* capacity, A SURRENDER OF THAT RIGHT FOR EVER.—The *fundamental* law of their political union must be, "That in all cases whatever the will of the "majority shall be binding upon the minority." That the law made by the *thousand*, must be obeyed by the *nine hundred and ninety nine*, altho' the latter, so far from consenting to it, should have opposed the enacting of it with all their might.

It is obvious, therefore, that upon entering into political society, even where the community retain in their own hands, the greatest possible degree of political power, every individual gives up for ever, any right to be free from the obligation of laws, to which he shall not have given *his own special consent*.—He deposits this right with the community at large, and binds himself to obey whatever law the *majority* of that community shall ordain, however enacted without his consent, or in the teeth of his opposition to it.—Hence large and indefinite portions of a commu-

nity

nity poſſeſſed of the freeſt form of government that can exiſt, may in their turns be bound by laws to which they have decidedly refuſed their aſſent.

But when they are ſo bound, do thoſe portions of the community forfeit their *civil liberty?*—who would be ſo abſurd as to aſſert that they did?—who would be ſo abſurd as to ſay, that the majority alone were free, becauſe they had given their conſent to the law by which they were bound, and that the minority were ſlaves becauſe bound by a law to which they had refuſed their aſſent?.

If then large and indefinite portions of a community, poſſeſſed of the greateſt poſſible degree of political power which can remain in the hands of any people, may be bound by laws made without their conſent, and at the ſame time *without any injury* to their civil liberty—it neceſſarily follows, that it can *not* be *eſſential* to the civil liberty of any *individual* members of a free community, that they ſhould give their own ſpecial conſent to the laws by which they are bound.

Did the advocates for the theoretical maxim, that to be free conſiſts in being governed by laws made by the conſent of thoſe who are to obey them, never hear of another maxim, a practical maxim, namely, "that the ſenſe of the majority "is the ſenſe of the whole." That this latter maxim taken litterally, is not true, I believe will be admitted by all:—Imagine that thoſe gentlemen in the oppoſition in our houſe of commons, ſome of whom are its brighteſt ornaments, and who have ſtood moſt forward in aſſerting the Catholic Claim to the elective franchiſe, would not be much flattered

tered at having it ſuppoſed, that the ſenſe of the *majority* of that houſe was *their* ſenſe—but the meaning of the maxim is, that the ſenſe of the *majority* is as *binding* as the ſenſe of the *whole* could be ;—thus conſtrued, no one can deny its truth.

No one can deny that the will of the thouſand who give their conſent to a law is as binding upon the nine hundred and ninety nine who rejected the law, as if the latter had themſelves conſented to it :—This therefore is a truth which directly contradicts the maxim, that to be free conſiſts in being governed only by laws made with *our own* ſpecial conſent. The two maxims are incompatable with each other, they can not conſequently both be true.

I have hitherto conſidered this maxim only with reference to a pure democracy. It is admitted, I believe, that it is only in a very ſmall community, where it is practicable that the individuals compoſing it ſhould in their aggregate capacity legiſlate for themſelves: And though there the government, while it laſts, muſt be free, yet the hiſtory of the Republics of the ancients, where this ſpecies of government took place, fully proves, that the ignorance and credulity, the caprice and inconſiſtency, and the perpetual deſire of change of governors, which in general form the characteriſtics of the great body of a people, peculiarly diſqualify them for the office of legiſlators, and muſt ever deprive their governments both of permanence and ſtability.

Thoſe fierce democracies, rather the ſport of human paſſions, than under the direction of hu-

man

man reaſon, alternately exhibited either the turbulence of anarchy, when the people held the power of legiſlation in their own hands, or the ſubmiſſion of ſervitude when their credulity had given them a maſter. They were perpetually expoſed to, and frequently ſuffered under, the uſurpations of their own ambitious fellow citizens, from their incapacity to uſe, and conſequent abuſe of that legiſlative power which had been placed in their hands, for the expreſs purpoſe of guarding them againſt that very danger.

Let us now conſider the truth of this maxim, with reference to repreſentative governments.

SECT. III.

Upon the virtual conſent *of individuals to the laws by which they are bound.*

IT would be impoſſible for communities of any magnitude to legiſlate for themſelves in their aggregate capacity. Too numerous to make their own laws, or perſonally to aſſent to them, they muſt truſt the power of legiſlation to others, and they will conſequently then be bound by laws *not* made with their *own conſent*, but made with the conſent of others.—The truth of this is ſo obvious, that the favourers of the maxim in queſtion, have been obliged to have recourſe to a fiction, to give them

them a pretence for retaining it under representative governments, where the people neither do, nor can give their *own* consent to the laws by which they are bound.—They tell you, that when the representatives of the people have consented to a law, the people themselves must be presumed to have consented to it also; and this presumption, has been styled by them a *virtual consent* on the part of the people. By the help of this expedient, they have triumphantly retained a maxim, which otherwise every representative government that ever existed would have directly falsified.

Let us examine it, and I believe we shall find there is nothing propounded by Lord Peter, in Swift's Tale of a Tub, more difficult of digestion, than the inference we are desired to draw with the assistance of the word *virtual.*

Let us, for this purpose, suppose a dialogue between an honest English voter, and an advocate for the maxim ;and that John Bull was very angry at a recent tax.

Advocate.—What are you grumbling at man ?

John. Why at this cursed new tax, master, to be sure.

Adv. You have no right to object to it, friend, because I assure you, you gave your consent to it.

John. I'll be d-m-d if I did.

Adv. Why, haven't you a vote ?

John. Aye—and what o' that !

Adv.

Adv. Why then you have a repreſentative in parliament.

John. Aye, to be ſure.

Adv. Then your repreſentative gave his conſent to the tax, and that was the ſame thing as if you had conſented to this tax yourſelf; for whenever your repreſentative conſents to a law or a tax, you neceſſarily give a *virtual conſent* to the ſame law or tax.—Now if you had happened not to have a vote, I own, in my opinion, you would have had a very good right to complain, for having no repreſentative in parliament, you could not have given your virtual conſent to the tax, and conſequently you would then have been taxed without your conſent, which is the——

John. Z—nds, maſter, I tell you I *am* taxed without my conſent!

Adv. Patience, friend—I tell you, you are not: but I was going to ſay, the eſſence of liberty conſiſting in a man's never being taxed or bound by any law without his own conſent, actually or virtually given, whoever has *a vote* for a member of parliament never can be taxed or bound without his own conſent, becauſe he virtually conſents to whatever his repreſentative conſents to; you are therefore a freeman, but your neighbour Tom Styles having no vote, is therefore a ſlave; for——

John. Hold, maſter, you are quite out in one thing.

Adv. What is it?

John. Why my representative did *not* vote for this tax—no, no,—he voted *against* it, and made a d-m-d bitter speech against it too, that he did—for we had instructed him to oppose it—and so he did oppose it;—then what the d-v-l becomes of your what-d'-ye-call-'m *vartule* consent, with which you would persuade me out of my senses.

Adv. Friend, I tell you, you gave your consent to this tax for all that.

John. Z—nds, master, you're enough to drive one mad.—What *I* give my consent to this tax! *I* give my consent to it, when with this here hand I, myself, signed my name to the paper instructing our member to oppose it—and he did oppose it tooth and nail.

Adv. All this signifies nothing—I say you did give your consent to this tax, because——

John. Why didn't you tell me but just now, that what my representative consents to, *I* consent to?—so to be sure when he don't consent, *I don't* consent neither—do *I?*

Adv. Yes, but you do—and you have consented to pay this tax, though your representative did not consent to it.

John. How will you make that out?

Adv. Because he is *not* your representative.

John. Then who the d—l is?

Adv.

Adv. Thoſe members of parliament who voted *for* the tax, and who, being the majority, paſſed it into a law—*they* are your repreſentatives.

John. So *my* repreſentative is *not* my repreſentative—and thoſe who are *not* my repreſentatives *are* my repreſentatives, and I have either no repreſentative at all, or a great many more than I want—and I give my conſent when I ſay NO, and I give my conſent when my repreſentative ſays NO.

Adv. There is nothing more certain—for when your repreſentative ſaid *no*, he *virtually* ſaid *yes*, there being a majority againſt him; you conſequently *virtually* ſaid yes then, though you ſaid no before.

John. So, maſter, I ſuppoſe when he made a d-m-d bitter ſpeech againſt the tax, he made a *vartule* ſpeech in favour on't—didn't he!

Adv. I am not quite ſo ſure of that; but no matter, for I told you before, when he ſaid *no* to this tax, he was not your repreſentative, but the majority who ſaid *yes* were your repreſentatives.

John. So if my repreſentative ſays *no*, when *I* ſay *no*, then he is *not* my repreſentative; but if when I ſay *no* he ſays *yes*, then he *is* my repreſentative:—And the member for W——, for whom I have a vote, and for whom I did vote, he is *not* my repreſentative—but the members for the d-v-l knows where, for whom I have no vote, and don't even know their names, they *are* my repreſentatives.

Adv. Nothing more certain.—It is a maxim, that representatives once assembled in parliament are no longer representatives for this or that place, but for the whole kingdom.

John. Then I may have a main number of representatives without having voted for one of them, or knowing any thing of the matter.

Adv. To be sure:—there are 558 members, you only voted for two of them, yet the remaining 556 are your representativee for all that.

John. Why then if a man may have 556 representatives, without having a vote for one of them, or knowing any thing of the matter, why may not my neighbour Tom Stiles have 558 representatives, without having a vote for one of them, or knowing any thing of the matter?

Adv. No, no, you are quite mistaken;—if you have a vote for *two* representatives, you have *virtually* five hundred and fifty eight representatives, and therefore you have *virtually* five hundred and fifty eight votes; but if you have no vote, then you have no representatives at all, and you would be a slave, taxed and bound by laws made without your own *virtual* consent—which is the very definition of slavery.

John. I don't know what you may or may not call slavery;—but I know this, that I *am* taxed without my own consent, and what's more, without the consent of our member. Mayhap, master, you want to make a fool of me—but it won't do:—You'll never make me believe that black's white, or that I say *yes* when I say *no*—or that our member

member ſays *yes* when he ſays *no*—or that I pay this tax with my own conſent, when it is taken from me in ſpite of my teeth—or that I am a jot more free than my neighbour Tom Stiles, who has no vote at all.—For what ſignifies my vote—no not a ruſh—if when I cry no, no, till I'm hoarſe—and if when my repreſentative cries no, no, till he's hoarſe, a parcel of gem'men, whom I never ſaw in my life, and who for the firſt time I heard on't, you ſay repreſent me in parliament; if theſe gem'men, by crying yes, yes, cram the law down my throat, and down the throat of my own repreſentative into the bargain———So, maſter, good bye-to-ye.

Adv. Obſtinate blockhead!—not to perceive that he is free, *only* becauſe he gives a virtual conſent to the laws by which he is bound—and that his neighbour Tom Styles is a ſlave *only* becauſe he does not!! *

Here

* Human imbecility never ſwallowed a groſſer abſurdity than the doctrine which ſtates, that a man concurs in the formation of a law, becauſe he concurred in the appointment of a law maker, who is at liberty afterwards to act in total independence of him. As well might the Preſbiter who elects his parſon, ſay it was he who wrote the parſon's ſermons; the governors of an hoſpital who elect the phyſicians, ſay it was they who preſcribed for the patients; or the Lord Chamberlaine who appoints the Poet Lauret, ſay, it was he who wrote the birth-day odes, as that a man who votes for a law-maker, ſhould conceive that he concurs in making the laws. Were repreſentatives like the States General of Holland, bound to take the ſenſe of their conſtituents, and bound to follow that ſenſe upon every law propounded in their aſſembly; then indeed, there would be truth in the doctrine, but then there would be no repreſentative government; there would be an aſſembly of *agents*, whoſe

Here is a genuine picture of that *virtual consent*, which according to the doctrines of the day, constitutes

whose office it would be meerly to *publish* the laws made by the people, who in this case would, to all intents and purposes, legislate for themselves in person, and be subject to all the inconveniencies of that mode of government. The French constituent assembly, after stating, that every citizen had a right to concur in the formation of law, either personally (which is the only real concurrence that can exist) or through their representatives, (which is a fictitious concurrence) were very sparing in conferring the power of giving even this fictitious concurrence. They divided the citizens into active and inactive; the latter were destitute of votes of any sort, and, according to some of their own publications, the active citizens were computed to amount to four millions of persons from the age of sixteen upwards, or about a sixth part of the whole nation. From these four millions must be deducted all under the age of twenty-five, which at a moderate computation could not be less than one-fourth—so that the real number of citizens efficiently active would amount to no more than three millions or about an eight part of the nation. But had this eighth part a right to give even this fictitious concurrence, which, according to the constitution *every* citizen had a right to give to the formation of law?—By no means: they were not to elect representatives themselves, they were only to chuse electors, who were to elect representatives for them, and these electors were not quite in the proportion of one to an hundred active citizens, for two hundred and fifty active citizens chose only two electors. But supposing one elector to every hundred of the active citizens, three million of active citizens would just give thirty thousand electors; so that the elective franchise for the immediate choice of representatives in a nation consisting of twenty-four millions was conferred only on thirty thousand persons, that is only one vote to every eight hundred individuals. I do not condemn the contrivance of electing the electors, it may be a very good one; neither do I condemn this limitation of the elective franchise for representatives in the legislature: but I condemn the *false principle* upon which the constituent assembly proceeded. It was surely absurd in them

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conſtitutes the *liberty* of the individual; and to be deſtitute of which eſtabliſhes his *ſervitude!*

Into what a maze of fiction and abſurdity, does not the falſe and impracticable poſition lead, that the freedom of the *individual*, *conſiſts* in his being bound only by laws made with his *own* conſent! That this *litterally* taken is falſe, is admitted on all hands; recourſe muſt be had to a fiction to give it even the appearance of probability, and thus between a fiction and a falſehood, it is expected that truth ſhould be engendered.

I believe there never exiſted any government but one, in which *individual* conſent was requiſite to genera l law—I mean that of Poland—becauſe this was the only form of government that I know of, in which the principle, that "the "will of the majority, is the will of the whole," did not prevail;—and had civil liberty been the object of this government, the maxim in queſtion might here, and here only, have been applicable. But the Poliſh government is not a ſyſtem of *liberty*, but a ſyſtem of *power*:—It is a confederacy formed by one part of the nation to maintain their own power, and at the ſame time to keep all other parts of it in bondage.—Civil liberty

firſt to tell a whole people that through the medium of repreſentatives, they could concur in the formation of law as effectually as if they were to concur perſonally. In the next place to tell that people, that *every citizen* had a right to concur in the formation of the law; and then, as if they had meant to acknowledge the falſehood of both thoſe principles (for falſe they certainly are), confine this very right to one perſon out of eight hundred.

berty has no exiſtance in Poland * ; all is either privilege or ſlavery. And ſurely that kingdom furniſhes a ſtriking proof of the abſurdity of the poſition, that *individual conſent* ever can, for any purpoſe, be requiſite to general law.

The *veto* of the Poliſh nuncio will ſcarcely be held up as an object of imitation, when thoſe among whom it was eſtabliſhed, could find no better expedient to rid themſelves of the miſchief of this fatal *individual diſſent*, then by cutting the throat of the *diſſenter*.

This miſtaken and falſe principle, that the *liberty* of the individual depends upon his *individual* conſent, (either actually or virtually given) to the laws by which he is bound, has been handed down to us from very remote times, and owes its origin to the feudal ſyſtem. It was a fundamental maxim, in that ſyſtem of policy, that no freeman could be governed or taxed unleſs by his own conſent;—upon this maxim, the *veto* of individuals in the Poliſh, which is preciſely the feudal government, was moſt certainly founded.

But as was before obſerved with reſpect to Poland, the feudal ſyſtem was a ſyſtem of power, not of liberty :—Civil freedom was unknown under it, and roſe afterwards upon its ruins. Under that ſyſtem, *freeman* was a title of diſtinction ; it did not imply a man who was merely free, but one who was a member of the feudal corps, in contradiſtinction to the *villains* or *bondmen* who were their ſubjects or ſlaves, and who formed the great bulk

* Thanks to the Imperial Catherine.

bulk of the nation. The freedom of *man*, never entered the thoughts of the members of the feudal corps; their own *power* was their only object, and all their maxims, and all their institutions, were calculated solely to establish and maintain *power* in their own hands, to the annihilation of all liberty among the other parts of the nation: This maxim therefore was applicable to the *individual* member of the feudal corps, not because he was free, or as a principle essential to his *civil liberty*, a term then unknown, and consequently not understood, but because he possessed feudal power, and feudal privileges, and as a principle essential to the preservation of that *power*, and of those privileges.

Thus a maxim calculated only to preserve the *power* of one part of the community, at the expence of the liberty of the remainder, after civil freedom became better understood, and was known to consist in the secure possession of natural rights which should be *common* to all, was, from the misconception of the meaning of the term *freeman*, supposed to apply to every *man* who was *free*;—and that the observance of the principle that maxim inculcates, was as necessary, in the actual order of things, to the preservation of the *meer liberty* of the individual member of the community, as it had been formerly to the maintenance of the *power* and privileges of the member of the feudal corps.

I admit, then, that his *individual consent* to the law by which he is bound, may be necessary to preserve the exclusive *power* of the individual; but as long as laws are common to all, and of course possess that first requisite to every just law, universality, his *individual* consent to that by which he is bound,

bound, never can be neceſſary to preſerve the *civil freedom* of the individual, which he muſt enjoy in common with every member of the community.

I have ſhewn that, even in pure democracies, where the people legiſlate for themſelves in perſon, this principle cannot exiſt; for the rule that the will of the majority muſt be binding on the minority, and have the *ſame efficacy* as the will of the whole, neceſſarily extinguiſhes that principle: *a fortiori*, it cannot exiſt in repreſentative governments, where the people do not legiſlate for themſelves. That moſt groſs and abſurd fiction of virtual conſent, invented by the favourers of the maxim, in order to varniſh over its impracticability and its falſehood, has been already ſufficiently expoſed.

We muſt therefore look for ſome other conſtituent principle of civil liberty, and of a free government.

SECT.

SECT. IV.

True Principles of Civil Liberty, and of a free Government.

TO enter as deeply into this ſubject as it's importance deſerves, would far exceed the limits I have preſcribed to this work. I may poſſibly take another opportunity of doing ſo.

For the preſent I ſhall confine myſelf to ſuch parts of the ſubject, as will ſerve to expoſe the abſurdity, the falſehood, and the danger of the poſition, that, *It is eſſential to the civil liberty of any member of a free community, that he ſhould* INDIVIDUALLY *and* PERSONALY *exerciſe a ſhare of political power.*

" Law, (ſays the 6th article of the French " Declaration of Rights) is the expreſſion of the " *general will.* Every citizen has a right to concur " perſonally or by their repreſentatives in its " formation."

This I deny——the great law of nature, that man ſhould be free, and all the auxiliary laws, requiſite to give him practical freedom—laws the moſt important to ſociety of any, muſt be, and can be derived alone, from thoſe natural, immutable and eternal truths, which are paramount

to

to the will of any individuals, of any nation, or of the whole human race.——Truths, coeval with the creation of man, and ſacred as the will of his creator.

Are there not *rights* derived from God and nature?—then there are *laws* derived from God and nature—for every right, implies a law, which ſays, "Thou ſhalt not invade thy neigh-"bour's right."—Are then the laws derived from God and nature, nothing more than a declaration of *human will?*——Are the eternal principles of reaſon, truth and virtue, and they are the principles of liberty; are theſe to be ſubject to the aſſent or diſſent of every two-legged being, calling itſelf man!—Man! ſo often the ſlave of paſſion,—the creature of folly—the tool of craft—ſo often plunged in the depths of the groſſeſt ignorance, of the moſt abject ſuperſtition, and ſubject to all the caprice, the inconſtancy, the imbecility, and the vices incident to his nature!——Do the laws derived from God, require the ſanction of ſuch a being!?

Who that reveres liberty did not rejoice at the downfal of deſpotiſm in France?—Who did not lament over liberty when laid proſtrate there by the hands which had ſhaken deſpotiſm from its ſeat?—* Why in that country was the cauſe of freedom diſgraced?—This fatal poſition which taught its inhabitants that to their civil liberty, to which they had a right, it was neceſſary to annex power, *perſonally* and *individually*, to which they had no right, and which it was impracticable, ſo to annex to it, had poiſoned the mind of France, and inſtead of freemen, had peopled the land with Domitians and Caligulas, the vices of whoſe

* *Auguſt* 10.—*Sept.* 3d and 4th

whoſe heads and hearts till matured and invigorated by power, that grand corrupter of the human mind, had lain impotent, and dormant among the dregs of ſociety.

That every citizen ſhould concur in the formation of the law!—what an impracticable, what a monſtrous abſurdity.—If every citizen ſhould concur in the formation of the law—then no law ſhould be framed *without* the concurrence of *every* citizen—the inference is unavoidable—conſequently the majority could paſs no law without the concurrence of the minority.—The *veto* of individuals muſt therefore of neceſſity be introduced, if the poſition be true—if the *veto* of individuals be not introduced, the poſition is of neceſſity falſe.

But were the French conſtituent aſſembly ignorant that the fundamental laws of ſociety, which conſtitute the bonds of its union, the laws of natural duties, of morals, of juſtice and of virtue, which prohibit all things *mala in ſe*, and preſcribe what mankind owe to each other—in a word, all thoſe laws, reſulting from the moral relations and fitneſs of things eſtabliſhed by providence, and which form the very foundations of civil ſociety?—were they ignorant that theſe laws come not under the dominion of man?—that they are not *made* by him, but *coeval* with his exiſtence; that no human power can ſupercede their authority—no human legiſlature do more than in ſubordination to their divine author, *tranſcribe and publiſh*, theſe his precepts.

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Can the concurrence of every citizen be requiſite to the bare tranſcribing and publiſhing of laws which exiſt independently of human will ?

But to do the French conſtituent aſſembly juſtice, though they adopted the doctrine, they were far from adopting the practice—The miſchief was however done. The people corrupted by the doctrine, inſiſted upon the practice. When they were told that every citizen had a right to concur in the formation of law, the tranſition was natural and eaſy, that every citizen ſhould think he had a right to take the law into his own hands. They were incapable of reaſoning upon the falſeneſs of the principle, but they were capable of feeling the falſeneſs of the fact.—They felt they did *not* concur with the decrees of the majority of the national aſſembly—yet they were taught by the ſixth article of the conſtitution that no decree could be valid without their concurrence.—They felt, and felt rightly, the abſurdity of the poſition, and the nonentity of the fact, in what we call *virtual concurrence* through their repreſentatives. They conceived, and were juſtified by the conſtituent aſſembly in that conception, that every citizen had a right to be his own legiſlator—a right to execute his own laws followed of courſe—in other words, his will became his law, and in his opinion, to execute that will, his right—what was the conſequence ?—the annihilation of all government, of all law, of all ſubordination, of all order, of all rights, and conſequently of all liberty.—The King was depoſed and impriſoned—the national aſſembly itſelf, threatened, overawed and ſuperceded—the labours of all the ability of France during three years overturned in a day.—The pile they had

reared

reared to civil freedom, levelled to the earth—proſcriptions, maſſacres, and the innocent blood of thouſands, ſhed with the moſt ſavage canibal barbarity cloſed the ſcene.

Theſe were the triumphs of the doctrine, that *individual* liberty cannot exiſt without *individual* power.

Thoſe miſerable moraliſts, and arrogant politicians, the levellers of the day, who have preſumed to treat of the rights of man, without beſtowing one thought upon the *nature* of man—who upon this moſt important part of their ſubject, have betrayed the groſſeſt ignorance, yet who from a half view of that ſubject, have dogmattically drawn concluſions involving the whole of it.—Theſe gentlemen appear not to know that MIND, ſhould govern man. That he is a being of a twofold nature, and has conſequently two principles of action, differing from each other—Reaſon, and the Paſſions—that reaſon is very ſparingly and in very different degrees diſtributed among the human race—that the paſſions on the contrary are common to all, and poſſeſſed by all in nearly the ſame degree.—Is it not therefore obvious that if men were left to themſelves that the principle of action which was moſt general, and prevailed in each individual in the greateſt degree, would operate to the excluſion of the other? Without governments, and conſequenly without laws by which would the bulk of mankind be directed—by their reaſon, or by their paſſions? Let their conduct during every temporary ſuſpenſion of the powers of government, in any country, or at any period with which hiſtory makes

makes us acquainted answer this question, if the reader's common sense has not answered it already *.——It is on this account that no human being whether prince, or subject, can be trusted with *self dominion* alone—it is this which renders the absolute dominion of the laws, indispensably

* Mr, Roland, the Jacobine minister for the home department, in his letter to the national assembly, dated Sept. 3d. 1792, says, " If disorganization, becomes habitual, if men fired with zeal but destitute of prudence " or knowledge, pretend to interfere daily, in the administration and impede its operation; if by the support of " some popular favour, obtained by great ardour, and supported by loquacity, they disseminate mistrust, multiply " accusations, excite the fury of the populace, and dictate " proscription: *the Government is only a shadow, a nonentity:* " and the honest man posted at the helm of affairs, ought " to retire, when he can no longer direct it: for he was " not placed there to be a statue, but to act."———And on the 5th November 1792, bishop Fauchet, one of the commissioners sent to the department of Yonne, read a memorial to the national convention which stated that " since " 11th of August a kind of regency like those of Algiers " and Tripoli, has been established at Paris. The petty " horde of daring villains sent emissaries and robbers into " the departments to plunder them, and give them up " to all the horrors of anarchy. At Sens, they succeeded " in their perfidious designs—they preached up murder— " and the blood of the citizens were shed—they preached " up contempt of constituted authorities, and the magi- " strates ceased to have power—They preached up hatred " of the national assembly and the executive council, from " whom they derived their power,—and the commons of " Paris, were proclaimed at Sens, the only power of the re- " public. At Villeneuve-sur-yonne, they preached up the " *sovereignty of each individual*, in consequence of which a " justice of the peace was deposed, and a beautiful publick " building destroyed. At Joigni they imprisoned the pre- " sident of the district, and deprived all the members of " the directory of their offices. At Auxere they established " a committee of safety, like that of the commons of Paris, " and distributed in great profusion, copies of a journal " filled with abuse against the national convention."

necessary,

neceſſary:—reaſon and truth exclaim with a loud voice, laws reſulting from the moral relations and fitneſs of things eſtabliſhed by his creator, ſhall be obeyed by man, whether he conſents to them, or not—They declare that every man ſhall *not* be his own legiſlator, for then he would be governed by his paſſions—but that human experience, human knowledge, and human wiſdom united, ſhall govern him, *and* his paſſions—and for the very reaſon, becauſe no portion of that experience, or of that knowledge, or of that wiſdom may have fallen to his own ſhare—whence then the impudent claim now ſet up in behalf of every creature poſſeſſed of the animal form of man, that he ſhould not be bound by any law made without his *own* conſent?—Whence the monſtrous poſition that *he* is a ſlave, who has not this claim allowed?—a poſition diſowned by Truth and Reaſon, and which ſets the laws derived from God and nature at defiance.

This therefore cannot be one of the *principles* of civil liberty, or of a free government.

I ſhall now with the fulleſt convinction of my mind ſtate what I conceive theſe to be.

I have ſaid that no man whether a ſovereign or a ſubject, can be truſted with ſelf dominion alone, and that the laws reſulting from the moral relations and fitneſs of things, muſt be obeyed by him, whether he conſents to them or not.

Now the eſſential difference between a deſpotic and a free government is this.—In the former, though in all caſes between *ſubject* and *ſubject*, theſe laws are tolerably well enforced, yet there,

the ſupreme power of the ſtate arrogantly, and impiouſly, aſſumes to itſelf the right of *diſpenſing* with thoſe laws whenever it thinks proper, in all caſes between the *ſovereign* and the *ſubject*—— Though the deſpotic monarch will not permit one ſubject to murder, or to maim, or to rob, or to impriſon, or to drive from his home another ſubject, every one of which acts, is a violation of the rights of man, and of the laws derived from God and nature, yet the monarch has the arrogance to think that *he* may violate thoſe rights, and the impiety to imagine *he* is not bound by thoſe laws—and by giving new names to crimes for which any of his ſubjects would ſuffer death, he thinks himſelf perfectly juſtifiable in commiting murder, or in maiming, or in robbing, or in impriſoning, or in driving from his home any ſubject of his, provided theſe violations of natural law and natural right are ſtyled ſtate executions, or ſtate puniſhments, or confiſcations, or baniſhments.

In a free government on the contrary, not only the laws derived from God and nature are infinitely better enforced between ſubject and ſubject, than under an arbitrary one—but *government itſelf is under preciſely the ſame obligation to obſerve thoſe laws towards all its ſubjects, that theſe are to obſerve them towards each other.*—Simple and conciſe as this diſtinction is, I ſhall venture to aſſert, that it is the moſt juſt diſtinction that can be made between an arbitrary and a free government.

The moſt deſpotic government that exiſts, exacts from all its ſubjects, to whom it has not deligated any of its powers, the moſt rigid obſervance of each others rights, and puniſhes any invaſion

invaſion of them on the part of one ſubject againſt another, with the utmoſt ſeverity, reſerving to itſelf, and its miniſters, officers and ſervants, the monopoly of injuſtice, and the excluſive privilege of violating right.

The fundamental principle therefore of a free government is this—

" *That the government ſhall itſelf be under preciſely the ſame obligation to reſpect and leave inviolate the natural rights of every member of the community that all its ſubjects are under, reciprocally to reſpect and leave inviolate thoſe rights in each other.*

It is in a rigid adherence to this principle that conſiſts the liberty of the ſubject, who muſt of neceſſity be *free*, meerly by virtue of *being a member* of a community where this principle is eſtabliſhed, whether he in his own perſon poſſeſſes any ſhare of *power* or not.

The difficulty is, *how*, ſhall the power of government be thus limited.—

Nothing but power can limit power—a power therefore adequate to this purpoſe muſt be lodged in a portion of the community itſelf, which ſhall form a neceſſary conſtituent part of the legiſlative power of the whole ſtate.

In all I am going to obſerve by the word, *community*, I mean thoſe *who are governed* in contradiſtinction to *thoſe who govern.*

Thoſe *who govern*, are not in ſtrictneſs members of the community; they are ſomething more—nor have they that compleat identity of intereſt with the community which ſubſiſts among thoſe *who are governed*.—The ſingle circumſtance that thoſe who govern, are paid by thoſe who are governed is of itſelf ſufficient to create a diverſity of intereſt between them—becauſe it will be always the intereſt of one party to obtain as much as they can; and that of the other to grant no more than is neceſſary.

It being requiſite as I have obſerved, that a power ſhould be raiſed on behalf of the community, adequate to the purpoſe of impoſing the ſame obligation upon the power of government to reſpect the rights of the ſubject, that the members of the community are themſelves under to reſpect thoſe rights in each other. This power muſt be conſtructed upon the following principles.

Firſt, It muſt be lodged in the hands of a portion of the community itſelf, that is of thoſe who are governed.

2d. This portion of the community muſt not excluſively conſiſt of ſuch members of it, as are diſtinguiſhed by any rank, or pre-eminence derived from government, it muſt conſiſt of perſons taken indiſcriminately from the maſs of the community at large.

3dly. They muſt be ſufficiently numerous to form, ſtrictly ſpeaking, a popular aſſembly, and to render it impracticable for government either to purchaſe or to force their power from them.

4thly. The

4th. The duration of their power muſt be limitted, ſo that they ſhall be ſubject to return again to the maſs of the community, to make room for others who ſhall poſſeſs that power in their turn.

Now I ſhall not heſitate moſt decidedly to pronounce, that every community which ſhall be poſſeſſed of a power thus conſtructed, which power forms a conſtituent part of their legiſlature, without whoſe concurrence no law can take place, muſt be a free community; and provided that power be conſtructed upon *thoſe principles*, the *particular mode* of conſtruction, is a matter of very inferior conſideration.

To *have* a branch of their legiſlature conſtructed upon theſe principles, is the *end*, as it is that which ſecures the liberty of the community. The mode of conſtruction forms the *means* only of obtaining that end; which might be equally well obtained by a variety of means. But the error of the political writers of the day is, that they miſtake the *means* for the *end*: They make the liberty of individuals conſiſt not in their ſhare of the liberty poſſeſſed by the community at large, in conſequence of their compleat enjoyment of the *end*, which was to have a branch of their legiſlature conſtructed upon the principles I have deſcribed; but they make it conſiſt in a perſonal and individual exerciſe of the *means* of obtaining that *end*. As if when the end was with certainty obtained, it could not be enjoyed, unleſs each individual had perſonally worked at the means of obtaining it. As well might it be ſaid that the being well lodged, did not conſiſt in our *having* a good houſe, but in labouring with our own hands in the *building* of one.

By

By lodging this power in the hands of a portion of the community itself, consisting of persons taken indiscriminately from the mass of that community, an *identity* of interest between those persons, forming a branch of the legislature, and the community at large must of necessity be established. By those persons being sufficiently numerous to render it impracticable, that their own portion of power should be purchased or forced from them, their independence upon the *power* of *government* is maintained. And by their being liable to return unprivileged and undistinguished into the mass of the community, as the duration of their power is *limited*, so that the legislator of this month, may be a meer subject the next, effectual care is taken to prevent their turning their power against the community itself, which might be the case were it perpetual; or, what in that event might also happen, to prevent their erecting themselves into a distinct class of citizens, who should exempt themselves from the operation of the laws, by which they bound the community at large.

Here then we have what I will maintain against all the levellers of the day, are the true genuine constituent principles of civil liberty; "IDENTITY "OF INTEREST BETWEEN THE LEGISLATORS "AND THE LEGISLATED, AND LAWS COMMON "TO AND EQUALLY BINDING UPON BOTH." I will maintain that every member of a community, where these principles are rigidly adhered to, *must* be free; he of necessity will possess civil liberty, though destitute of all political power.

And

And in the teeth of thoſe blundering politicians, who make the civil liberty of individuals conſiſt in the particular *mode* of obtaining, and not in the actual *poſſeſſion*, of the object, I do maintain, that provided the mode adopted by the community to enforce a rigid adherence to theſe principles be *effectual*, what the nature of that mode may be, is a matter of no importance whatever to the civil liberty of the individual members of that community.

SECT. V.

On political power.

IT has been ſtated, that the fundamental principle of a free government, which in other words, is the dominion of reaſon, of truth, and of virtue, is that the government ſhall itſelf be preciſely under the ſame obligation to reſpect and leave inviolate the natural rights of every member of the community, that all its ſubjects are under to reſpect and leave inviolate thoſe rights in each other. It has alſo been ſtated, that for this purpoſe it was requiſite, that a power ſhould be raiſed on behalf of the community adequate to the end of impoſing this obligation upon the power of govern-

government, which power on behalf of the community, when embodied, is to conſtitute a branch of the legiſlature. Now it is this power which ſtrictly and properly ſpeaking is the *political power* of the community.

I obſerved at the beginning of this work, that upon the ſubject of political power, both the Catholic and his advocate had fallen into a groſs and dangerous error. I ſhall now ſhew in what that error conſiſts.

It is certain that the civil liberty of the community will depend upon *their* being poſſeſſed of political power. The community itſelf muſt in the *aggregate* be poſſeſſed of political power—ſo far civil liberty and political power ſhould be united. But becauſe, in order to be free, it is requiſite that the *community* itſelf ſhould, in the aggregate, poſſeſs political power, therefore, it is fallaciouſly concluded by theſe gentlemen, that every *individual member* of the community, in order to be free, muſt alſo in his own perſon poſſeſs a ſhare of political power.

Now this inference is not only erronious, but is directly the reverſe of the truth; for *political power* can belong only to the community in its *aggregate* capacity, and it is totally inconſiſtent with the principles of liberty that this power ſhould belong to any individual in his *ſeparate* capacity.

We have ſeen upon what principles this power muſt be conſtructed, *viz.* That it muſt be lodged in the hands of a portion of the community itſelf, that portion to conſiſt of perſons taken indiſcriminately from the maſs of the community at large, and

and ſubject to return again into that maſs, to make room for others, who ſhall in their turn exerciſe this power in their aggregate not their individual capacity. It is conſequently the property of the whole community, and not of any individual member of it. No *individual* can in truth exerciſe this power as an individual, it is only in *conjunction* with other individuals that he can exerciſe it at all. The member of the legiſlature himſelf, poſſeſſes perſonally and individually no more than the *rudiments* of that future political power, which acquires form and efficiency only in the concrete maſs of many individuals united. Political power is therefore in its very nature an *aggregate* right—not a perſonal one; as it can neither be poſſeſſed nor exerciſed but in the aggregate.

To aſcertain therefore whether an individual member of a community be free, the queſtion is not, nor cannot be, whether *he* in his own perſon poſſeſſes a ſhare of political power, but whether the community, of which he is a member, poſſeſſes, in its aggregate capacity, a portion of political power adequate to the purpoſe of protecting the civil liberty of the whole community, in which the protection of his individual liberty muſt of neceſſity be included.

It is this lamentable blunder which confounds an *aggregate* right with *perſonal* and *individual* rights, which confounds the political power of the community, which is eſſential to the civil freedom of the whole community, with the perſonal power of the individual, which neither is nor can be eſſential to his individual freedom; and which by totally confuſing the two ideas, teach the individual to look for a perſonal power to which

he

he has no right, inſtead of remaining ſatisfied with that liberty to which he has a right.—It is this fruitful ſource of miſchievous error which has deluged the land with all the abſurd, fantaſtical, and dangerous ſchemes of modern reformers, and manufacturers of governments.

Upon this lamentable blunder alſo reſt all the arguments of the Catholic, and of his advocate, and the claims of the former, as a matter of right, to the elective franchiſe.

SECT.

SECT. VI.

On civil liberty.

THE effect of liberty to individuals is not, as has been asserted by a celebrated writer *, that they may do what they please—this is the effect of *power* not of *liberty*. On the contrary the effect of general liberty is, that individuals shall *not* do what they please; for as other individuals must be restrained from doing what they please with us, so we must be restrained from doing what we please with them. Liberty is in fact a system of moral, and *only* moral *restraint*, which forbids our doing whatever a wise and virtuous individual would forbear doing of his own accord; and puts *no other constraint* upon us than to do that, which such an individual would do of his own accord. Civil liberty is justice and virtue acting by rule—it is natural liberty, protected by civil institutions, both from the violence of natural power, and the usurpations of artificial. It is therefore a natural right inherent in the individual—it is also a personal right possessed and enjoyed by the individual, distinctly and separately from all other individuals. Political power forms no part of its *essence* in individuals—but that possessed by the community constitutes its *guard* to all individuals. Political power is to the community the protection of the civil liberty of

* Mr. Burke.

of the whole, precisely in the same manner as its army is to a free state the protection of its independence with respect to foreign powers. It is the property of the community, and not of any individual in it; as in a free state, the army is the property of the state, and not of any individual member of it:—and as the army, by preserving the independence of the state, preserves at the same time the independence of each individual subject, as to foreign powers, although he himself makes no part of the army, so the political power of the community preserves the civil liberty of each individual member of the community, although he himself possesses no share of political power—the absence of which, in an individual, can be no deprivation of a natural right, for political power is and must be the creature of convention and of civil society; it cannot be a natural right, which civil liberty is, because political power is the power of making laws for others as well as for ourselves; and as no man can have a natural right to make laws for another man, this right must be derived solely from the conventions of civil society.

It is not, like civil liberty, a personal right possessed and enjoyed by the individual distinctly and separately from all other individuals, but it is a right which can be possessed and exercised by one individual, only in conjunction with other individuals, and can be efficient in the exercise of it, only in conjunction with a majority of individuals. The efficiency therefore of political power in an individual depends entirely upon the will of others. The

very

very eſſence of civil liberty, conſiſts in its being independent of the will of others;—no two things therefore can more eſſentially differ from each other, than civil liberty and political power. Nothing ſurely can be more obvious, than that a right inherent in an individual, and enjoyed by him at will, independently of all other individuals, is properly and ſtrictly a *perſonal right*—ſuch is civil liberty. It certainly is equally obvious, that a right which ſo far from being inherent in the individual, and exerciſed by him at will independently of others, can not be exerciſed by him at all, but in *conjunction* with others, and be *efficient* in the exerciſe, only in conjunction with a *majority*, is not a *perſonal* but an *aggregate* right.

The doctrines of the day have however compleatly confounded rights ſo diſtinct in their nature: They have aimed at perſuading the unthinking multitude, that political power is a *perſonal* right, and a perſonal right without which they cannot enjoy civil liberty. Having a natural right to liberty, they certainly have a natural right to the means of ſecuring liberty; they have therefore a natural right to that *form of government* which will ſecure their liberty; but does it follow, that *every* individual member of the community muſt be a fractional part of the integral of that government?

Becauſe an army may be neceſſary to preſerve the independence of the ſtate, does it follow that EVERY citizen muſt be a ſoldier.—If the poſſeſſion of political power by a *portion* of the community, be ſufficient to protect the civil liberty of the whole, why muſt the *whole* be poſſeſſed of political power.

This

This ſurely is confounding the peaceable citizen, reaping with ſecurity the fruits of his induſtry, with the ſoldier who protects the ſtate. It may be ſaid the citizen owes his ſecurity from the attacks of foreign foes to the ſoldiers—very true—but the citizen is not the ſoldier—nor is it neceſſary that *every* citizen ſhould be a ſoldier in order to guard the ſtate from ſuch attacks. All that is neceſſary is, that the ſtate ſhould *have* an army *adequate* to the purpoſe of protecting it.—In the ſame manner the individual member of a free community may ſecurely enjoy civil liberty, although he is not perſonally poſſeſſed of political power. All that is neceſſary is, that the community of which he is a member, ſhould poſſeſs a portion of political power adequate to the purpoſe of protecting the civil liberty of the whole community.

SECT.

SECT. VII.

Political and civil power, political and civil liberty, compared.

THOUGH the levelling writers of the day frequently employ these terms, yet they no not appear to have annexed to them any distinct definite meaning.

It has been already shewn, that they strangely confound political power with civil liberty; they also use the terms *political power* and *political liberty*, as if they were convertible terms, meaning precisely one and the same thing, which has been a great source of error.

I shall endeavour therefore precisely to ascertain the meaning of the terms political and civil power, and political and civil liberty, with a view of shewing the distinctions which in fact subsist between them.

The civil liberty of a citizen (leaving hostilities from foreign enemies out of the question) can be invaded but in two ways:

1st. By some outrage committed on his person or property, at the will of the supreme magistrate which frequently happens under all arbitrary governments.

2dly.

2dly. By a ſimilar outrage committed by any of his fellow citizens; which may happen under any government.

Againſt the firſt ſpecies of outrage committed at the will of the ſupreme magiſtrate, the *political power* of the community of which the citizen is a member, conſtitutes his protection.

Againſt the ſecond ſpecies of outrage committed by any of his fellow citizens, the *civil power* which reſides in a portion of the community, is his defence.

His *political liberty* will depend upon his being governed only by *laws* ordained by a portion of the community itſelf, having a common intereſt, and being equally bound with the remainder of the community, and not by the meer *will* of any individual or of any ſet of individuals—And the power of ordaining thoſe laws by that portion of the community, conſtitutes the *political power* of the community.

His *civil liberty* will conſiſt in the due execution of thoſe laws which were made for his protection, and the power lodged in a portion of the community viz, in the hands of magiſtrates, is the civil power of the community.

Now there is preciſely the ſame difference between *political* power, and *political* liberty, that ſubſiſts between *civil* power and *civil* liberty.

It is obvious to the meaneſt capacity that civil *liberty*, is not civil *power*.

Yet,

Yet, though they have been confounded, it is equally true, that *political* liberty, is not *political* power.

But civil liberty is maintained by the proper and due exertion of civil power—ſo political liberty is maintained by the proper and due exertion of political power. There is however this marked difference between them—Civil *liberty* is the property of every individual member of the community; it is enjoyed in common by all; —civil *power* on the contrary is, and can be, lodged only in the hands of a few. In the ſame manner political *liberty* is the property of every individual member of the community, it may be equally enjoyed by all—political *power*, on the contrary, neither is nor can be poſſeſſed but by comparatively a ſmall portion of the community.

Who would maintain that a man could not enjoy civil liberty, unleſs he poſſeſſed in his own perſon, civil power? It would be to aſſert, that no man could have civil liberty unleſs he were a juſtice of the peace;—yet the abſurdity would be equally great, though not ſo obvious, to aſſert, that a man could not enjoy political liberty, unleſs he at the ſame time poſſeſſed, in his own perſon, political power.

No, as the civil liberty of the whole may be preſerved by the civil power lodged in a part, ſo the political liberty of the whole may be preſerved, by the political power lodged in a part.

We have ſeen that by the poſſeſſion of *political* liberty, the citizen is protected from any invaſion

of his right, on the part of government; and by the poſſeſſion of *civil* liberty, he is protected from any invaſion of his rights, on the part of his fellow citizens. To be compleatly and ſecurely free, the citizen ſhould therefore be poſſeſſed both of civil and political *liberty*;—and it is equally certain, that he need not be poſſeſſed either of civil or of political *power*.

But ſee the conſequences of confounding political power with political liberty—ſee the error into which it has led the levellers of the day.

Every free citizen, in order to be ſecure of his civil freedom ſhould alſo poſſeſs political *liberty*;—but according to theſe gentlemen, political liberty and political power mean one and the ſame thing; they are convertible terms:—therefore, ſay they, every free citizen, in order to be ſecure of his civil freedom, ſhould alſo poſſeſs political *power*!!

But though the permanence and ſecurity of the civil liberty of the citizen will depend upon his having political liberty ſuperadded to it, yet they are in their nature diſtinct things; ſo diſtinct that it is by no means impoſſible for each to have a ſeparate exiſtence independent of the other.

Civil liberty might exiſt under an Antoninus, an Aurelius, or an Alfred. The Peruvians enjoyed it under the mild, benificent and juſt government of their Incas;—and let us for a moment ſuppoſe, that it ſhould pleaſe Providence to create a ſuperior order of Beings, for the ſole purpoſe of governing and rendering happy the human race; Beings armed by the Deity with powers which nothing human could reſiſt, and whoſe only

only duty and only occupation ſhould be to enforce among mankind that divine precept, " of " doing unto others as they would be done " unto," which includes all liberty :—I aſk, would not men thus governed enjoy the higheſt poſſible degree of *civil* liberty, without poſſeſſing a ſhadow of *political* liberty.

This ſuppoſition is not wholly fictitious—in the new world it was almoſt realiſed. The Jeſuites of Paraquay nearly proved that ſuperior order of Beings, to the happy natives they had civilized; and amidſt induſtry, plenty, peace and innocence, the *Guarinis* enjoyed all the ſweets of ſociety, and the bleſſings of *civil* liberty, although *political* liberty was a thing of which they had never formed a conception.

However as Antoninus's, Aurelius's or Alfreds are very ſcarce, as there are as few modern nations who reſemble the Peruvians or the Guarinis, as there are few modern governments which reſemble that of the Incas of Peru, or that of the Jeſuites of Paraguay; free nations have very wiſely deviſed the expedient of making the legiſlators conſiſt not of perſons placed above them, and *out* of the ſphere of the community of the public; but of perſons who are part of themſelves, and placed *within* that ſphere, and they deem their rights and liberties ſafe from the impoſition of arbitrary and unjuſt reſtraints; becauſe the perſons who can alone impoſe ſuch reſtraints, cannot lay them upon others, without at the ſame time laying them upon themſelves: And certainly this happy coincidence of *perſonal* intereſt with public duty, is the beſt pledge a people can have for the good conduct of their legiſlators.

Having ſhewn, that notwithſtanding the eſſential utility of political liberty to the ſecurity of civil freedom, yet that the latter *might* exiſt without the former, ſo on the other hand, a nation might be poſſeſſed of political liberty without their reaping from it any portion of civil freedom. For political liberty does not of itſelf produce civil freedom; it is nothing more than an inſtrument by which civil freedom may be produced.

The Spartans, from the time of the eſtabliſhment of the Ephori, who were annually elected by and from among the people, poſſeſſed a great portion of political liberty, but they were totally deſtitute of civil freedom; on the contrary, the laws of Lycurgus had eſtabliſhed the moſt rigid civil ſervitude among them.

In modern times, the Swediſh form of government, overturned in 1772 by the late unfortunate Guſtavus III. furniſhed another inſtance of a nation's being poſſeſſed of a very large portion of political power, without their having the ſenſe to render it inſtrumental in eſtabliſhing their civil freedom.

In conſequence of their political power, no people ever poſſeſſed a greater ſhare of political liberty than that form of government conferred upon the Sweads; and the facility with which it was overturned, demonſtrates how valueleſs is *political* liberty, how little intereſted a nation is in its preſervation, when it does not contribute to eſtabliſh and maintain what is alone of real importance to them, their *civil* liberty.

Political

Political power can be beneficial only according to the *degree* in which it is poſſeſſed. It may, like the elements, be either a ſcourge or a bleſſing. Fire, which may warm, cheriſh, and vivify, may alſo conſume. Water, which may fertilize, may alſo inundate. All *exceſs* of political power in the hands of the people, is miſchief; and all is exceſs, which goes beyond that preciſe degree which is requiſite to ſecure to them their civil liberty, and a juſt and wiſe adminiſtration of government; beyond this, their political power ceaſing to be beneficial, will intoxicate, corrupt, and ultimately deſtroy.

Who will not admit, that no *government* ſhould poſſeſs a *greater* degree of power than is ſufficient for the protection of the community at large, as a ſtate; and for that of the natural and civil rights of its members as individuals—there all ſalutary power ends, beyond it deſpotiſm commences.—Why then ſhould the *people* be poſſeſſed of more political power than is ſufficient effectually to eſtabliſh thoſe ſalutary limitations of the power of government.

The doctrines of the day, reſpecting the abſolute, unlimited and illimitable ſovereignty of the people, teach only a transfer of deſpotiſm from the prince to the nation—the deſtructive and deteſtable *principle* is the ſame. As well might it be expected that aggregate folly ſhould produce true wiſdom, as that aggregate deſpotiſm ſhould produce true liberty.

I ſhall conclude this ſection by applying what has been ſtated in it, to the Britiſh conſtitution.

Under

Under this conſtitution the political power of the community at large, reſides in the repreſentative body; the mode of forming that body, conſtitutes only the elements of political power; it is the means uſed for the production of that organ through which alone, the political power of the community can operate with effect.—It therefore can reſide only in a *portion* of the community.

The political liberty of the community is the reſult of their political power, and conſiſts in the *fact* of their poſſeſſing a repreſentative body, conſtructed upon principles, and enjoying powers, which muſt ſecure their civil liberty, and not in the *act* of conſtructing that body.—It is therefore common to the *whole* community, and equally enjoyed by every member of it.

The civil *power* of the community reſides in the ſuperior and inferior courts of juſtice, and in the ſuperior and ſubordinate magiſtrates.—It therefore can reſide only in the hands of a *portion* of the community.

The civil *liberty* of the community conſiſts in the trial by jury, the habeas corpus act, the *equal* and due adminiſtration of the laws to *all* the members of the community, ſecured by the independence of the judges, and in the freedom of the preſs. It is therefore common to the *whole* community, and is enjoyed by every member of it in the ſame degree.

SECT.

SECT. VIII.

On the ſyſtem of repreſentation and the elective franchiſe.

THE ſyſtem of repreſentation, as eſtabliſhed by the Britiſh conſtitution, is nothing more than the *mode* which it has been thought proper to adopt, for the purpoſe of raiſing that power on behalf of the community which I have deſcribed as eſſential to their civil liberty.

This ſyſtem forms no part of civil liberty—it is the ſcaffolding, not the building; nor is it in ſtrictneſs political power, but the *elements* of that power. To confound it with civil liberty is to confound what is uſed only *inſtrumentally*, to obtain an object, with the *object* itſelf. To ſay that the liberty of an individual conſiſts in his having a vote for a repreſentative, is to ſay, that civil freedom depends not upon the *poſſeſſion* of an object, in the obtaining of which the wiſdom of the community had employed a particular *engine*, but upon the *meer act* of working at that engine.

Provided that engine be worked by a ſufficient number of hands to give it all its efficacy, what more can be required.—The queſtion is not *who* works at it, but, is it worked

worked with *effect?* When a public edifice is to be raiſed, why employ more hands than is neceſſary for the purpoſe of compleatly erecting and finiſhing the building: If too numerous they may impede each other and render it perhaps impoſſible to erect the edifice at all. Of this France has already furniſhed us with one awful aud dreadſul example.

Man imitates the wiſdom of his Creator, when he exactly proportions the means to their end—it is human folly that would make them exceed it—an exceſs ſeldom neutral in its operation, but frequently tending to defeat the very end for which it is employed. With reſpect then to the Britiſh ſyſtem of repreſentation, the queſtion is not, *who votes?* i. e. *who* works at the engine—but is the engine worked with effect?—It is not whether this man or that man has or has not a vote, whether this place or that place be or be not repreſented—Whether the whole community be partially or equally repreſented, but whether that portion of the community having votes is ſufficiently numerous to produce the intended effect. Whether the ſyſtem of repreſentation be adequate to the conſtruction of a legiſlative power formed upon thoſe principles which I have ſtated as eſſential to ſecure, and as effectually ſecuring the civil liberty of the ſubject. Does it ſerve to conſtruct a legiſlative power, which is lodged in the hands of a portion of the community itſelf? Does it ſerve to make this portion of the community conſiſt not excluſively of ſuch perſons as are diſtinguiſhed, by any rank or pre-eminence derived from government, but of perſons taken indiſcriminately

discriminately from the mass of the community at large?

Does it serve to make this portion of the community sufficiently numerous, to form a popular assembly, and to render it impracticable for government either to purchase or to force their legislative power from them? *

Does it serve to limit the duration of the power of that portion of the community so that they shall be subject to return undistinguished and unpriviledged into the mass of the community, to make room for others, who shall possess that power in their turn?

And lastly does it serve to establish the great constituent principles of civil liberty, identity of interest between the legislators and the legislated, and laws common to and equally binding upon both?

However

* I have said to purchase or to force their *legislative power* from them, because the purchase of the *vote* of a representative, which I admit may have happened is not the purchase of his *right* of voting. On the contrary for the very reason that a representative may be induced to sell his vote, he will tenaciously preserve his *right* of voting, for it is the tenure by which he holds the emolument he derives from the vote itself—consequently the power of voting, or in other words the legislative power of the representative body, never can be purchased from them, tho' a particular and temporary exercise of that power possibly may—there is precisely the same difference between the sale of a *vote*, and that of the *right* of voting, that there is between the sale of the *produce* of the land, and that of the *fee simple* of the estate.

However therefore apparently or even really defective, the ſyſtem of Britiſh repreſentation may be; whatever partial abuſes may have crept into it, if upon the whole it ſerves to form a legiſlative power in the ſtate conſtructed upon theſe principles, it anſwers every end to the civil liberty of the ſubject, which is perhaps within the reach of ſo fallible a being as man.

The term *repreſentation*, has been groſsly miſunderſtood; and the taking it, in its vulgar acceptation only, has greatly miſled the public mind.

I cannot conceive a more real or affective repreſentation of the people, than that which was exhibited by the Senate of Athens, * who were not

* "The Athenian citizens were divided into tribes, at firſt only four in number, but which were gradually increaſed to twelve. The ſenate conſiſted of fifty perſons taken out of each tribe, ſo that when there were twelve tribes the ſenate amounted to ſix hundred members. They were appointed by lot in the following manner: On a certain day towards the cloſe of the year, the preſident of each tribe, gave in a liſt of ſuch perſons belonging to it, as deſired to appear for this dignity and were properly qualified for it. Theſe names were engraven on ſmall tablets of braſs, and ſuppoſing in each tribe they might amount to a hundred and upwards, were put into a veſſel, and as many beans as there were names, among which were fifty white ones, were put into another veſſel: The names and beans were then drawn out one by one, and ſuch as were drawn with the white beans were received into the ſenate.—Before they took their ſeats they were conſtrained to undergo a very ſtrict examination, in which the whole courſe of their lives was inquired into, and if the leaſt flur on their reputation appeared, they were ſet aſide. They were

not chofen by vote, but were appointed by lot. They poffeffed every genuine characteriftic of repreſentatives and conftituted a power in the ftate, conftructed precifely upon the principles which I have here maintained to be the true principles of a free government.—And were the Britifh Houfe of Commons appointed in a fimilar way, I defy any man to prove, that they would not form as real and as effectual a repefentation of the people, and as perfect a fecurity for their civil liberty, as any mode of perfonal choice which the wit of man ever devifed, could by poffibility produce; yet here would be no elective franchife!

It is a great miftake to fuppofe that the effence of repreſentation is in the *act of appointment*—no—in truth and fact it confifts in the *relation* which fhould fubfift between the fituation, circumftances and intereft of the perfon appointed, and the fituation

were appointed only for one year, when they became private citizens again, and could only take their chance in common with the other citizens, of the lot falling upon them in future."

Happy it had been for the Athenians had they fuffered the legiflative power to remain with a fenate thus conftituted—But that power was ultimately lodged in the affemblies of the people, which produced all the fhocks, convulfions, and revolutions, to which the Athenians were fo peculiarly liable; as well as all the atrocious crimes which difgrace their hiftory.—To this it was owing that at one time they would furrender their power and themfelves, into the hands of a Pififtratus or a Pericles; at another they would perfecute an Ariftides, banifh a Themiftocles, or condemn a Socrates to death.—Such is the ufe the people ever have made, and ever will make of power lodged in their own hands.

tuation, circumſtances and intereſt of the perſons not appointed—when ever that relation is ſuch that whatever injures or benefits the perſons not appointed, will equally injure or benefit the perſon appointed, the former will be repreſented by the latter whether they contributed to his appointment or not. This is not theory, but the practical fact of the conſtitution. Who ever maintained that they who had given their votes in favour of the unſucceſsful candidate at an election, were not repreſented in parliament? Yet did *they* contribute to the appointment of him who became their repreſentative againſt their inclinations? no—moſt certainly.

It is alſo a great miſtake to ſuppoſe that poſſeſſing the elective franchiſe, gives an individual a right to chuſe a repreſentative for himſelf—By no means; the right of chuſing a repreſentative, being a branch of political power, is like all power of that nature, an aggregate right, and not a perſonal right, it ought to reſide in no individual, and can be efficient only in a number of individuals united, and that number muſt alſo conſtitute a majority.

A vote therefore gives to an individual nothing more than a *chance, in conjunction with others* of contributing to the appointment of a repreſentative, not only for himſelf but alſo for others—The efficiency of his vote depends entirely upon the chance of his being one of the *majority* of voters—when he is one of the minority his vote is wholly inefficient—he does not then chuſe a repreſentative for himſelf, but is compelled to ſuffer others to chuſe a repreſentative for him, juſt

as

as much as they are who have no votes at all. See then the abſurdity of making the civil liberty of the individual depend upon his having a vote for a repreſentative in the legiſlator: For it is making his liberty, entirely depend upon a *contingency*.

No one can deny that if his civil liberty depends upon his having a vote, then his vote is the *cauſe*, and civil liberty the *effect*; but a *cauſe* when it ceaſes to be *efficient*, ceaſes to be a cauſe—Now the efficiency of the vote of any individual voter whatever muſt always depend upon the contingency of his being one of the majority of voters; when he is one of the minority it is totally inefficient, and the reſult is preciſely the ſame as if he had had *no vote*—it conſequently ceaſing to be efficient, ceaſes to be a cauſe, and therefore cannot be that of his civil liberty.

Nothing therefore can be more abſurd in theory, or more falſe in fact than that the civil liberty of any Britiſh ſubject either does or can depend upon his having perſonally and individually a vote for a repreſentative in parliament. It is not upon the elective franchiſe of the *individual*, which may or may not be efficient, but upon the elective franchiſe of the *community* in the *aggregate*, which muſt at all times be efficient that the liberty of all the members of the community depends.

The queſtion then is not, does this or that individual poſſeſs the elective franchiſe, but, does the community at large, of which he is a member, poſſeſs the elective franchiſe in a ſufficient degree

degree to conſtitute a free government? Is the ſum total of this *aggregate right* appertaining to the whole community, and not to any individual member of it, (for he, as an individual, can never poſſeſs more than the *elements* of this right, and not the right itſelf;)—is this ſum total of ſufficient magnitude to anſwer the purpoſe for which it was intended? Are the means adequate to the end? Surely nothing but the moſt egregious folly could require more! The Britiſh ſubject is therefore free, not becauſe he has a vote, or the reverſe, becauſe he is without one; but having or not having a vote he is equally free, becauſe he is *a member of a free community*, which poſſeſſes, in the aggregate, the elective franchiſe in that degree which is ſufficient to ſecure the civil liberty of all its members.

Far be it from me to juſtify the abuſes which, in the laſpe of time, and mutation of things, will neceſſarily ariſe in every human inſtitution. Nor have the principles I have laid down the ſmalleſt tendency to juſtify thoſe abuſes, which have naturally ariſen in the Britiſh ſyſtem of repreſentation:—The reverſe is the fact, for their tendency is to condemn them; but in condemning an abuſe I would eſtimate the *degree* of evil it induces; I would neither aggravate nor extenuate it; I would appretiate the abuſe, not by the extent of the *departure* from the principles of the conſtitution; but by the extent of the *miſchief*, that departure has produced.

As in human actions, the *intention* conſtitutes the criminality of the act, ſo in departing from the principles of human inſtitutions, the *miſchievous effects* reſulting from it, certainly conſtitutes the principal

principal evil of the departure.—An action viewed ſingly, without reference to the intention, might be conſidered with deteſtation.—A departure from the ſpirit and principles of the conſtitution viewed in the abſtract only, muſt excite indignation—but inveſtigate with accuracy the intention of the one, and the effects of the other, and much of that deteſtation, and much of that indignation will perhaps be abated.—But the people will ever view a departure from the principles of the conſtitution *ſingly*, without any reference whatever to the nature of the effects produced by it—and I freely admit that a ſtrict adherence to *principles*, is the beſt preſervative of the political ſoundneſs and integrity of any human inſtitution—I would therefore guard againſt the *beginnings* of any departure from its principles with the moſt watchful anxiety—yet when in the fluctuation of things, and through the neglect or ignorance of our anceſtors, that departure *has* taken place, has taken deep root, and has exiſted for ſuch a length of time, that what was originally a deviation from the conſtitution, has by preſcription grown into a part of it—call it a rotten part if you will—but ſtill a part, cloſely intertwined with the remainder.——I ſhould then weigh well the riſk we run of injuring ſome portion,—if not of giving a ſhock to the whole of the ſound part, in the effort of deſtroying what was ſo cloſely united with it.——I would accurately examine in what preciſe degree the unſound impeded the functions of the ſound part of the inſtitution—whether that portion of it which remained ſound was, notwitſtanding the corrupted part of it, ſtill ſufficient to anſwer the principal objects, and produce the chief end for which the inſtitution was eſtabliſhed. And if reform

were

were found neceſſary or even ſafe, I would above all *chuſe* the *period* to venture upon it.—When in the adjacent country the waters are out, it is not then I would venture to throw down part of the dike, although it were decayed.—I would ſtrengthen it as it was, and wait till the inundation had ſubſided.—A raſh and hot headed reformiſt may tell me—" But thoſe who have the care of " the dikes, have a corrupt intereſt in neglect- " ing their duty, and wilfully ſuffer a part of " them to remain decayed; we have therefore " no chance of being freed from this decayed " part unleſs the force of a torrent ſhall ſweep " it away"—admitting this were true, which is admitting too much, will the torrent *ſtop!* when this purpoſe is effected?—When it has burſt the mound, who can ſay where will end the devaſtation it may ſpread!

Subject to theſe conſiderations, and theſe precautions, it were to be wiſhed that the practice of the conſtitution could be rendered conformable to its ſpirit and principles.—It were to be wiſhed, were it only for this ſingle reaſon; that it would remove, what on the very face of the queſtion appears a well founded cauſe of complaint.

But I would have the people aware of the riſk and difficulties which muſt inevitably attend the new modeling of the conſtitution.—I would not have them overate or miſtake the evils they may attribute to the want of a reform; nor would I have them too ſanguine in their expectation of the benefits to be derived from one.

As

As to the *real* evils produced by the corruptions which have crept into the British ſyſtem of repreſentation, that it ſhould be in the power of an individual, becauſe owner of a ſpot of ground, which once had, but no longer has inhabitants, to nominate two repreſentatives of the people, appears monſtrous on the very firſt bluſh of it; and were we to judge of the political turpitude of the fact by the extent of its departure from the ſpirit of the conſtitution, nothing can be more politically bad.—But this I have ſtated is not the way we ought to judge of the political turpitude of a departure from the conſtitution. No, it is its miſchievous *effects*, which ought to aſcertain the degree of political turpitude which ſhould be ſtamped upon any deviation from the ſpirit of the conſtitution.—If we impartially examine thoſe effects, we ſhall find they are *not* miſchievous in the degree which the enormity of the deviation from conſtitutional principles, in the inſtance of ſuch a borough as I have mentioned, would at firſt view lead us to apprehend.

To place indeed a borough of this kind in the hands of the executive power would be to give to this abuſe of repreſentation all the political turpitude of miſchievous effects, united to that of the deviation from conſtitutional principle.—But place this borough in the hands of ſuch men as a Sir George Saville, or as theſe are ſcarce, in the hands of any man of property and of common honour and integrity, and I ſee no poſſible miſchievous effects which can reſult from the abuſe, provided ſuch boroughs are not too numerous. I admit it may be ſaid with juſtice, that the nominal repreſentatives of theſe boroughs obtain ſeats among the real repreſentatives of the

people, without having according to ſtrict conſtitutional principles, any right to them whatever—perfectly true—but it is not *how* a man gets into the houſe, but how he *acts* there, after he has got into it, which in truth and fact can conſtitute him a real repreſentative of the people.

I ſtated in a former ſection that it is a great miſtake to ſuppoſe that the eſſence of repreſentation conſiſts in the meer *act* of *appointing* a repreſentative—no, it conſiſts in the *relation* ſubſiſting between the perſon who is a repreſentative, and the perſons who are not repreſentatives, in point of ſituation, circumſtances and intereſt—which being ſimilar in both, what would benefit or injure the one, would benefit or injure the others.—The members therefore for the reprobated boroughs having this common relation with the people are to all intents and purpoſes as effectually the repreſentatives of the people, as the members for counties, whom in general nothing but weight of landed property has placed in their ſeats.

But the members for ſuch boroughs will be more liable to be corrupted, more ready to betray the intereſts of the people than ſuch as are really elected by the people!

Not ſurely more ſo than thoſe who in almoſt *every* open borough, notoriouſly buy their ſeats.

You are defending one abuſe by another!

By no means—if four or five hundred voters in an open borough will ſell themſelves, this is no corruption of the repreſentative ſyſtem; it is the

the corruption of the *men*—for which I know not what reform in the repreſentation can provide a remedy.

But let us conſult facts. It is a fact that the principal friends and ſupporters of the Revolution in the houſe of commons of that day, were members for the reprobated boroughs.

It is a fact, that the brighteſt ornaments of the Britiſh houſe of commons, and the moſt zealous ſupporters of the rights and liberties of the people, have generally been members for the reprobated boroughs.——Men who but for thoſe boroughs would in all probability never have obtained a ſeat in that houſe, and whoſe patriotiſm, public talents, and public virtues would conſequently have been for ever loſt to their country.

Amid all the obloquy therefore which has been thrown upon theſe boroughs, they muſt at leaſt be allowed to have this merit, that of leaving one door of the houſe of commons open to public talents and public integrity, of men, who otherwiſe not having a ſufficient weight of property to ſecure their admiſſion into it would have found all its doors ſhut againſt them.

It is certain that, conſtruct a repreſentative form of government how we may, property will return the repreſentation. Indeed on the hinge of great revolutions, when the minds of men heated by enthuſiaſm, loſe their general bias to their own perſonal intereſt, this may not be the caſe—but in the long run, the weight and influence of property muſt prevail.—I certainly think

it ought to have a great ſhare, but not the whole of the repreſentation—the well informed, the wiſe and enlightened part of the community, ſhould ſurely have ſome portion of it, although from fortune they derived no pretenſions to the diſtinction. Nor has liberty any thing to fear, but every thing to hope from the ardour of genious, and power of talents.

Experience does not juſtify the opinion, that a great property gives independence of *mind*, to the poſſeſſor—but it does prove that great talents, in general produce that effect. A man with a large eſtate, may love liberty very well, but he will love his eſtate ſtill better: he will run no riſk to increaſe the one, which can have the ſmalleſt tendency to diminiſh the other—liberty may be to him a great, but yet a ſecondary object—his eſtate will be his firſt—by this he finds himſelf ſufficiently diſtinguiſhed, his pride is ſufficiently gratified by the conſequence it gives him. Such is the repreſentative who poſſeſſes a large property.—But the repreſentative whoſe principal property, is his talents, derives from them, and from his liberty all his conſequence—liberty will therefore be his firſt object—it is liberty which makes him feel himſelf the equal of men whoſe property would otherwiſe render them his ſuperiors—to liberty he truſts for all the fame he hopes to acquire, for all the good he expects to accompliſh, and for all the reward that may crown his labours.

It is the intereſt of liberty that ſuch men ſhould not be excluded from the repreſentative body—and as through the reprobated boroughs they find admiſſion to it, this may perhaps balance all the evils,

evils, of which thoſe boroughs, (if as was before obſerved, not too numerous,) may in other reſpects be productive.

Upon the whole, notwithſtanding the real defects which may exiſt in the Britiſh ſyſtem of repreſentation—I cannot but obſerve that the liberty of the ſubject has continued, and ſtill continues in a ſtate of progreſſive improvement.—That within a few years the queſtions of general warrants, which involved his perſonal liberty—of the Middleſex election, which involved his political liberty, and of libels which involved the liberty of the preſs, have all been decided in his favour.—Such are the benefits lately derived under the preſent ſyſtem of repreſentation with all its defects upon its head.

As for the real benefits which the ſanguine advocates for the reform of that ſyſtem, perſuade themſelves they will derive from it— I much fear that unleſs another ſpecies of reform ſhall previouſly take place, they would be miſerably diſappointed.—I mean the reform of MEN. Reform the manners and the morals of Britiſh ſubjects, and there is a ſtamina in the Britiſh conſtitution which will enable it to reform itſelf.

If however it ſhould become the decided ſenſe of a great majority of the enlightened part of the nation that a reform in the ſyſtem of repreſentation ought to take place, a ſenſe to which certainly much reſpect ſhould be paid, I truſt that ſuch reform whenever it ſhall be adopted, will be conſonant to the *exiſting* principles of the conſtitution, and not founded upon the dangerous viſions of the theoriſts of the day.

SECT.

SECT. IX.

Whether any real difference ſubſiſts in point of civil liberty, *between the Britiſh ſubjects who poſſeſs and thoſe who do not poſſeſs the elective franchiſe.*

WHEN a *theory*, however popular, however admitted for a length of time, has been invariably refuted by the *fact*, it ſurely may induce a ſuſpicion, that there is ſome latent falacy in that theory: and certainly it is wiſer to examine the theory itſelf, in order to detect the falacy, than to endeavour to torture the *practice* into a correſpondence with the theory.

The theoretical poſition, that liberty conſiſts in our being bound by laws made with our own conſent, and that conſequently the freedom of the individual depends upon his having a vote for a repreſentative in the legiſlature, certainly comes under this deſcription; for it has been invariably refuted, by the *practice* of every repreſentative government that has come to our knowledge.

But the object of modern levellers, is to make the *practice* correſpond with this theoretical poſition, without once giving themſelves the trouble to examine whether the poſition itſelf be founded in truth.

Now,

Now, directly denying the truth of this position, I do not hazard an aſſertion, but I ſtate a fact, when I ſay, that provided a *due proportion* of the community be *actually* repreſented, every member of the *ſame* community, whether poſſeſſed of a vote or not, will be with reſpect to his civil liberty, to all intents and purpoſes *virtually* repreſented. I aſſert, that the *actual* repreſentation of a *part* may be the *virtual* repreſentation of the *whole*, becauſe it may have preciſely the ſame *efficacy* in ſecuring the civil liberty of the whole community, that the *actual* repreſentation of every individual member of it, could by poſſibility have.

Witneſs the vaſt majority of the inhabitants of England who are deſtitute of the elective franchiſe. Yet no man who has the ſlighteſt knowledge of our laws and conſtitution would venture to aſſert, that in point of *civil liberty* there ſubſiſts even the moſt minute difference between thoſe who do not, and thoſe who do poſſeſs that franchiſe.

Equally protected by the ſame laws, in perſonal ſafety, in perſonal freedom, in ſecurity of property, and placed, in ſhort, with reſpect to all thoſe things, the poſſeſſion of which conſtitutes civil liberty, preciſely upon the *ſame* footing, it would be the moſt egregious nonſenſe that ever aſſailed the ears of unthinking men, or impoſed upon the imbecility of childhood, to aſſert they were not equally free.

The truth is, that the *univerſality* of law, muſt ever conſtitute the people, ONE BODY, of which *every* individual equally forms a component part.

Every

Every individual therefore, if not actually repreſented himſelf, is a component part of a *body*, that *is actually* repreſented, and every advantage to civil liberty, which that body can derive from repreſentation, muſt neceſſarily be participated by him, as one of its component members.

As long therefore as the body of which the individual forms a component part, retains unimpaired and undiminiſhed the elective franchiſe in the groſs, it is of no manner of importance to his civil liberty, whether a perſonal portion of that franchiſe falls to his own ſhare, or to that of his neighbour. The ſum total of votes in the appointment of legiſlators certainly ought not to be decreaſed. They are the property of the community, and when united conſtitute an aggregate right in the community at large, to the political power of creating a branch of the legiſlature.—But thoſe votes may change hands, they may be transferred from William and Thomas to John and Henry, without diminiſhing the civil liberty of the former, or adding to that of the latter. Whether a freeholder retains or ſells his freehold, he equally retains his civil liberty—for in the latter caſe a vote in the hands of the perſon who purchaſes his freehold, has preciſely the ſame efficacy with reſpect to the civil liberty of the whole community, and conſequently with reſpect to his own, that a vote could have had in his own hands. The Britiſh copyholder is *quoad* his liberty as much intereſted in the preſervation of the elective franchiſe to the Britiſh freeholder, as the latter is himſelf.

Every man in England was equally intereſted in, and injured by the ſeizure of corporation char-

ters

ters by James II. for this was as direct an attack upon the liberty of the community, as it was upon the privileges of the corporations whose charters were seized.

As the power of appointing legislators is essential to the civil liberty of the community, every member of it is equally interested, that such a power should reside and operate in the community. The elective franchise in individuals, is the mode by which that power is obtained to the community, and therefore those who do not possess that franchise are equally interested in its preservation with those who do. It is a right which it is essential should exist in the community, and is exercised on behalf of the civil liberty of the whole community, and not meerly on behalf of those who are the casual trustees for the exercise of it. It is not a personal right, because it neither is nor ought to be annexed to the person of any individual whatever, but to something appertaining to the individual who loses the right, when he is divested of that to which the right is annexed; it follows property and station, and circulates through the great body of the community, as the property and stations of individuals change. It is therefore a right common to the whole community, though the immediate exercise of this right may, at any given time, be confined to particular individuals. Hence the constitutional maxim (a maxim strictly founded in truth), that the British house of commons, when assembled in parliament, are not the representatives of this or that place, but of the whole kingdom. They are not the representatives of the freeholders in counties, or of the burgesses and freemen in towns, but they are the representatives of THE PEOPLE OF ENGLAND.

SECT.

SECT. X.

The right of appointing representatives being an aggregate right belonging to the community at large, what portion of the community should have the actual exercise *of it?*

THE only apparent difficulty here, is to ascertain what specific portion of the community shall have the *actual exercise* of a right which is the common property of the whole—but surely this is a difficulty easily solved. The proof whether the portion of the community actually exercising this right, be of sufficient magnitude or not, is whether it be competent to establish and secure the civil liberty of the subject, and the faithful administration of government.—If it be, then we may with truth maintain, that such a portion of the community *is* of sufficient magnitude. It is sufficient to keep the nation in the temperate zone of liberty, which they are capable of enjoying, and, what is an equal blessing, to prevent their travelling into the fervid regions of power, which, though generally so fatal to the human mind, would be the infallible consequence of extending the actual exercise of the right of voting, as far as the doctrines of the day would attempt to carry it.

But observe the inconsistency of the promoters of these doctrines.

Their

Their fundamental principle is, that the man who is bound by laws, without being repreſented in the legiſlature which enacts them, is a ſlave:—To be free conſequently every man ſhould be repreſented; every man therefore ſhould have a vote. Man has a natural right to be free, but he cannot be free without having a vote for a repreſentative—Ergo, every man has a natural right to a vote. Thus the argument preciſely ſtands—How then do the abettors of theſe doctrines ſupport the principle upon which they are founded?—Do *they* grant to every man a vote for a repreſentative in the legiſlature?—No—Firſt, did the conſtituent aſſembly of France, they who expreſsly adopted and publiſhed this principle—they who, in the face of the nation, ſolemnly conſecrated this principle, in the ſixth article of their declaration of the rights of men—they who founded a conſtitution profeſſing to eſtabliſh the moſt ſavage equality among mankind—Did *they* grant a vote to every man for a repreſentative in the legiſlature?—No.—Taking the maſs of the nation, one individual only out of eight hundred was allowed a vote for a repreſentative; nor was any individual even elegible to be an elector of a repreſentative in the legiſlature, without being qualified by the poſſeſſion of a property, which could not fall to the lot of one man in fifty. Even the ſhadowy privilege of chuſing him who was afterwards to chuſe a repreſentative, was limited in ſuch a manner as to exclude from it, the great bulk of the lower orders of men in France.

I do not, as I before obſerved, object to the expedient of making active citizen John chuſe elector Thomas, in order that elector Thomas might

might afterwards chuſe repreſentative Francis, or Henry, or Stephen, or whom ever he might think proper :—but I laugh at the idea of perſuading active citizen John, that he concurred in the laws to which Francis, or Henry, or Stephen, men poſſibly utter ſtrangers to him, ſhould hereafter give their aſſent.

I do not, I ſay, object to this expedient of making John chuſe Thomas, who was afterwards to chuſe a repreſentative, becauſe the *real* electors of the repreſentative body remaining unaſcertained, till immediately before the election of that body, is certainly one great means of preventing intrigue and corruption from taking place among the electors. Yet as it is generally pretty well known who are the perſons who have the greateſt lead or influence among their neighbours, a tolerable gueſs might be formed as to thoſe who were moſt likely to be choſen electors by their neighbourhood :—I therefore think it would have been a ſtill better expedient, if the active citizens of each town or canton, who were qualified by their property to become electors, ſhould, according to the number each town or canton was to ſend, have drawn lots to aſcertain which of them ſhould repair to the electoral aſſemblies, in order to chuſe repreſentatives in the legiſlature.

Granting that this latter expedient had been adopted, I defy any man to prove to me, electoral aſſemblies being thus conſtituted, that the national aſſembly they might afterwards chuſe, would not, as a legiſlative body, be preciſely and identically the ſame, with reſpect to all its conſtitutional powers, all its conſtitutional functions, and all its conſtitutional limitations, that it would

not

not anſwer preciſely and identically the ſame purpoſes; in ſhort, that it would not be an exactly ſimilar body, without a ſingle trait of difference that could be perceived, or any difference in reality, with a national aſſembly, choſen by electoral aſſemblies, who had themſelves been elected, inſtead of having drawn lots to aſcertain which of the qualified active citizens, ſhould attend thoſe aſſemblies. Is it not obvious that the *end* would be the *ſame*, though the *means* employed to obtain that end, were in their rudiments *different?*

I ſhall be told there would ſubſiſt this difference between a national aſſembly, choſen by an electoral aſſembly which had been formed by drawing lots, and one elected by an electoral aſſembly, who had themſelves been choſen electors in a primary aſſembly—that there would in the latter caſe ſubſiſt a ſort of connection, which though a diſtant one was ſtill a connection, between the national aſſembly and the lower order of active citizens, which would have no exiſtance in the former caſe—granted—but pray to what does this diſtant connection between the national aſſembly and the lower order of active citizens amount? Is it an *efficient* connection? Does it *produce* any thing? Has it a ſhadow of influence upon the eſſence, form, powers or functions of the national aſſembly? Is not the national aſſembly choſen either way, *as a body*, preciſely and identically the ſame? What then is the uſe of this inefficient connection, which produces nothing, and ends in itſelf? It is of none to the people; but it anſwered the purpoſes of the conſtituent aſſembly; it enabled them to aſſume the appearance of adhering in part, and only in part, to the abſurd maxim

maxim they had taught the people, but which they found it impoſſible to reduce to practice.—They tell the people that every citizen ſhould concur in the formation of laws, through the medium of his repreſentative in the legiſlature—They then perſuade the people that a *conſtituent* and a *repreſentative* are one and the ſame thing, and therefore by chuſing a *conſtituent*, they effectually concur in the formation of the law, which that conſtituent is not to make himſelf, but which other perſons are to make for him, and in the mean time they exclude from the right of chuſing even a conſtituent upwards of five millions of the male inhabitants of France. It is thus they proved the argument, that to be free, every man has a right to be repeſented!!

2dly, Did the late national aſſembly of France allow every citizen a right to vote for a repreſentative in the preſent national convention?—No—not more than the conſtituent aſſembly. They allowed indeed a greater number to vote for the conſtituents, who were to chuſe that convention; for they reduced the age at which an active citizen was entitled to vote for a conſtituent, from twenty five, to twenty one years, and no longer required the qualification, of his having paid a certain ſum in taxes. But all perſons receiving wages, and all day labourers forming together a prodigious portion of the nation, they totally excluded from any votes whatever—It may be very proper to do ſo, but certainly not upon *their* principles.

The whole fabrick they have raiſed either reſts upon this ground, or it has no foundation at all; namely that the right of every citizen to be repre-

ſented

ſented in the legiſlature which binds him by its laws, IS FOUNDED ON A NATURAL RIGHT. If this poſition be not true, then all the modern political theories of the French and other levellers of the day muſt be falſe.

Now I know but of two ſpecies of rights: Natural rights derived from God and nature; and rights created and maintained by the conventions of civil ſociety. If then to be repreſented in the legiſlature which binds him, be the natural right of man—what human power can juſtly deprive him of it? With what face can the national aſſembly ſay to the numerous bands of their fellow citizens who are at this day excluded from it—Your ſervices contribute to our happineſs; or your labour feeds and cloaths us; you are worthy and induſtrious members of the community—but you are poor, and your poverty of neceſſity deprives you of moſt of the comforts and conveniencies of ſocial life. We therefore in addition to the liſt of wants to which you are unavoidably ſubject, will arbitrarily add another deprivation, for we will rob you, of one of your natural rights.

If I am not juſtified in applying this language to the French legiſlators, then it muſt be becauſe the right of being repreſented is *not* a *naturally* right, but a right created by the conventions of civil ſociety, and conſequently ſubject to be modeled and limitted as ſociety ſhall think fit—The French legiſlators to miſlead and allure the people *talked*, as if it were a *natural* right, which they knew it was *not*, and *acted* as if it were a *conventional* right which, they knew it *was*.

3dly,

3dly, Do our Roman Catholic fellow citizens claim for *every* Roman Catholic, a right to be repreſented in the legiſlature? By no means, they only claim it for a certain portion of the Catholic body.—Yet what is their language, they *talk* of this right as the French legiſlators do—In all their public ſpeeches, in all their public addreſſes, in all their publications, they ſpeak of it, as of a *natural right*, of which they have been unjuſtly robbed.

They call themſelves ſlaves not on account of ſome unjuſt diſqualifying laws againſt them, which ſtill diſgrace our ſtatutes, and though all thoſe laws were repealed they ſtate that they would ſtill be ſlaves for the *ſingle* reaſon that they are not repreſented in parliament—They define ſlavery to conſiſt wholly and ſolely, without reference to any other circumſtance whatever, in their being bound by laws made by legiſlators in whoſe appointment they have no vote.

If this be a true definition of ſlavery, why do they not claim the elective franchiſe for *every* Roman Catholic? Why are they willing to leave a vaſt majority of their brethren of the ſame communion, in what they deem a ſtate of ſlavery?

The author* of a late publication which in other reſpects is moderate and ſenſible, begins by ſaying—" As the kingdom of God in morals, ſo is " the elective franchiſe in a repreſentative go- " vernment"—but does this author claim the elective franchiſe for *every* Roman Catholic?—If not,

* Dr. M' Kenna.

not, what right has he to exclude from this, his new discovered political heaven, so many of his brethren?

See then how widely the *practice* of these theorists on the subject of liberty differs from their *doctrine*.

That a right to the elective franchise is not considered by the Roman Catholic as a *natural right*, is obvious, or otherwise they could not be satisfied that so large a proportion of their communion should remain stripped of it.—No, they do and can consider it only in the light of one of those rights which are created and established by the conventions of civil society. I lament therefore the *ground*, the Catholics have chosen, on which to place their claim, for it certainly is a false one.—I lament too, the language they have used, for their definition of liberty, as it is also that of the levellers of the day, and though they may have in this instance, adopted the language of those men, I am convinced there are no British subjects less disposed to follow their example: a circumstance which I would entreat my too zealous protestant brethren to take into their most serious consideration.

The doctrine of *personal representation alone*, and not of personal representation, where the right of voting is *indicated by property*, is the most absurd and impracticable, and at the same time the most dangerous doctrine that was ever conceived by the enthusiasm of political fanaticism.—France has suffered much from it, and I am greatly mistaken if she has not yet much more to suffer on the same account.

The language held by the Roman Catholics, in urging their claim to the elective franchise, had, without their being aware of it, a direct tendency to support this doctrine. But supposing, what from my heart and soul I hope may happen, that the Catholic should be restored to every right to which at the beginning of this work I have asserted he was entitled—should he then, after having been put into compleat possession of every natural right, and after having obtained the full enjoyment of every civil right, not immediately connected with political power, which constitutes the compleat possession of civil liberty; should he then say, he was still a slave because he had no vote for members of parliament, I should smile at his delusion; but were he to say, Sir, I grant that we, the Roman Catholic body, have been restored to all our natural rights, and put into the compleat possession of *civil liberty*; but why should so considerable a portion of the inhabitants of this land, forming so large a majority of them, who can contribute so much to the agriculture, trade, commerce, wealth and prosperity of the kingdom, who by that means enable you and your brother protestants to hold so many lucrative situations under the constitution and government of our common country—why should we not, in addition to our civil liberty to which we have a natural right, enjoy our share of those rights which are created by the conventions of civil society,—of that civil society to the prosperity of which we contribute so much?—Why should we not enjoy the elective franchise?—— I should answer—you have now, Sir, put your claim upon its true ground—a ground unconnected with any levelling principle whatever—it certainly

tainly requires the moſt ſerious, and deſerves the moſt liberal attention from every proteſtant.

Upon the whole, I ſhall conclude this ſection with obſerving, that talk as men may upon the ſubject of the elective franchiſe, they are all in their hearts convinced that it is not a *natural* but a *conventional* right—that it is created by the conventions of civil ſociety, and conſequently ſubject to be limited at the will of civil ſociety; and as to the ſpecific portion of the community which ſhall have the actual exerciſe of this right, this can alone be determined by conſidering what was the *object* of ſociety in creating the right.

The chief object certainly was, by means of that right, to conſtruct a branch of the legiſlature, which ſhould be as deeply intereſted in the preſervation of civil liberty as the community itſelf; which ſhould have the power to render the government of the community, the government of *laws* and not of *perſons*—and to give the ſubject the ſame ſecurity againſt any arbitrary act of the crown itſelf, that he poſſeſſed againſt any arbitrary act committed by any other ſubject. To conſtruct ſuch a branch of the legiſlature, which ſhall have this intereſt in the preſervation of civil liberty, which ſhall poſſeſs theſe powers, and ſhall produce theſe effects, was the *principal* object of ſociety, in creating the conventional right of elective franchiſe; compared to which object, every other can only be of a ſecondary conſideration. To him therefore who aſks, when is the portion of the community exerciſing the elective franchiſe of ſufficient magnitude? I ſhould reply when theſe effects are produced, it is of ſufficient magnitude; to anſwer the chief end for which the elective franchiſe was created.

SECT. XI.

The Britiſh conſtitution confers liberty on all the inhabitants of the land, who enjoy it by virtue of their being *its inhabitants.*

CONFINED indeed would Britiſh liberty be if none were free but thoſe who had a ſhare of political power ſuperadded to their freedom; in other words, if thoſe only were free who poſſeſſed the elective franchiſe—No—the liberty of all the people of England, whether of thoſe who poſſeſs political power, or of thoſe who do not, *equally* conſiſts in their poſſeſſion and enjoyment of Britiſh laws—of laws which are as binding upon their repreſentatives as upon themſelves.

The Britiſh conſtitution does not confound political power with civil liberty: it does not deny the latter, to thoſe who poſſeſs not the former—it is not the Britiſh *elector*, it is the Britiſh *ſubject* whom that conſtitution renders free.—It does more, it holds ſacred in man thoſe rights he derives from God and nature, and which are therefore his inheritance.—Thoſe abſolute rights (to uſe the emphatic words of Blackſtone) veſted in man by the immutable laws of nature. It is man therefore, in his *character* of man, whom the Britiſh conſtitution renders free. It has left the temple

temple of liberty open to the whole human race—It has annexed freedom to the very ſoil of Britain—It has conſecrated the land—It has rendered it an aſylum to all the oppreſſed inhabitants of the earth, who can reach its protecting ſhore.—And let the fettered African or Aſiatic ſlave but touch this hallowed ground, his chains fall off, he enters upon the inheritance of man, and perticipates in all the rights derived from God and nature.

Whence comes it, that a *foreigner* flying from the deſpotiſm of his own country, for refuge and liberty in England, cannot fail there to find himſelf free. Is *he* actually *repreſented*? Does *he* acquire the elective franchiſe, or any ſhare of political power whatever? Yet will he not enjoy perſonal ſafety, perſonal freedom, and the ſecurity of his property, as long as he conforms to the laws of the realm, in as ample a manner as any of its ſubjects? Are not thoſe three primary rights of perſonal ſecurity, freedom and property, which, in truth and ſtrictneſs, conſtitute *civil liberty*, as much reſpected in the perſon of the foreigner as in that of the native? Himſelf unoffending and not an alien enemy, is he not equally protected from any arbitrary act of the Britiſh government itſelf? Equally entitled to the writ of *habeas corpus*—to his trial by jury—and to the whole of the regular adminiſtration and free courſe of juſtice in the courts of law? Nay did not the ancient law, which provides for the foreigner a jury *de medietate linguæ*, eſtabliſh the principle, that the bare reſidence in England gave a title to civil liberty? And laſtly, will he not be protected againſt the whole power of the deſpot from whoſe tyranny he

he had fled; and whofe natural born fubject he was?

Could then an advocate for the pofition, that flavery confifts in being bound by laws made by a legiflature, in which the perfon fo bound is not reprefented—could he ferioufly fay to fuch a foreigner, Sir, you left your own country becaufe you were there enflaved, and you came here to look for liberty: I am forry to tell you, you have taken a great deal of trouble to very little purpofe, for here too you muft be a flave.

" You alarm me, Sir, exceedingly!—I left " my own country becaufe there my fovereign, " or rather my mafter, could difpofe of my " property, my perfon and my life at his ar- " bitrary will and pleafure;—he could impofe a " fine on or confifcate my property—he could " banifh my perfon to a defert, or he might " plunge me for life in a dungeon, or in that " dungeon he might take my life away, and " all this without any legal accufation, trial, " or judgment whatever, but becaufe either " himfelf, or his miftrefs, or his minifter, or " his minifter's valet de chambre, or the whore " of that valet de chambre, had perhaps fome " private pique to me, of which I knew no- " thing. Let me then afk you, Sir, as long " as I commit no offence againft the laws of " the realm, can the Britifh government take " my life at it's own will and pleafure?"

No, Sir. They cannot touch a hair of your head.——But you are a flave notwithftanding.

" Can

" Can the Britiſh government confine me in
" a dungeon of their own authority ?"

No, Sir. Your perſonal freedom is as ſecure as that of any Engliſhman in the kingdom.——But you are a ſlave notwithſtanding.

" Can the Britiſh government tranſport me
" at their own will and pleaſure to any of
" your colonies ?"

No, Sir. Moſt certainly they cannot.——But you are a ſlave notwithſtanding.

" I have lodged ſome thouſands in the funds,
" and have a tolerable ſum of money here in
" my houſe, can the Britiſh government con-
" fiſcate the whole of it, or take any part of
" of it from me at their own will and plea-
" ſure ?"

No, Sir. They cannot touch one ſhilling of it.——But for all that, you are a ſlave.

" Should my own ſovereign think proper to
" ſend perſons privately here to aſſault my
" perſon, or violently force me out of the
" kingdom, would the Britiſh laws protect
" me ?"

Yes, Sir. Moſt aſſuredly they would—and thoſe perſons ſent by your maſter on ſuch an errand, would be moſt ſeverely puniſhed for it. ——But for all that you are a ſlave.

" Suppoſe

" Suppoſe my own ſovereign ſhould ſend
" emiſſaries here to aſſaſſinate me, what would
" be the conſequence?"

Sir, if your king's prime miniſter himſelf, with your king's whole court at his back, were to come over here, and be aiding and abetting in your murder, every man of them, prime miniſter and all, would be ſtrung for it upon a gallows.——But all this does not in the leaſt prevent your being now a ſlave.

" Upon my word, Sir, I do not compre-
" hend you—my life is ſecured—my perſon is
" free—my property is ſafe—my liberty is pro-
" tected by preciſely the ſame laws which protect
" the liberty of the Engliſh themſelves—and as
" long as I conform to them, no power exiſts in
" the kingdom which can touch a hair of my head
" —moleſt my perſon—controul my motions—
" or take my property.—How then, in the
" name of common ſenſe, am I a ſlave?"

Yes, Sir, you certainly are a ſlave, it is impoſſible you can be otherwiſe; and for this plain ſelf-evident reaſon—you cannot have a vote for a member of parliament—you will therefore be taxed and bound by laws made without your conſent; and conſequently, though while you conform to thoſe laws, (which are alſo the laws that bind thoſe who *have* votes for members of parliament, and the laws which bind the members themſelves equally with you) I ſay while you conform to thoſe laws, though not a hair of your head can be touched—nor your perſon moleſted—nor your motions controuled—nor your property invaded—in ſhort,

though

though you poſſeſs and enjoy all the *ingredients* which go to conſtitute civil liberty, and are to all appearances a free man; yet, Sir, as long as you have no vote, give me leave to aſſure you, that thoſe appearances are perfectly fallacious, and that you are neither more nor leſs than a downright ſlave.

What wretched jargon muſt not this appear to the foreigner, to whom it was addreſſed; knowing as he muſt know, and feeling as he muſt feel, that in truth and fact he really did poſſeſs and enjoy all the ſecurity, all the comforts, and all the benefits of civil liberty; yet this is preciſely what we are every day told in the publications of the hour. Might not the foreigner, with truth and juſtice, thus reply to the man with whom he had held this dialogue:

" Sir, I came to England in ſearch of liberty not of power—I have found the former, the latter I deſire not—To nominate legiſlators, or to make laws, are acts of power not of liberty—Provided thoſe laws *do* eſtabliſh civil freedom, it is of no importance to me as an individual, whether I in my own perſon had any ſhare in making them or not.

" And provided thoſe who *do* nominate legiſlators, have with the legiſlators themſelves an equal intereſt in the preſervation of liberty with the reſt of the community, it is of no moment to me whether I am one of thoſe who nominate them or not. For me who look neither for power, nor the emolument which might flow from it, it is ſufficient that ſuch powers ſhould reſide in the community, of which by my reſidence among them, I am

am become a voluntary member.—As long as those powers are adequate to their purpose, in securing the civil liberty of ALL the members of the community, and as long as they are placed in hands that will preserve them entire; I care not what the particular hands may be in which they are lodged.—It is enough for me, that they *exist*, and *operate*.

" Any share of those powers in my own person, could not add to, my individual *civil freedom*—for I already possess and enjoy it, precisely in the *same* manner, and in the *same* degree, in which those persons possess and enjoy *their* civil freedom, who *have* those powers superadded to it.

" That these persons from being the casual holders of such powers, may enjoy advantages, which will not fall to my lot I grant: But they are advantages which have no connection whatever with civil freedom, which spring from another source, and produce benefits of a different nature.

" I am told the vote either of a representative, or of a constituent, may procure to the possessor, patronage, emolument, rank, and office—but in the name of common sense, what have patronage, emoluments derived from it, rank or office, to say to civil freedom. These are to be obtained under any government—the difference is this—in my country they can be obtained only through court favour—*here*, they are frequently obtained through the medium of *political power*—but when they are *thus* obtained, answer me candidly, Sir, do the persons obtaining them increase or *diminish* their freedom?

" If

" If your position were true, that I am not free, because I must conform to laws made without my consent, it would be impossible for any man who did not possess freedom at home, to find it elsewhere—for go where he will, he must either find liberty *ready made*, or not at all: and if *ready made*, it must have been established by laws passed previous to his arrival in the country, and consequently by laws, to which it was an utter impossibility that he could have given his consent.

" But surely, this is strangely confounding the *architect*, with the *edifice*—the workman, with the *work*——Cannot I enjoy the use of a *work*, without having been one of the workmen?——It is making liberty consist, not in the *possession* of the benefits derived from the laws which established it, but in the *act of framing* those laws—it is asserting that a man is not free, in *having* liberty—but in *making* liberty—which every man is to make for himself, otherwise that which the constitution of his country confers upon him, is of no manner of value.

" For my part, Sir, though I can have no hand in *making* liberty, I am perfectly satisfied with enjoying it, *ready made*—and I have this security for it's duration, that though *I*, in my own person, do not give my consent to the laws by which I am bound—*they* without whose participation such laws cannot take effect, are themselves a portion of the community, of which I am become a member; are as deeply interested in the preservation of liberty as the community itself; and are bound in common with the community at large by the laws to which they give their consent.

As

"As long therefore, as I am bound only by ſuch laws, as equally bind thoſe whom you admit *are free*, though I can neither make laws nor law makers myſelf, yet your logic will never perſuade me that I am a ſlave".

I would venture to abide by the deciſion of any unprejudiced man, whether this foreigner has not here ſpoken the truth.

SECT. XII.

The moſt extended elective franchiſe, and the moſt compleat repreſentation in the legiſlature which makes their laws, will not alone be ſufficient to ſecure the liberties of a people.

NOTHING can more fully prove the the truth of the principles laid down in this eſſay, than the plain fact, that a people poſſeſſing the elective franchiſe in the moſt ample degree, and compleatly repreſented in the legiſlature, might notwithſtanding be an enſlaved people.

It has been ſtated that political power is an aggregate right, which can be *efficient* only in the *majority* of the perſons poſſeſſed of it. The efficiency of a repreſentative legiſlature can conſequently reſide only in the *majority* of its members. It is not enough therefore that a people ſhould be meerly repreſented in ſuch a legiſlature, for unleſs their repreſentation in it, conſtitutes a majority of its members, it would be wholly *inefficient*. The majority of ſuch a legiſlature muſt therefore be part of the *ſame community* to which the people themſelves belong, they muſt have an identity of intereſt with them, and they muſt themſelves be bound by all the laws which they enact for that people; the univerſality of the law being

being the vital principle of all representative governments.

Wherever all or any one of these essential requisites is wanting—the elective franchise, and the meer representation of a people in a legislature, thus deficient, become nugatory—they are a mockery, and not a representation.

Let us suppose for example, that the disputes between Great Britain and America could in the beginning have been amicably adjusted by allowing the Americans a representation in the British parliament, and they had been permitted to *send* 150 or 200 members there—and to gratify the advocates for the extension of the elective franchise, I will suppose that every male in America of legal age had a vote in the choice of these members. Here would have been the elective franchise, and consequently *actual* representation, much more fully enjoyed by the Americans than by the English themselves. Yet would this have rendered them a free people?—let us examine.

The English and the Americans would then have formed two *distinct* communities, having *one* legislature *common* to both, and in which *both* were represented.

This legislature having to legislate for two distinct communities, very differently circumstanced, must wherever that difference subsisted, have made partial laws, binding only on *one* of *the* two communities, as in such cases it were impossible that the same law could have been applicable to both—Here therefore the universality of the law could not have taken place.—And the legisla-

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ture muſt of neceſſity frequently have made laws for America, which would not have been binding in England; and for England which would not have bound America.

The Engliſh repreſentatives in this legiſlature *would have formed no* part *of the American community —They would have had no identy of intereſt with it —Nor would they themſelves have been bound by the laws with which they might have partially bound that community.*

On the other hand, the American repreſentatives would have been in the ſame predicament reſpecting the Engliſh community.—But the repreſentatives for the *two* communities, would have formed but *one* legiſlative body. By whom then would the Americans have been legiſlated?—Without doubt by the *majority* of the legiſlature. Of whom would that majority have conſiſted?—Where there were 558 Britiſh repreſentatives and only 150 or 200 American, that majority would neceſſarily have conſiſted of Britiſh repreſentatives.

Would that *majority*, ſo legiſlating for America, have been themſelves *part* of the American community for whom they legiſlated?—No.—Would there have ſubſiſted an *identy* of intereſt between that majority, and the American community?—No.—on the contrary their intereſts might often have been oppoſed to each other; for it would have been the intereſt of that majority to encreaſe American taxation, to which they were *not* themſelves ſubject, in order to lighten Britiſh taxation to which they *were* themſelves ſubject. Would that majority be *themſelves* bound by the laws, which

which affected the American community only?—No.—They only hold which the *legiſlated* have over their legiſlators, to prevent their paſſing unjuſt or oppreſſive laws, would in this caſe have been totally wanting to the American community.

Here then America might have been put into the moſt ample poſſeſſion of the elective franchiſe, and have had all her inhabitants *actually repreſented* in the legiſlature, which made her laws, and yet America under theſe circumſtances, might have become one of the moſt enſlaved countries upon the face of the earth.

And had this event happened, it is curious to obſerve, that ſuch Americans, as wiſhed to enjoy civil liberty, would have been ſecure of finding it only by becoming inhabitants of England, and members of the Britiſh community, although there they were to be deſtitute of votes. That is in order to be free they were to quit a community where they *had* the elective franchiſe, and *were* actually repreſented, and become members of one where they had *no* elective franchiſe, and conſequently would *not* be repreſented; but where the majority of the legiſlature were themſelves *part* of that community, poſſeſſed an identity of intereſt with it, and were themſelves equally bound with it, by *all* the laws they enacted.

That the poſſeſſion of the elective franchiſe is *not* the conſtituent principal of the civil liberty of the *individual* is therefore evident, becauſe it is very poſſible that he might be enſlaved while in compleat poſſeſſion of that franchiſe. But that the conſtituent principles of the civil liberty of the

the whole community *are* ſuch as I have ſtated them to be, is equally evident, becauſe where thoſe principles are eſtabliſhed and ſecure, the individual muſt be free, whether he poſſeſſes the elective franchiſe or not.

From what has been here ſaid, one great important and eternal truth may be deduced—It is this——

When the reſpective ſituations and circumſtances of *two* diſtinct communities, do not differ ſo much from each other, but that they are capable of coaleſcing into *one* community, the criterion of which is the univerſality of the laws, equally binding the united communities, *there* one common legiſlature may legiſlate for both, without injury to the liberty of either: This is now become the caſe with reſpect to the union between England and Scotland.

But when two diſtinct communities like America and Great Britain for inſtance, differ ſo totally in their reſpective ſituations and circumſtances, whether local and commercial, of trade or of revenue, that it is impoſſible they ſhould coaleſce into *one* community, but muſt continue two diſtinct communities, having ſeparate laws reſpectively applicable to each—I ſay when ſuch is the caſe, (which it will almoſt ever be, when the two communities inhabit different countries, divided from each other,) it may be laid down as a moſt incontrovertible axiom in politics.—*That it is impoſſible for two ſuch communities to have but* one *legiſlature in common, but at the expence of the liberty of the ſmaller community, notwithſtanding that the latter community ſhould be repreſented in that legiſlature.*

The truth of this poſition is founded on the ſame identical principles, upon which alone the wiſdom and excellence of the Britiſh conſtitution can be proved, and its calumniators refuted. The poſition and the conſtitution reſt upon the ſame ground; they muſt ſtand or fall together.

On the other hand it is equally true that where two diſtinct communities inhabit the ſame country, and more particularly if they live intermixed with each other, nothing can prevent their coaleſcing into one community, but the laws which ſever them. There can exiſt no phyſical, nor ſcarcely I think any moral neceſſity, for continuing them diſtinct communities, governed by ſeparate laws; and from the moment they become blended into one maſs—from the moment identity of community takes place, by the eſtabliſhment of identity of code, and univerſality of law—the individual members of the united communities muſt then enjoy under one common legiſlature, if not the ſame degree of political power, preciſely the ſame degree of civil liberty.

Having mentioned America, I am here tempted to obſerve that it is wonderful, how much the ſubject of *repreſentation* has been miſunderſtood by the generality of thoſe who have either written or argued upon it. It was contended by the ſupporters of the power aſſumed by the Britiſh parliament to tax America, that this power was perfectly conſtitutional, becauſe, as theſe gentlemen inſiſted, the Americans were as much *virtually* repreſented in that parliament, as the great body of the people of England were, who poſſeſſed no votes.——Now no poſition could be more abſurd

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or falſe than this, though at the time it was very generally ſuppoſed to be true.

That every Engliſhman, although he may have no vote, is virtually repreſented in the Britiſh parliament, is certain—but why?—Becauſe he is a member of the ſame community with thoſe who *have* votes—he, as was obſerved in a former ſection, is a component part of a body that is repreſented—he can be bound by no laws but ſuch as bind thoſe who *are* actually repreſented, and ſuch as bind the law makers themſelves—he enjoys all the benefit of the univerſality of the law—and certain it is, that if a *part* of the community be free by virtue of the laws which protect their liberty—the whole muſt be free, if their liberty is protected in the ſame manner, by the ſame identical laws.—But was this the caſe with the American?—No—the very reverſe—without a vote himſelf—he was *not* a member of the ſame community with thoſe who *had* votes—he was *not* a component part of the body that *was* repreſented—he *was* to be bound by laws which would not have bound thoſe who *were* repreſented—nor the law makers who made them.—The American therefore could not have been virtually repreſented in the Britiſh parliament, unleſs he made England his reſidence, and became a member of the Britiſh community.

In the ſame manner every unfranchiſed Proteſtant in Ireland, although deſtitute of a vote, is *virtually* repreſented in the Iriſh parliament, for the ſame reaſon every unfranchiſed Engliſhman is ſo in the Britiſh. And as long as there is one law for the Catholic and another for the Proteſtant, the Catholic cannot be virtually repreſented in the

Iriſh parliament, for the ſame reaſons that the American could not have been ſo, in that of Great Britain—becauſe until *identity* of code and univerſality of law ſhall be reſtored to Ireland—which of neceſſity muſt reſtore *identity* of civil community—the Catholic, though without a vote himſelf, will *not* be a member of the ſame civil community with thoſe who *have* votes—he will *not* be a component part of the body that *is* repreſented—he *will* be bound by laws which do not bind thoſe who *are* repreſented,—nor the law makers who make them.—The Catholic therefore cannot be virtually repreſented in parliament, until by *identity* of code of law he ſhall be rendered a member of the *ſame* civil community with the Proteſtant: until he enjoys all the benefit of the univerſality of the law, and until he becomes a *part*, of that *whole* which is free by virtue of the laws which protect the liberty of all, and which being identically the ſame for the Catholic as for the Proteſtant muſt of neceſſity equally protect the liberty of both.

Reſtore then the Catholic, in all civil reſpects, to the Proteſtant community, by eſtabliſhing identity of code of law, for all the ſubjects of the realm.—Let him be bound by no law, but that which equally binds, the unfranchiſed Proteſtant, the Proteſtant voter, and the Proteſtant legiſlator himſelf. Reſtore to him, by that means, his due and equal ſhare of the common ſtock of civil liberty appertaining to the community at large of which he from that moment will become a member: Let him poſſeſs civil liberty, preciſely in the ſame manner and in the ſame degree, in which the proteſtants themſelves poſſeſs it. He will then, like the unfran-

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chiſed Proteſtant, be virtually repreſented in the Iriſh parliament, and enjoy the benefits of the univerſality of the law.

To all this, I do maintain the Catholic has the moſt decided, the moſt incontrovertible RIGHT.

SECT. XIII.

What, independent of the elective franchiſe, is to ſecure the continuance *of the civil liberty of the Catholic when he ſhall have been reſtored to it?*

FROM what has been ſaid in the courſe of this eſſay it is obvious that the Catholic cannot, according to the principles there laid down, be deprived of political power, by any partial diſqualifying ſtatute of which he, and he only is the immediate object. The law which ſays (1 Geo. II. C 9.) "No Papiſt, though not a convict ſhall "be admitted to vote at the election of any mem-"ber to ſerve in parliament" together with every other law bearing only upon the Catholic, muſt be repealed—for according to thoſe principles the *univerſality* of the law, muſt be held ſacred. Every law muſt be *equally* binding upon all the ſubjects of the realm, of every diſcription. Conſequently

quently if the Catholic ſhould find himſelf without political power, it will not be becauſe the law ſays " no Catholic ſhall have political power" for the law will ſay no ſuch thing; but it will be the Catholic himſelf, who may not chuſe to avail himſelf of the political power, to which his property might otherwiſe entitle him; becauſe he objects to the qualifications required by the law from all thoſe who are to be veſted with that important truſt—important in all its branches!—the truſt of political power.

Some flippant and ſhallow reaſoner may exclaim —" What matter *how* the Catholic is deprived " of political power!—If he be deprived of it, " ſurely it comes to the ſame thing?" I beg your pardon, good Sir—it does not come to the ſame thing. The HOW, is of the firſt importance—In the *inſtance* of the deprivation, there may be no difference,—but in the *principle* of the deprivation, there happens to be the moſt material difference; for it is preciſely the difference between liberty and ſlavery.

The *principle* of the power aſſumed by the legiſlature, to deprive the Catholic of his vote, in the law which ſays, " no *Papiſt* ſhall vote at the elec- " tion of a member to ſerve in parliament" is diametrically oppoſite to the principle upon which power is exerciſed by the legiſlature in the law which ſays: " *All perſons whatever* having votes " for the election of a member to ſerve in parlia- " ment ſhall previous to their voting take the fol- " lowing oath," &c. &c.

In the firſt caſe, the principle is entirely arbitrary.—It is power immediately acting upon the ſubject

ſubject in his capacity of ſubject, without limits and without controul.—It is unjuſt becauſe partial, not binding upon all, but only upon one deſcription of ſubjects.—It does not *regulate* the elective *inſtitution*, but immediately *binds* the Catholic *ſubject*. It is unconſtitutional, becauſe it violates the vital principle of repreſentative governments, viz. That thoſe who make the law, ſhall themſelves be bound by the law; but this is a law, which could not poſſibly bear upon thoſe who made it.

The power which upon this principle aſſumed the right to diſpoſſeſs the Catholic of his vote, might upon the ſame principle, diſpoſſeſs him of his horſe, of his arms, of his houſe, of his eſtate, of his child, of his wife—and invade in this inſtance, the moſt ſacred rights of man.—I lament while I ſay it, that power acting upon this principle, *did* commit all theſe enormities.

But look to the principle upon which power acts in the ſecond caſe, where the law preſcribes that " all perſons whatever having votes for the " election of a member to ſerve in parliament, " ſhall previous to their voting, take the follow- " ing oath" *&c. &c.* Power acting upon this principle may prevent the Catholic from *voting*, if he does not chuſe to take the oath, it will equally prevent every other ſubject of the realm from voting who ſhall refuſe to do ſo; but *there* it *ends*.

The *principle* upon which this power acts cannot be arbitrary, becauſe controuled by the circumſtance of the laws being univerſal; equally binding upon all ſubjects, and upon the legiſla-

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tors themſelves—and what more effectual controul, to prevent the abuſe of power, can there be, than that thoſe who exerciſe it ſhall themſelves be bound by their own acts.

It does not immediately bind the *ſubject*, whether a Catholic or of any other denomination, it binds only *voters* of every deſcription, and ſimply regulates the political inſtitution of the repreſentative ſyſtem. The power exerciſed only upon this principle, though it may have the effect of inducing the Catholic to relinguiſh of his own accord his right of voting, *cannot* upon the *ſame* principle invade the civil liberty of the Catholic in the moſt minute circumſtance. It will, and muſt hold his wife, his child, his eſtate, his houſe, his arms, his horſe, his freedom, all, all ſacred: and I rejoice when I ſay, that the univerſality of the law being once eſtabliſhed, the Catholic muſt, as to civil liberty, ſtand preciſely on the ſame footing with the Proteſtant.

He who cannot ſee the diſtinction which has been here made, muſt be blind indeed.—There is the ſame difference between the two modes of excluding the Catholic from voting, that there would be between our keeping a man out of our houſe by ſimply locking the hall door, and our going to his, and tying him neck and heels to prevent his ſtirring abroad; both modes would prevent his entering our houſe, equally well, but I believe, it will be admitted, there is a very material difference in the nature of the different powers we aſſumed upon the occaſion.

All

All that has been here ſtated being granted, it may yet be aſked—" As long as the Catholic remains unrepreſented in the legiſlature, what ſecurity will he have, that the legiſlature will *perſevere* in an adherence to the principle of the univerſality of the law?"—What ſecurity will he have that he ſhall never again become a ſuffering exception to it—To this it may be anſwered, as has been already ſtated in a former part of this work, that the elective franchiſe, or even the being elegible to ſit in parliament, would not alone give the Catholic that ſecurity.

In ſome of their publications on the preſent occaſion, the Catholics themſelves have admitted this, for they have ſtated with more truth than policy, that many of the moſt ſevere penal ſtatutes were paſſed againſt them, at the very period when they were in poſſeſſion not only of the elective franchiſe, but alſo of ſeats in the legiſlature. And how did that happen?—Becauſe they were the *minority* of voters, and the *minority* of repreſentatives:—And the right of nominating repreſentatives being *efficient* only in the *majority* of voters, the right of legiſlating being *efficient* only in the *majority* of repreſentatives, it is evident that as long as the Catholics continue a minority of voters, and of conſequence a minority of repreſentatives, the elective franchiſe, or the right of ſitting in parliament, might, as far as their liberty is concerned in the queſtion, confer nothing more upon them than the fictitious privilege of giving votes to candidates they had not power to chuſe, and negatives to laws the enacting of which they had not power to prevent.

It is to be obſerved, that the Catholics, and moſt of their proteſtant friends, have made it the principal ground of their claim to the elective franchiſe (I think very miſtakenly and very imprudently) that it is eſſential to the ſecurity, nay to the exiſtence, of their civil freedom; and though every other right whatever were conferred upon them, they maintain, that without the right of elective franchiſe they would ſtill be ſlaves.—Now they muſt conceive that the bare poſſeſſion of the elective franchiſe, without conſidering in *what proportion*, would conſtitute them freemen, and be ſufficient to ſecure their civil liberty. But I ſhould beg leave to aſk them, *how* it could produce that effect in any other way, than by giving them ſuch a *controul* over the common legiſlature of both Proteſtants and Catholics, as would inevitably prevent hereafter, on the part of that legiſlature, any invaſion of Catholic rights.

But admitting the poſſibility of the caſe, that the legiſlature might, at ſome future period, be diſpoſed in imitation of their predeceſſors to adopt their perſecuting ſpirit, and again render the Catholic the object of unjuſt and penal ſtatutes—could the minority of the legiſlature controul the majority?—No, in truth and fact, nothing but the majority's being *Catholic* could give that *real ſecurity* to Catholic rights which depends upon the elective franchiſe, and which is the *only* ſecurity that franchiſe can give:—Conſequently if they reſt the ſecurity of their civil liberty upon the elective franchiſe alone, and make it, as they have done, the very eſſence of their freedom, they muſt poſſeſs it in that degree which would give them a

majority

majority in the legiſlature * !—This ſurely is a ſecurity which the Catholic could not expect—which the Proteſtant could not grant;—Yet any ſhare of the elective franchiſe in the hands of the Catholics, which ſhould leave them in a minority of the legiſlature, muſt for ever prevent its being that *abſolute ſecurity* to their civil liberty, to obtain which, is the ground of all their claim of right to that franchiſe, and the being deſtitute of which, they have been taught moſt erroniouſly to denominate a ſtate of ſlavery.

I acknowledge I have here ſuppoſed an extreme caſe, but it is alſo an extreme caſe on their part, to ſuppoſe that after the repeal of all the penal or diſqualifying ſtatutes, which have hitherto ſubſiſted againſt them, that their civil liberty could in future be taken away, by the *revival* of thoſe deteſtable and deteſted laws.

* Pſammeticas, king of Lybia, having made a preſent to the Athenian people of forty thouſand buſhels of wheat, Pericles, principally out of ſpleen to the family of Cimon, who had children by an Arcadian woman, preferred a law, whereby Athenians of the half blood were disfranchiſed; and under colour of this law, though in fact to increaſe to each citizen of the whole blood, his ſhare of the corn beforementioned. No leſs than five thouſand citizens, who till then had been conſidered as free citizens of Athens, poſſeſſing all their rights, privileges and powers, and voting in the legiſlative aſſemblies of the people, were actually ſold as ſlaves. Theſe unfortunate citizens poſſeſſed a much higher portion of political power than the elective franchiſe confers; for they actually voted in the aſſemblies of the people as legiſlators; and they likewiſe formed near a fourth part of the whole number of Athenian citizens. Yet their poſſeſſing every right, and every degree of political power, in common with the other citizens, they being a minority in the aſſembly of the people, thoſe rights and powers availed them nothing to preſerve them from ſlavery.

Then

Then what, it may be aſked, *is* the ſecurity the Catholics will poſſeſs, that the civil liberty, and other rights now to be reſtored to them, will never be again invaded by any future legiſlature?

I anſwer—The Iriſh Catholic will have the *ſame* ſecurity that he ſhall never again be reduced to his former ſervitude—that he ſhall never again be made the object of partial, penal, and tyrannical ſtatutes, which the Iriſh nation now has, that the Britiſh parliament will never again impoſe fetters upon the commerce of Ireland.—Namely; the breach of faith—the injuſtice—the impolicy—and the DANGER of the meaſure.

Were the Iriſh nation to have repreſentatives in the Britiſh parliament—would it add to that ſecurity?—No—unleſs they formed a majority in that parliament, there being meerly repreſented there, might prove a fiction that would deſtroy it.

Our ſtatute books once purged of the iniquity of the popery laws, and the Catholics continuing to comport themſelves, as they have done; is there a man who does not believe in his heart, that there is a moral impoſſibility it ſhould ever again be diſgraced by them?

The repeal of thoſe popery laws, or in other words, the revocation of thoſe arbitrary ſentences, paſſed upon the anceſtors of the Catholics, and which involved all their poſterity, is a direct approbation of the conduct of that poſterity, and is an implied contract between the legiſlature, and the Catholic ſubject; that the latter continuing to act as he has done, ſhall continue to enjoy that civil freedom and thoſe civil rights now conceded

to

to him, in the ſame degree, and with the ſame ſecurity as the Proteſtant enjoys his freedom and his rights. It is a contract therefore, that no part of the popery laws ſhould ever be revived.

If then—what I think it morally impoſſible ſhould ever happen—if, in ſpite of the breach of faith, the injuſtice, the impolicy, and the DANGER of the meaſure, the wantonneſs of folly, or the inſolence of power, ſhould in future make the attempt, I would almoſt venture to ſay, that the Catholics would have the *right*, and it is much more than probable they would have the *capacity* to RESIST.

SECT. XIV.

On the ſuppoſition that the Catholic were reſtored to all the rights to which, in the preceding ſections, it has been ſtated, he is entitled, whether any real difference, in point of civil liberty, would ſubſiſt between him and the unfranchiſed Proteſtant.

IN the courſe of this eſſay, I have maintained, and I truſt with truth, that the civil liberty of the individual neither does nor can conſiſt in his poſſeſſing in *his own perſon* the elective franchiſe.

chiſe. I have on the contrary ſtated, that the civil liberty of the individual does conſiſt in his being a member of a free community, where the *laws* have eſtabliſhed civil freedom, and where they equally protect all, and equally bind all ;—whether the legiſlators or the legiſlated—thoſe who have or thoſe who have not the elective franchiſe.

Nor can there be a ſtronger proof of the truth of this doctrine, than its being univerſally admitted on all hands, that the unfranchiſed Proteſtant, in point of *civil liberty*, ſtands preciſely and identically upon the ſame footing with the Proteſtant who is poſſeſſed of a vote —the only difference between them being, that the latter enjoys a portion of a branch of *political power* which the former does not.

But thoſe who favour the opinions which, as not being founded in truth, it has been the object of this work to refute, have diſcovered a moſt extraordinary reaſon why the unfranchiſed Proteſtant ſhould be free notwithſtanding his having no vote.—They do not make his freedom depend upon the actual poſſeſſion, and ſecure enjoyment of thoſe ſpecific rights, which in ſtrictneſs conſtitute the eſſence of civil liberty.—It is not according to them, —becauſe he actually poſſeſſes and enjoys theſe rights, that he is free—No—he is free becauſe he is not diſabled from voting, by any thing but the trifling circumſtance of his having no vote.

" Well

"Well, but poſſibly he may get a vote ſome time or other." Very true, but the probability is, that he never will, for upon comparing the actual number of freeholds and franchiſes which confer the right of voting, with the number of inhabitants (I am ſpeaking of Great Britain, as I have done in all I have ſaid upon the ſyſtem of repreſentation) it is a hundred to one at the leaſt againſt the unfranchiſed Proteſtant's ever obtaining a vote, unleſs he can afford to purchaſe the property that would entitle him to one, which not one in a hundred could do.

Thus theſe gentlemen make the freedom of the unfranchiſed Proteſtant conſiſt, not in the *rights* which he *has*, but in the vote which he has *not*, becauſe ſay they, there is nothing to hinder him from voting, provided he could but procure a vote, therefore he is juſt as free without a vote, as the Proteſtant is, who has one—and they admit that as his not having a vote *now* is no *diminution* of his civil liberty, ſo conſequently his obtaining a vote *hereafter*, could be no *addition* to it.—But, continue theſe gentlemen, the caſe is quite otherwiſe with the Catholic, for though you ſhould give him the actual poſſeſſion and ſecure enjoyment of all thoſe ſpecific rights which in ſtrictneſs conſtitute the eſſence of civil liberty, ſo that in all theſe reſpects he ſhall be identically upon the ſame footing with the Proteſtant, whether franchiſed or unfranchiſed, yet compared with either he will be a ſlave,—becauſe the franchiſed Proteſtant has a vote, and the Catholic has not.

Compared

Compared with the unfranchiſed Proteſtant *he* will be a ſlave, becauſe, though to be ſure the former *has* no vote, yet he is not under any *incapacity*, to acquire one, and therefore perhaps,—or at leaſt it is not impoſſible, but that he *may* obtain a vote ſome time or other,—which the Catholic never can.

Then gentlemen ſee the amount of your argument.

1ſt, The franchiſed proteſtant is free *becauſe* he *has* a vote,

2dly, The unfranchiſed Proteſtant is free *becauſe* it is not impoſſible but that he may obtain *a* vote ſome time or other—and

3dly, The Catholic is a ſlave, *becauſe* he never can have one, being equally deſtitute of the elective franchiſe, whether he does or does not poſſeſs the the property that would entitle a Proteſtant *to it*.

Upon theſe three poſitions, reſts your argument, that the Catholic is a ſlave, though the unfranchiſed Proteſtant is free: And to make your argument good it is neceſſary that all the three poſitions ſhould be true.

Now it ſo happens, that if the firſt of theſe poſitions be true, the ſecond muſt be falſe—and *if* the ſecond is falſe, the third cannot be true.

If the franchiſed Proteſtant is free *becauſe* he has a vote, then the freedom of the *individual depends* upon his *having* a vote, he conſequently cannot be free *without one*.

But

But you admit that an individual *can* be free without one, for you admit that the unfranchiſed Proteſtant who has no vote *is* free.—Your firſt poſition is therefore falſe? No, our firſt poſition is not falſe—becauſe it is not impoſſible but that the unfranchiſed Proteſtant, though he might be unable to procure a vote *now*, may obtain a vote ſome time or other, and therefore he is as free as the Proteſtant who actually has a vote. Do you not perceive gentlemen, that by arguing thus, you give preciſely the *ſame* efficiency to the *future contingent* exiſtance of a thing, which may, or may never exiſt, that you do to the *actual* exiſtance of that thing?—That you make the *poſſibility* of a *vote to come*, and which alſo *may never come*, produce preciſely the ſame effect upon the *preſent* ſituation of an individual, which the *actual poſſeſſion* of a vote, could produce upon his *preſent* ſituation. For the poſſibility of this vote to come, or which may never come gives *preſent* liberty to the individual, juſt as much, as if he had his elective franchiſe in his pocket.

This future vote, which is to come ſome time or other, to the unfranchiſed proteſtant, really poſſeſſes very extraordinary properties, like nothing elſe either in the natural or moral world; for it operates upon time *paſt*, in the ſame manner as upon time *to come*.—It makes the unfranchiſed proteſtant, juſt as free *before* he gets it, that is before it is in exiſtance, as he can be after he has got it; for ſuppoſing he does not obtain it till at the end of twenty years, he, according to your doctrine gentlemen, being all that time without a vote, ought to have been a ſlave; but —No—the vote comes, and it poſſeſſes the moſt wonderful *retroſpective power*; for it renders the

 hitherto

hitherto unfranchiſed proteſtant, juſt as free during the *preceding* twenty years, as it can make him *afterwards*.—The preceding twenty years, were all years of freedom, notwithſtanding the late appearance of the vote. Nay what is ſtill more wonderful, the bare ſuppoſition that the vote *may come* ſome time or other produces preciſely the ſame effect as if it came in reality; for it is of no manner of conſequence, whether it ever comes or not. It is admitted that the Proteſtant is equally free, whether he does, or does not, in the courſe of his life obtain the elective franchiſe. —This gentlemen is certainly inverting the order of nature; it is making the *effects*, precede the *cauſe*. Nay more, it is making the effects exiſt equally well, *without* their cauſe. For if the liberty of the individual depends upon his having a vote, then liberty is the effect, and the vote, the cauſe: But here the liberty of the individual will exiſt for any length of time before the vote ſhall make its appearance; and it will exiſt equally well, whether the vote ever makes its appearance or not.

I know of nothing, gentlemen, that is to come *hereafter*, which operates in ſo extraordinary a manner upon the *preſent* ſituation of things; as this poſſibility of a *future* vote operates upon the *preſent* ſituation of the unfranchiſed Proteſtant. The warm and dry ſummer that may come twenty years hence, can have no effect upon the dampneſs of the intervening ſeaſons.—The prize in the lottery, which twenty years hence, may fall to the lot of the man at preſent poor, will make no change in his poverty during the twenty preceding years:—Yet there was always a *poſſibility*, that every enſuing ſummer might be warm and

and dry, and there was always a possibility, that the poor man having a chance in the lottery, might obtain a prize: Yet this possibility could make no alteration in the *actual* state of the seasons during the current year, before the dry summer came, nor any alteration in the actual state of the poor man's purse, before the prize was obtained.

Why, gentlemen, the possibility of a vote in *future*, should make such an alteration in the *present* situation of the unfranchised Protestant, who wanting a vote, ought, according, to your first and third positions, to be a slave, is what I believe you will find it very difficult to explain, if the liberty of the individual does really depend upon his *having* a vote—and if it does *not*, you will find it equally difficult to prove that the Catholic, when placed in all respects, upon precisely the same footing with the unfranchised Protestant excepting this possibility of having a vote in future, was less free than the latter.—You will find it difficult to prove the Catholic less free, for not possessing that chance for a future vote, in common with the unfranchised Protestant, in whose case, you admit, if such vote should never be obtained by him, it would be no *diminution* of his liberty; and if it should, it would be no *addition* to it!!

The Athenian slaves enjoyed an advantage over the slaves of the other states of Greece, for whenever they had earned money enough to ransom themselves, which might sometimes happen, as they frequently were very ingenious artists, their masters were by law compelled to manumit them. This was not the case with the slaves in other

ſtates, who could obtain their freedom only by the conſent of their maſters:—Over theſe therefore the Athenian ſlaves had this advantage, that there exiſted in their favour a poſſibility of their obtaining their liberty independently of the will of their maſters; yet ſurely till they *had obtained* their liberty, they were to all intents and purpoſes as much ſlaves as the others.

If then, gentlemen your doctrine be true, that under our conſtitution the freedom of the individual conſiſts in his having a vote, certainly that individual cannot be conſidered as free who is actually without a vote, meerly becauſe there is a *poſſibility* of his obtaining one!—You might as well ſay, that the Athenian ſlaves were all actually free *previous* to their manumiſſion, becauſe the law, on certain conditions, gave them a capacity to become ſo.—Surely in ſuch caſe the unfranchiſed Proteſtant, who had not the means of becoming a voter, could not be ſtiled free until he had actually obtained a vote—but you admit that he is free, whether he obtains a vote or not.—Under our conſtitution therefore the liberty of the Proteſtant individual does *not* depend upon his having a vote—Your firſt poſition therefore, is a falſe one:—

The franchiſed Proteſtant is not free meerly *becauſe* he has a vote.

Your ſecond poſition is conſequently alſo falſe:

The unfranchiſed Proteſtant is *not* free, meerly *becauſe* it may be poſſible for him to obtain a vote.

And

And it neceſſarily follows, that your third poſition is alſo falſe. For if the liberty of the franchiſed and of the unfranchiſed proteſtant does not depend upon their being individually poſſeſſed of a vote, neither, after the Catholic ſhall in all other reſpects be placed preciſely on the ſame footing with them, can his individual liberty depend upon his having a vote—therefore he cannot be a ſlave meerly *becauſe* he has no vote.

Such, gentlemen, is the argument upon which you rely, and which you conſtantly urge, in order to reconcile your poſition, that the civil liberty of the individual depends upon his having a vote, with the ſtubborn facts, that many Proteſtants in Ireland, and the great body of the people in England, are deſtitute of votes, and are notwithſtanding admitted to be perfectly free.

Were your poſition true, I ſhould be very ready to grant that the unfranchiſed Proteſtant, who had it in his power to obtain a vote whenever he thought proper, was as free as the Proteſtant who actually had a vote;—as I ſhould alſo grant that the Athenian ſlave, who had the money in his pocket which could purchaſe his manumiſſion, and remained with his maſter from choice, was in fact a free man, becauſe that man is free who has it in his power to become ſo whenever he pleaſes:—But ſurely the ſlave who had not the means of purchaſing his freedom would be ſtill a ſlave. And according to your poſition, it is equally ſure that the Proteſtant who had not the means of procuring the elective franchiſe, could not be free:—and what an immenſe proportion do

Proteſtants

Proteſtants in this predicament bear to the comparatively ſmall number of thoſe who have it at their option to acquire that franchiſe whenever they think proper.

We may then ſafely conclude, that the only difference which would ſubſiſt between the Catholic, were he reſtored to all the rights to which I think him entitled, and the unfranchiſed Proteſtant would be, that the latter would have a *chance* of obtaining a ſhare of *political power*, which the former could not have.

SECT.

SECT. XV.

The Roman Catholic claim to the elective franchise a claim of power *not of* civil freedom. *Under what circumstances it might be safe and wise, as well as equitable, to concede to them political power.*

I HAVE thus endeavoured in the course of this work to place the claim of the Roman Catholic to the elective franchise, upon its true ground, namely—(supposing him in all other respects precisely on the same footing with the protestants) that it is a claim to *a share of political power* in the state.—And certainly if he were previously restored to every other right, *power* not *liberty*, could be the only object of the claim; —a claim however which has so much of equity in its favour, that I would seriously advise the too zealous Protestant well to consider, whether it would be wise, by refusing any portion whatever of civil rights to the Catholic, to *compel* him to look to the possession of political power, as the *only* means of attaining to compleat civil liberty.

When I say, that demanding the elective franchise, and its necessary consequence, a share in the legislature, is claiming *power* to which no man can have a natural right, and not *freedom*, to which all men have a natural right, I am supported

ported by the authority of one of the moſt decided friends and moſt zealous advocates of the Roman Catholics; an authority therefore to which they at leaſt cannot object.

" Far am I (ſays Mr. Burke) from denying in " theory, full as far is my heart withholding in " practice, the *real* rights of men. In denying " their falſe claims of right, I do not mean to " injure thoſe which are real, and are ſuch as " their pretended rights would totally deſtroy. " If civil ſociety be made for the advantage of " man, all the advantages for which it is made " become his right. It is an inſtitution of bene- " ficence, and law itſelf is only beneficence act- " ing by a rule. Men have a right to live by " that rule; they have a right to juſtice as be- " tween their fellows, whether their fellows are " in politic function, or in ordinary occupation. " They have a right to the fruits of their induſ- " try; and to the means of making their induſtry " fruitful. They have a right to the acquiſitions " of their parents; to the nouriſhment and im- " provement of their offspring; to inſtruction in " life, and to conſolation in death. Whatever " each man can ſeparately do, without treſ- " paſſing upon others, he has a right to do for " himſelf; and he has a right to a fair portion of " all, which ſociety, with all its combinations of " ſkill and force, can do in his favour. BUT AS " TO THE SHARE OF POWER, AUTHORITY, AND " DIRECTION IN THE MANAGEMENT OF THE " STATE, THAT I MUST DENY TO BE AMONGST " THE DIRECT ORIGINAL RIGHTS OF MAN IN " CIVIL SOCIETY."

And

And pray to you my Roman Catholic brethren, I addreſs myſelf—is not claiming to become a part of the ligiſlature, a claim to *power*, *authority* and *direction* in the management of the ſtate?—In the preceding liſt of rights preſented to us by one of your moſt zealous advocates, as containing all thoſe to which man can be naturally entitled, can you lay your finger upon a ſingle one, which may not be conferred upon you independent of the elective franchiſe?—What would be here withheld from you but that right which Mr. Burke denies to be among the direct original rights of man? This denial on his part is certainly juſt, and founded on the moſt obvious, but at the ſame time, the moſt ſacred truth.—ALL POWER IS A TRUST—It is a truſt veſted in one or more individuals on behalf of the people, and for their advantage.—Now it is impoſſible that any man can have a *natural right* to be the *truſtee* of other men.—This can only be ſettled by convention.

But I go farther than Mr. Burke; he has omitted in his detail of rights, one which is the moſt important of any.—All thoſe he has mentioned might be enjoyed under a mild though unlimited monarchy—this is not ſufficient—Man has alſo a right to that *form of government* which will ſecure to him his other rights *;—but ſurely individuals may enjoy the full benefit of *having* ſuch a form of government, without being themſelves conſtituent members of it; all that they can claim of *right* is ſecurity for their liberties under it.

* That the Britiſh conſtitution is that form of government, whoever has read the preceding ſections with attention muſt be convinced.

What

What I have ſaid here is not for the purpoſe of throwing difficulties in the way of the Catholics claim to political power, but that the queſtion may be underſtood—that he may not firſt call for power under a falſe name, by ſtiling it liberty; and afterwards, in conſequence of having himſelf miſcalled the object of his purſuit, miſtake a political truſt for a natural right.—It is of very ſerious importance that he ſhould be made ſenſible of his error.—When we are told, as we have been in ſome Catholic publications, " that the elective " franchiſe is one of the unalienable rights of " man;"—that " the elective franchiſe is the pri- " vilege which conſtitutes the diſtinction between " freedom and ſlavery *." When we are told what is hiſtorically falſe, " that the privation of " the elective franchiſe is the prime ſource of all " Catholic misfortunes *." When we are threatened with certain alliances with other bodies of men, to be formed on avowed principles of hoſtility, or with emigrations to France, " rather " than hug thoſe chains to which even deſpotiſm " would be a relief *." When at a public meeting ſuch ſentiments as theſe are uttered with zeal and heard with applauſe—when theſe orators deceive themſelves, and deceive their hearers, by erronious ſentiments and falſe principles, and afterwards publiſh their ſpeeches, to ſpread the deception among their more modeſt brethren;—they certainly cannot be offended at being ſet right upon a ſubject which they evidently do not underſtand.—Zeal grafted upon ignorance, is the moſt fatal ſpirit which can take poſſeſſion of the human mind.

* See debate at a general meeting of the Roman Catholics of the city of Dublin, held at the Muſic-hall, Fiſhamble-ſtreet, March 23d, 1792.

As

As to the aſſertions, that the elective franchiſe is one of the unalienable rights of men—that it is the privilege which conſtitutes the diſtinction between liberty and ſlavery, theſe I truſt have been already ſufficiently refuted in the preceding ſections. But the poſition, "that the privation of the "elective franchiſe is the prime ſource of all Ca-"tholic misfortunes," requires ſome comment.

This poſition can only be the ſurmiſe of groſs ignorance. That they who advanced this poſition ſhould know nothing of the true nature of the elective franchiſe, or of the real principles of repreſentation cannot ſurpriſe me; but that they ſhould preſume to talk upon the ſubject, and know nothing of the hiſtory of their own country, I confeſs does aſtoniſh me:—So far is it from being true, that the deprivation of the elective franchiſe was the *ſource* of all the misfortunes of the Catholic, that what may indeed not improperly be termed his misfortunes, all, all fell upon him *previous* to his having been deprived of the elective franchiſe. The commencement of the penal ſtatutes againſt the Catholic, was coeval with the REFORMATION;—That indeed was the true ſource of Catholic misfortunes!

They began in 1559, 2 Eliz. ch. 1, & 2. was, I think the firſt perſecution they ſuffered on account of their religion; then commenced their diſqualifications to hold any dignity, benefice or office, eccleſiaſtical or civil under the crown.—Then were they compelled to attend divine ſervice according to the church of England, on every Sunday and Holyday, under the penalty of one ſhilling for every offence of non attendance, to be levied

levied off the goods, lands and tenements of ſuch offender.

Under the reign of James I. the Catholics were treated with the utmoſt rigour, and this penalty was then, as well as afterwards, during the reign of Charles I. levied with great cruelty, and ſeriouſly made one of the ways and means for raiſing a ſupply for government; and the oath preſcribed by Elizabeth to be taken by all perſons before they could hold any office or benefice under the crown, which of courſe excluded the Catholics, was moſt rigidly exacted. From this period down to the year 1727, when the Catholic was firſt deprived of the elective franchiſe by 1 George II. ch. 9. a ſpace of 168 years, every ſucceeding reign, if we except the ſhort one of James II. was marked by ſtatute after ſtatute enacted againſt the helpleſs and devoted Catholic, each ſurpaſſing in ſeverity that which preceded it; to him every new reign brought along with it ſome new misfortune, and he "*holding all the time the elective franchiſe* "*in the ſame degree as the Proteſtant held it,*" ſunk deeper and deeper into ſlavery, nor did he loſe that franchiſe till many years *after* he had reached the laſt ſtage of political ſervitude.—How then was the *loſs* of the elective franchiſe the *ſource* of Catholic misfortunes?

Such was the ſucceſſive degradation of the Catholic, *before* he loſt the elective franchiſe.—What has been his fate *ſince?*—The preſent reign is the firſt, James the Second's excepted, which did not bring ſome new misfortune upon his head—in this reign the Catholic horizon firſt brightened; now firſt appeared in it the genial rays of liberality.—Toleration of religion, mitigation of diſqualifying,

ing, and repeal of penal ſtatutes followed.—Each ſucceeding year more nearly approached the Catholic to the liberty of which he had been ſo unjuſtly deprived;—and the hearts of Proteſtants warming to him, the arms of Proteſtants opening to receive him—nothing but his *own conduct* can now chill that warmth, or cloſe again thoſe arms.

Thus, my Catholic brethren, let not *talking men* deceive you—look yourſelves to your own hiſtory, you will find all that has been done *againſt* you, was when you *had* the elective franchiſe;—all that has been done *for* you was when you had it *not*. How then, I again aſk, was the loſs of that franchiſe the *ſource* of Catholic misfortune?—How then, I will now add, can it be that your liberty ſhould depend *alone* upon the poſſeſſion of that franchiſe?

I now come to thoſe threats beforementioned, of forming alliances with certain bodies of men for the avowed purpoſes of hoſtility—or of emigrations to France, rather *than hug thoſe chains to which even deſpotiſm would be a relief*.—What! when the proteſtant arm was but the moment before occupied with the removal of the greater part of thoſe chains—and the proteſtant mind is ſtill occupied with deliberating how far conſiſtently with *ſelf preſervation* it can remove them wholly:—Is this a period to change the language of petition into that of intimidation?

"Form alliances in order to take the conſtitu-
"tion by ſtorm!"—and why?—Not becauſe liberty is denied—not becauſe any one of thoſe rights ſet forth by the moſt zealous champion of the Catholic cauſe, as thoſe alone to which man

is

is entitled, the greater part of which by far the Catholics already enjoy, and to the whole of which I do maintain they have an unqueſtionable right: I ſay, not becauſe it is probable that any of theſe rights will be withheld from them.—No—but becauſe that right, and that right *only*, which the great patron of their cauſe does himſelf *deny* to be among the original rights of man, is not haſtily and raſhly ſurrendered at the firſt ſummons.—This wanting—according to ſome of theſe talking gentlemen—the compleat poſſeſſion of all the other rights, and of every right upon which civil liberty depends is nothing!—and to enjoy them is—"to hug thoſe chains to which even deſpotiſm "would be a relief!!!" *O medici mediam pertundite venam!*

I ſhall now ſuppoſe that it is admitted, that the Roman Catholic claim to the elective franchiſe, is neither more nor leſs than a claim to a ſhare of political power in the ſtate.—And why not? may fairly be aſked on behalf of the Catholic.—Why ſhould not ſo large a portion of the community, who by their labour, contribute ſo much to the aggriculture of our common country, by their enterpriſing induſtry, ſo much to its commercial proſperity, and who by their landed property hold ſo conſiderable a ſtake in it: Why ſhould they not have their due ſhare of political power in the ſtate, to enable them to join with the Proteſtants in promoting aggriculture, forwarding commerce, and in regulating the political affairs of their common country? Does the Proteſtant apprehend the revival of dormant claims upon his landed eſtate?—The Catholic has moſt "ſolemnly diſclaimed, and for ever re-"nounced all intereſt in, and title to, all for-

"feited

" feited lands, resulting from any rights, or sup-
" posed rights of their ancestors, nor does he
" admit any title as a foundation of right,
" which is not established and acknowledged by
" the laws of the realm, as they now stand; nor
" does he require that the Catholic shall be permit-
" ted to vote at any election for members to
" serve in parliament, unless he shall previously
" take an oath to defend, to the utmost of his
" power, the arrangement of property in this
" country, as established by the different acts of
" attainder and settlement". Does the Protestant entertain apprehensions for the present church establishment?—The Roman Catholic, " is ready
" in the most solemn manner to declare, that
" he will not exercise the privilege of the elec-
" tive franchise, to disturb or weaken the esta-
" blishment of the Protestant religion or Protes-
" tant government in this country."

Has the Protestant any fears for the constitution, in consequence of admitting the Catholic to a share of the *powers* it confers upon individuals? I would here venture to answer for the Catholic that he would now take as good care of the constitution, as the Protestant has taken,—besides that a Protestant king, and Protestant house of peers, it must be admitted would be no small obstacle to his acting otherwise.

Shall then his religion alone, be an eternal bar, to his being placed on an equal footing with his Protestant brethren? Shall he be made an exception, to that sacred principle of the liberty of the human mind, " that every individual has a
" natural and unalienable right to worship God,
" according

" according to the dictates of his own conſcience
" and reaſon" ?

Theſe queſtions I ſay may fairly be urged on behalf of the Catholic, and on behalf of thoſe Proteſtants who entertain greater apprehenſions, from the admiſſion of the Catholics to the elective franchiſe than I do, and I can as fairly urge the following replies.

As to any apprehenſions which Proteſtants may entertain reſpecting their eſtates, I conceive all fears of that nature to be ſo groundleſs, childiſh and abſurd, as not to deſerve any notice.—I ſhall therefore conſider the ſubject only, firſt in a religious, ſecondly in a political point of view.

" That every individual has a natural, and
" unalienable right to worſhip God, according
" to the dictates of his own conſcience and rea-
" ſon"—is a quotation which I have taken from a Roman Catholic publication, entitled *a ſhort account of the eſtabliſhment of the new ſee of Baltimore in Maryland and of conſecrating the right Rev. Dr. John Carroll firſt Biſhop thereof on the feaſt of the* aſſumption 1790—and the author of this account has himſelf taken the quotation from the new Hampſhire bill of rights—Admitting it then to be a truth, as it certainly is, that to worſhip God according to the dictates of his own conſcience, is one of the natural rights of man. It may be urged to the Catholic, on behalf of the zealous Proteſtant—It is very true; we admit this to be one of the rights of man: But this is the very thing which you deny to us.—You do not think it right that we ſhould worſhip God

God according to the dictates of our own conſcience; on the contrary you conceive it to be a point of duty to endeavour to perſuade us to worſhip God according to the dictates of yours:—Does any one doubt this?—Let him ſee what one of the ableſt advocates for the Iriſh Roman Catholics has ſaid upon the ſubject.

"Let us," ſays the author of *The Caſe of the Roman Catholics of Ireland*, "ſpeak honeſtly, "and therefore *uſefully*, to this important point. "The religion of Catholics teacheth them to be "obedient to governors, but it teacheth them "alſo *to propagate their ſpiritual doctrines, in op-* "*poſition to government.*"

If any one ſtill doubts it, let him look at the publication to which I before alluded; he will there find a diſcourſe delivered in 1790, in England, at the conſecration of the new catholic biſhop of Baltimore, in which are the following paſſages:—Speaking of the American revolution, the Roman Catholic preacher ſays—"Although this great event may appear to us "to have been the work, the ſport of human "paſſions, yet the earlieſt and moſt precious "fruit of it, has been the extenſion of the "kingdom of Chriſt, the *propagation of the* "*Catholic religion which, heretofore fettered by* "*reſtraining laws*, is now enlarged from bon-"dage, and is *left at liberty to exert the full* "*energy of divine truth.* Already is catholicity "extended to the utmoſt boundaries of the im-"mence continent of America; thouſands are "there earneſtly demanding catholic inſtruc-"tors, and all penetrated with reverence for "the apoſtolical ſee of St. Peter, have concur-

" red to demand from his ſucceſſor a catholic pre-
" late, whoſe knowledge and whoſe zeal *may eſta-*
" *bliſh the faith of Peter upon the ruin of thoſe errors*,
" which the firſt inhabitants carried forth with
" them from this country."

And again :—

" Glorious is this day, my brethren, for the
" church of God, which ſees new nations
" crowding into her boſom : glorious for the
" prelate elect, who goes forth *to conquer theſe*
" *nations for Jeſus Chriſt*, not by the efforts of
" of human power, but in the might of thoſe
" weapons which have ever *triumphed in this*
" *divine warfare.*"

Could it be believed, that ſuch ſentiments as
theſe ſhould appear in the very ſame publication,
in which it is ſtated, that " Every individual
" has *a natural and unalienable right* to worſhip
" God according to the dictates of his own
" conſcience and reaſon ! !" and which has for
motto, that " liberty of conſcience is the *birth*
" *right* of every man, and an excluſion of any
" religious teſt for ever."—Is it to be believed
that in the year 1790 ſuch ſentiments ſhould have
been uttered and publiſhed in a Proteſtant ſtate,
becauſe another proteſtant people had tolerated a
Roman Catholic biſhopric among them !

Can you then, my catholic brethren, be ſur-
prized, when one of your clergy has the intempe-
rance to preach, and the indiſcretion to publiſh,
ſentiments of this nature, and this at the very
time when you are claiming a ſhare in the legiſ-
lature of a proteſtant ſtate :—can you, I ſay, be
ſurpriſed

ſurpriſed, or ought it much to irritate you, to find ſome reluctance on the part of many Proteſtants, totally to free the catholic religion from all reſtraint, and " leave it at liberty to exert " the full energy of divine truth," ſo as to enable it " to eſtabliſh the faith of Peter upon " the ruin of proteſtant errors?"

When the moſt perturbed ſpirit that ever ſpread hatred and diſſentions among the ſons of men, the ſpirit of *proſelitiſm*, is thus boldly avowed—when alſo in the conſecration oath of the catholic biſhop, are theſe words, " *perſequor* " *et impugnabo*"—What?—the proteſtant faith!—can you my catholic brethren, I repeat it, be much ſurprized, or have you a right to be much offended, ſhould ſome Proteſtants ſhrink from arming this ſpirit with a portion of the power of the ſtate?

That you, the catholic laity of Ireland, who have now come forward to claim the elective franchiſe, are not under the influence of the reſtleſs and peace-diſturbing, ſpirit of proſelitiſm it is impoſſible for me to entertain a doubt, when I read the 9th article of the declaration of your general committee.

You ſay, " It has been objected to us that we " wiſh to ſubvert the preſent church eſtabliſhment, " for the purpoſe of ſubſtituting a catholic eſta- " bliſhment in its ſtead. Now we do hereby " *diſclaim, diſavow and ſolemnly abjure any ſuch* " *intention*:—and further, if we ſhall be ad- " mitted into any ſhare of the conſtitution, by " our being reſtored to the rights of the elec- " tive franchiſe, we are ready, in the *moſt ſo-*

" *lemn manner*, (that is by oath) to declare
" that we will not exercise that privilege to
" *disturb and weaken* the establishment of the
" protestant religion or protestant government
" in this country."—Gentlemen, from my heart I sincerely believe you. I am convinced when you make so solemn a declaration you are incapable of any duplicity; I am convinced that you do not conceive the propagation of your spiritual doctrines, to be a duty incumbent upon you, or you certainly would not declare your readiness to take an oath, never to practice that duty. With this, for my own part, I am perfectly satisfied; but to satisfy others, I should wish you to do away the root of the evil.

On what was this spirit of proselitism founded?

Not upon a doctrine of your religion, but upon a doctrine of your hierarchy:—You are, I am persuaded, too enlightened not to distinguish between your God and your priest—your religion and its priesthood:—You are too enlightened not to distinguish between the doctrines which respect the articles of your faith, and for your adherence to which I honour you—and those other doctrines of a very different nature, which priestcraft has in almost all sects, contrived to graft upon religious faith, to increase the temporal power and the emoluments of the priesthood.

Of this description was the doctrine of the infallibility of the Pope;—That most audacious assumption of pontifical arrogance—that impious usurpation

uſurpation of a divine attribute, which can belong to God alone.—You are now too enlightened to believe in this doctrine, in the 6th article of your declaration you deny its truth, and declare, that it is not an article of the catholic faith, a ſtrong proof this of the depuration of your faith at the preſent enlightened period; for had you made the ſame declaration during the pontificate of Paul IV. who flouriſhed at no very diſtant æra, you would moſt indubitably have been excommunicated by that pontiff.

From this doctrine of papal infallibility which you now ſo candidly and honourably reject, was drawn another prieſtcraft doctrine, as a natural *inference* from the firſt. The infallibility of the Pope once admitted, to differ from him was not only wrong, but criminal;—hence the doctrine of excluſive ſalvation to the Chriſtians of the communion of the holy ſee of St. Peter, a doctrine which is ſo far from being founded in the principles of religion, that it is directly hoſtile to the ſpirit and eſſence of Chriſtianity, and is directly in the teeth of every ſacred precept of its divine author. Were this nearly a ſpeculative doctrine, philoſophy might ſmile at its abſurdity, and piety, lament its injuſtice:—But it is a practical doctrine, it is one which no longer leaves religion a queſtion, between man and his Creator, but which renders it a queſtion between man and man—for it is *this* which generated the ſpirit of proſelitiſm—it is this which has proved the fatal ſource of almoſt all the hatred, diſſentions, intolerance and perſecutions, which have ſo frequently prevailed among Chriſtians, and ſo often diſgraced Chriſtianity.

And

And, after all, what is this doctrine? Nothing but an *inference* from another doctrine, that of papal infallibility, which you, my catholic countrymen, have now ſolemnly and publicly abjured —Can you retain the inference, after denying the truth of the previous poſition from which the inference was drawn?—Can you acknowledge the *corollary* after you have denied the *premiſes* which furniſhed it?—If the Pope be not infallible, it cannot be *criminal* to differ from him; and not being criminal, it cannot be puniſhable. When therefore you have abjured the infallibility of the Pope, you have by neceſſary inference alſo abjured the doctrine of excluſive ſalvation to the Roman Catholic—that miſchievous parent of the ſtill more miſchievous ſpirit of proſelitiſm—Why not then renounce it in expreſs terms?—Why not, as I before ſaid, do away the root of the evil? I call upon you therefore as men, as enlightened men, and as Chriſtians, to add a tenth Article to the declaration of your committee, to the following purport:

X. " We abjure, diſavow, and condemn the " opinion, that our proteſtant brethren will, on " account of their not acknowledging the autho- " rity of the ſee of Rome, be excluded from " ſalvation."

I ſhall now make a few obſervations upon the nature of teſts, which the law may require from thoſe who are candidates for the exerciſe of any ſhare of political power. I am no friend to teſts, which go to articles of religious faith; but I certainly am to ſuch as go to political doctrine, and to political qualifications for power. If in the whole range of human occupation, there is one thing

thing which requires previous qualifications more than another, it is the exercise of power; yet it is here where qualifications are most neglected.

Supposing the penal and disqualifying statutes against the Catholic all repealed, the test which all persons indiscriminately who should vote for representatives to serve in parliament, should be subject to take when required, might be the following oath: "I, *A. B.* do solemnly promise "and swear that I will be faithful and bear true "allegiance to his majesty King George the third, "and I declare that I do not believe that any fo- "reign prince, prelate, state or potentate hath or "ought to have any jurisdiction, power, supe- "riority or pre-eminence, whether temporal, ci- "vil, or *ecclesiastical*, directly or indirectly with- "in this realm; and I do swear that I will not in "any mode whatever open or concealed, endea- "vour to disturb or weaken the establishment of the "protestant religion or protestant government in "this country." *

Now what I maintain is, that this would be a *political* test, and not a *religious* one:—It does nothing more than assert what is the constitution of the state, and the law of the land. It goes to no one real article of religious faith, as the word *spiritual* is omitted; for in truth and fact every real article of faith, can come under the dominion only of the spiritual power and authority of the priest. Whatever comes under his ecclesiastical authority, however he may endeavour to confound it with his spiritual jurisdiction, is in reality of a tempo-

* The latter part of this oath is taken from the 9th article of the declaration of the general committee.

ral

ral and not of a ſpiritual nature. The patronage of the Roman Catholic hierarchy in this country, though now in the hands of an eccleſiaſtic, is a temporal power to all intents and purpoſes. The nomination to biſhopricks is a temporal power, a power now in the hands of laymen, in the hands of the reſpective ſovereigns of every country in Europe, of even every catholic country; and no where beſtowed by eccleſiaſtical authority excepting in the caſe of the titular biſhoprics of Ireland. I ſhall maintain it therefore to be an incontrovertible truth, that the teſt which I have here propoſed, as one to be taken indiſcriminately by all perſons voting at the election of members to ſerve in parliament, is a political and not a religious teſt.

Having in conſidering the ſubject in a religious point of view, urged thus much on behalf of thoſe Proteſtants who feel a reluctance to comply with the apparently equitable claim of the Catholic to be admitted to a ſhare of political power in the ſtate, I am free to declare, that as to any objections to this meaſure on the ſcore of religion, whenever the Catholics ſhall be willing to take the teſt now propoſed; I think this ought certainly to ſatisfy the moſt ſcrupulous Proteſtant.

I am next to conſider, the granting to the Catholic a ſhare of power in the ſtate, in a political point of view.

Without doubt the claim of the Catholics to a *ſhare* of that political power which the conſtitution of their country, neceſſarily confers upon a certain number of its inhabitants, has a ſtrong foundation in equity. Though all that a man can have a *natural* right to, is *liberty*, and therefore

fore he can have no *natural* right to *power*; yet *prima facie*, one man has at leaſt as good a right to power, as another: Why then ſhould it be confined to one particular deſcription of men, when all equally contribute to the ſupport of the ſtate which confers that power? Why ſhould not the ſame juſtice which renders *natural rights*, equally the property of all—take place in the diſtribution of *conventional rights*, and render them equally attainable by all the members of the ſame ſociety? To this I anſwer, nothing can juſtify the Proteſtants, who have hitherto rejected, the Catholic claims, but the firſt of all laws, the law of ſelf preſervation. I do not mean the preſervation of the monopoly of all the offices, benefices, emoluments and ſtations of authority held under the ſtate; I ſhould not for one moment attempt to advance ſo contemptible a conſideration, when oppoſed to juſtice, as an argument in favour of the Proteſtants, but ſetting this conſideration totally aſide, by ſelf preſervation, I mean their right to preſerve that *ſecurity* for their own liberty, which they derive from the political power conferred upon them, by the law of the land, and the conſtitution of the ſtate.

If the Catholic claim, can be granted without injury to that ſecurity,—The Proteſtant ought to accede to it. And ſurely the Catholic ought to be ſatisfied with having it granted in ſuch manner and at ſuch times as ſhall preſerve the *ſecurity* of the Proteſtant. This is the plain ſtate of the queſtion, which I ſhall now candidly examine, with an equal wiſh that the Catholic, ſhould ſucceed in his claim, and the Proteſtant, preſerve his ſecurity.

I ſhall

I ſhall begin by quoting the words of one * to whom, you my Catholic brethren are peculiarly obliged, and to whom his country owes eternal gratitude. Of one, of whom Ireland may well be proud.—Of one, who had he lived in Rome's beſt days, would have been Rome's beſt citizen. Whoſe reſiſtleſs eloquence, obtained his country's freedom, and whoſe patriotic zeal, warmed by the virtues of his heart, and aided by the powers of his genius, ſtill ſeeks to procure his country's happineſs.

I ſpeak not from his public fame,—I *know* that man—I know his private worth—I know the dignity, I know the purity of his mind.—The father of the Iriſh conſtitution will prove himſelf the firſt among its friends.

Hear then my Catholic countrymen what *he* ſays—you owe ſome deference to *his* opinion.

He recommends " a *progreſſive* adoption of " the Catholic body, in ſuch manner and with " ſuch temperament as the legiſlature may well " deviſe, and ſuch as ſhall gradually unite and " ultimately incorporate."

And he recommends this *progreſſive* adoption, this *gradual* incorporation, for the beſt and ſoundeſt reaſons

" I rely upon it that the *progreſſive* repeal of " the diſabling code muſt accompliſh political " conformity: the progreſs of affection is inſe-

* Mr. Grattan.

" perable

" perable from the progreſs of power, that grows
" by *ſlow degrees and ſtages;* in every ſtage diſ-
" ſociating the Catholic from his own ſect, and
" aſſociating him to yours, conforming him to
" your nature, and aſſimilating him to your
" ſtrength, while he adds life and vigour to his
" own: to give capacity is one thing, to give the
" enjoyment is another, and in every advance
" from the capacity to the enjoyment, a perſonal
" interference takes place, and animoſity dies,
" and a conformity of mind, grows on a con-
" formity of intereſt. The ſoul of the one ſect
" enlarges by the act of giving, that of the other
" by receiving, until each is depurated from
" the ſpleen of the controverſialiſt, and both are
" enlarged into one people".

Why does this excellent man recommend this *progreſſive* adoption, this *gradual* incorporation? For this reaſon, that *affection* may ſpring up between the two ſects—from the progreſs of power that grows by *ſlow degrees and ſtages.*—That the Catholic may have time to diſſociate himſelf from his own ſect, and to aſſociate himſelf with our's: That a perſonal ſocial and friendly intercourſe may have time to take place and time to produce their ſalutary effects—namely the death of all religious animoſity, a conformity of mind grown out of a conformity of intereſt, the Catholic, though ſtill preſerving his religion, *civilly* and politically become a member of the Proteſtant community, and coaleſced with him in one people.

When ever theſe effects ſhall have taken place, *then* will be the period, when political power may be conferred upon the Catholic, without injury

injury to the ſecurity of the Proteſtant. But certainly that ſecurity muſt be in danger, if before affection ſhall have had time to grow up between the Proteſtant and Catholic communities, if before a frequent and perſonal intercourſe wearing away prejudices on both ſides, ſhall have taken place between them—if before religious animoſity has ſubſided and conſequently before political conformity of mind can exiſt—if before the Catholic ſhall *civilly and politically* have become a member of the Proteſtant community, if I ſay, before all theſe effects ſhall have been produced he ſhould become poſſeſſed of political power unleſs in a very limitted degree indeed, while he continued a member of a community *ſevered* from ours, and cloſely cemented among themſelves, having ſeperate intereſts, ſeperate views and ſeperate objects of their own—It would not then be the approximation of two bodies, which by that means coaleſced in one, but it would be approaching two bodies to each other, which muſt neceſſarily remain in a ſtate of colliſion—What the conſequence would be to the *ſmaller* body is obvious. The Proteſtant ſecurity in that caſe, is gone.

It is for this reaſon that I think every thing *ſhort* of political power ſhould be conferred upon him *previous* to his obtaining that power. I ſhould firſt wiſh to ſee him in our army, in our navy, among our jurors, among our county magiſtrates, in our ſchools, and colleges, there capable of taking degrees, and in offices under government which confer no political power. I ſhould firſt wiſh to reſtore the univerſality of the law; and by identity of code for the Proteſtant and the Catholic, conſtitute identity of commu-

nity

nity between them. Thus *civilly* restoring the Catholic to the Protestant community, and conferring upon him equal civil freedom with every member of that community.

This would in a short time produce that social intercourse, and that conformity of interest, which politically speaking would infallibly create conformity of mind between the Protestant and the Catholic.—In every thing but religion, we should distinguish no difference between the two sects; by identity of code of law, they of necessity will become one civil community; and by civil uniformity of mind, they would necessarily become one people.—Then might the elective franchise be afterwards granted, during a period of harmony and union, when it could be given with cordiality and received with affection.

But to grant the elective franchise to the Catholic, unless as I before observed it were much limited indeed, while you with-hold from him any civil rights, while a single statute remains which binds him, and does not bind the Protestant, would be to convert that franchise into a new source of dissention between the sects—supposing him previously possessed of every thing short of political power, the elective franchise would be no more to him than to the Protestant—he would consider it only with reference to the immediate advantages he personally derived from it—but while civil rights were still with-held from him, while statutes were still levelled against him—he would then view the elective franchise in a very different light, he would then consider it not meerly as it was of personal use to himself, but as an instrument

ment in the hands of the Catholic community, to be employed in the recovery of the civil rights which had been with-held from them, and for the repeal of the ſtatutes which had been ſuffered to continue in force againſt them.

Thoſe rights with-held, thoſe laws unrepealed, would *after* the grant of the elective franchiſe, continue to be a ſource of conteſt and diſſention between the Catholic and the Proteſtant; nay more,—the grant itſelf would in that caſe ſharpen the conteſt and embitter the diſſention—it would every where eſtabliſh a catholic in oppoſition to a proteſtant intereſt, and ſuperadd to religious electioneering animoſity, fomenting and perpetuating the difference between the ſects.

The right of the elective franchiſe could not produce this effect upon the Catholic were he *previouſly* poſſeſſed of every other right. It is therefore I differ from ſome of the moſt reſpectable ſupporters of his cauſe, who think the grant of this franchiſe ſhould *precede* his emancipation from all diſabling ſtatutes—on the contrary I am convinced his emancipation from every diſabling ſtatute whatever, ſhould *precede* for ſome ſpace of time his obtaining the elective franchiſe, or at leaſt his obtaining it to any extent.*

I ſhall now beg leave my Catholic brethren to addreſs myſelf not to you as a body, but to a few individuals among you—men who having ſome talking talents are proud to diſplay them, and who ſeem to me to care not what they ſay provided they get the credit of having made a *fine*

* I confeſs I think, the beſt mode of granting hereafter a ſhare of political power to the Roman Catholics, would be to add one member to each county, ſo that of the three there would then be, one ſhould be always a Roman Catholic, the other two always Proteſtants.

fine ſpeech.—To you then gentlemen, who have made *fine ſpeeches*, I addreſs myſelf—your over-zeal has made you intemperate, and the vanity of declaiming to ſhew your oratory has rendered you indiſcreet, you have made aſſertions without knowing facts, and you have preached doctrines without knowing principles. In theſe ebullitions of oratorical furor, when a climax required a very *ſtrong* concluſion, you have ſacrificed both decorum and wiſdom to the rounding of a period—you have made uſe of threats as ill-timed as they were impolitic *—as undeſerved on our part as they were unbecoming on yours'.

Inſtead of the mild and conciliatory language of requeſt, which half inſures ſucceſs, and which aſſuredly is the only language which ought to be adopted in claiming a NEW right *never before poſſeſſed* either by the claimants themſelves or by their anceſtors—you have aſſumed the high tone and angry aſpect of violated juſtice, demanding the *reſtitution* of a right which had been raviſhed from you—the laws which deprive you of the elective franchiſe, " hold the firſt place for enormity and " injuſtice in the ſhocking catalogue of our " grievances"—theſe are nearly the words made uſe of in, I confeſs, a very *fine ſpeech.*

But give me leave gentlemen, to put you in mind that the elective franchiſe which you now claim, is a right perfectly new both as to your anceſtors and as to yourſelves—ſo new, that not only neither your anceſtors nor yourſelves ever did poſſeſs it, but neither of you ever *could* have poſſeſſed it till within the laſt four and twenty

* See a ſpeech lately publiſhed in the Dublin Evening Poſt, made by one of the deligates of the Catholic Convention.

years,

years, nor did the Proteſtant himſelf ever poſſeſs it till within that period when he obtained it in the year 1768.——You appear ſurpriſed gentlemen!—but this is the fact—what was the elective franchiſe of which you were deprived in the year 1727—it was ſuch as you would now reject with diſdain were it offered to you—it was a franchiſe ſo limited as to the *periods* of exerciſing it, that if in the year 1727 you had not been deprived of it, but that on the contrary you had continued to retain it in your own hands to the preſent hour, preciſely circumſtanced as it was at the time you loſt it, you could never have exerciſed this right *as a body* from the year 1727 to the year 1793, a ſpace of SIXTY-SIX YEARS—but ONCE,—I ſhall repeat it to you gentlemen, to you who in your fine ſpeeches have ſo pathetically deplored the loſs of this franchiſe—to you who attribute to that loſs all the misfortunes of the Catholics—to you who make your deprivation of that franchiſe hold the *firſt* place for *enormity* and *injuſtice* in the ſhocking catalogue of your grievances—to you who inſiſt that the loſs of that franchiſe is the cauſe of what you are pleaſed to ſtyle the ſlavery of the Catholics.—I ſhall repeat gentlemen, that had you never loſt that franchiſe, had you continued to poſſeſs it preciſely upon the ſame terms on which you held it at the time you loſt it for the ſpace of the laſt ſixty-ſix years, you never as a body could have exerciſed it more than ONCE—It might have happened that from the caſual deaths of members, ſome few among you might have exerciſed it during that period oftener—yet ſtill it was a franchiſe held on ſuch terms, that no man had any reaſonable ground to expect that he ſhould be able to avail himſelf of it above *once* in the whole courſe of

life.

life.—Such was the elective franchise as held by your anceſtors—ſuch was the elective franchiſe, the loſs of which holds the firſt place for enormity and injuſtice in the ſhocking catalogue of your grievances, for it has prevented your voting for repreſentatives in parliament *once* in the ſpace of ſixty-ſix years,—and the loſs of which holds the firſt place in that catalogue, becauſe as I before proved to you all the other grievances contained in the ſame catalogue, ſubſiſted ſome years before you loſt that franchiſe!—

Is this, gentlemen, the elective franchiſe you now claim?—No, you now claim an elective franchiſe of infinitely more importance than that of which you were deprived, which was a contingent elective franchiſe, depending entirely upon the caſualties of deaths, or the will of the crown, when it might think proper do diſſolve a parliament—which no man could reaſonably hope to exerciſe above *once* in his life, and never knew before-hand when that once would be—but you claim an octenial, or rather in fact a ſeptenial elective franchiſe, which does not depend upon the caſualties of death, or the will of the crown, but the exerciſe of which every voter poſſeſſes independently of either, knows to a certainty when he will enjoy the exerciſe of it, which as long as he lives muſt happen every ſeven years, and may exerciſe oftener This then is an elective franchiſe which neither you nor your anceſtors ever enjoyed; nor did the Proteſtants themſelves become poſſeſſed of it till the year 1768. —The right of having octenial parliaments, which produced ſo great a change in the nature of the elective franchiſe, was a right perfectly new to

the Proteſtants of Ireland; and the change it produced in the nature of that franchiſe, rendered it new to them, as it would have rendered it new to you. Your claim to it therefore cannot bear an earlier date than the year 1768—the date of its exiſtence. And however you may complain of the hardſhip of excluſion, you cannot of the injuſtice of robbery.—It is therefore in fact, the acquiſition of a *new right* which you now demand, not the reſtitution of an old one.

I have deſcribed to you the nature of the elective franchiſe you once poſſeſſed, ſuch as it was from the time of the revolution till the year 1727, when you were deprived of it. It is curious to obſerve to what it amounted previous to the revolution: for this purpoſe I ſhall give you in one conciſe view, the number of parliaments which ſat in Ireland before that period—the number of years each parliament ſat—and the number of years Ireland was *without* a parliament.

The firſt parliament that *Ireland* ever had was in the 11th year of the reign of James the Firſt, A. D. 1613. There were, indeed, before that period, what were called Parliaments of the Pale, that is Colonial Aſſemblies, for the Engliſh Colony eſtabliſhed in a few counties ſurrounding Dublin, but of what reſpectability theſe aſſemblies were, we can eaſily form a judgment.—When we conſider how Elizabeth, the immediate predeceſſor of James, treated even the Engliſh parliament;—and alſo that thoſe *Engliſh Iriſh*, who had ſettled at any diſtance from Dublin, conſidered it to be a high privilege, upon which they much inſiſted, that they ſhould not be ſummoned to attend the Colonial Aſſembly of the Pale.

JAMES

		Number of Years. A Parliament. Years	Months	No Parliament. Years	Months
	JAMES I.				
1st	Parliament met 16 May A. D. 1613, and was diſſolved 24 Oct. 1615	1	5		
	CHARLES I.				
2d	No parliament called from that period till 14 July 1634 —	—	—	18	7
	This parliament ſat till 18 April 1635 — — —	—	9		
3d	No parliament called till 16 March 1639 — — —	—	—	4	•
	Adjourned or prorogued 9 Nov. 1641 — — —	2	8		
	Did not meet again till 26 March 1647 — — —	—	—	5	5
	Prorogued 15 June 1648 —	1	3		
	CHARLES II.				
4th	No parliament till 8 May 1661	—	—	13	•
	Sat till 31 July 1661 — —	—	3		
	Was prevented by frequent prorogations from ſitting till 6 Oct 1665 — — —	—	—	4	4
	Sat till 8 Auguſt 1666 —	—	10		
	WILLIAM and MARY.				
	No parliament till 5 Oct. 1692 —	—	—	26	2
	From 16 May 1613 to 5 Oct. 1692 a period of 79 years —	7	2	71	8

Thus *previous* to the revolution from the 16th May 1613 to the 5th of October 1692, a period of 79 years, Ireland was *without* a parliament for nearly ſeventy-two years—In the 79 years only 4 parliaments were called, and there were in fact but ſeven ſeſſions held;—of what *real* importance therefore was the elective franchiſe either to Proteſtant or to Catholic previous to the revolution? How idle is it to appeal to any period prior to that event—or indeed in truth and fact, prior to the paſſing the octenial bill: from the year 1699, when King William's parliament was diſſolved till the year 1768, a period of ſixty-nine years, Ireland had but *four* parliaments, when according to the preſent ſyſtem of the elective franchiſe, which is the object of the Catholic claim, ſhe ought to have had *ten* parliaments in the ſame time, and the

the elective franchise ought to have been exercised in the same proportion.

It is ridiculous therefore in the protestant advocates of my Catholic brethren, or of their own makers of fine speeches, to look into antiquity in order to support their claims—just claims require not to be supported by precedents even were they to be found, which here is not the case; they are to be supported by *principles*. Never did the Irish voter possess the real and substantial benefit of the elective franchise till the year 1768—then first appeared above our political horizon the day star of the British constitution, a glimmering twilight was all, till that period, it had afforded us—it then arose, but it arose partly eclipsed, and too long continued so—till at length invoked by the genius of Ireland, when roused from a deep sleep by the virtuous eloquence of one man, it burst forth in all the pride and all the glory of meridian splendour, to shine upon a land which for the first time received all its beams.*

Upon the very important subjects, doubly important at the present crisis, which have been discussed in the preceding pages, I have laid before the reader sentiments and opinions which flow from the feelings of my heart, and the conviction of my mind.

In discussing the Roman Catholic question I have paid no court to either party, nor have I refrained from censuring each where censure appeared to me to have been deserved.

I have endeavoured to lay open the true principles of civil liberty, and of a representative government. Between civil liberty and political power I have aimed at, drawing with precision a clear

* In 1782, when the Duke of Portland was lord lieutenant.

a clear and diſtinct line—The Catholic's claim of *right* to every branch of civil liberty I have maintained—His claim in *equity* to a certain portion of political power in the ſtate, I have not denied, but have pointed out under what circumſtances, that claim can with ſafety be allowed. —The future exiſtence of thoſe circumſtances being near, or remote, depends as much upon the Catholic himſelf, as upon the Proteſtant, that it depends upon both conjointly I admit. I truſt the Proteſtant will not, by refuſing to the Catholic any branch whatever of civil liberty, retard its approach.—I truſt the great body of the ſober, wiſe, and moderate Catholics will not be miſled by the intemperate language of ſome raſh men among them——a language calculated only, by alienating the proteſtant mind, to poſtpone the arrival of a period, which ſhould be ſo devoutly wiſhed by all, that I depricate any reſentment which may ariſe in the mind of the Proteſtant, from the language he may have heard: A language of intemperance, of heat, and of intimidation, which I am perſuaded, is as much diſapproved of by the great body of the Catholics, as by the Proteſtants themſelves.

What I have ſtated reſpecting the ſituation of this country, both as to the elective franchiſe, and to parliament itſelf, previous to the paſſing of the octenial bill; the total inſignificance of that franchiſe, whether in the hands of a Proteſtant, or of a Roman Catholic, prior to that period, when our parliament was aſſembled but four times *previous* to the revolution, and ſat but ſeven ſeſſions in the ſpace of ſeventy nine years; and *after* the revolution, to the year 1768, was aſſembled but four times in the ſpace of 69 years, when our houſe of commons was almoſt a mockery of a repreſentative body, as it is well known they

they often very nearly chose their own members. I say, when I stated these circumstances, it was not to bar the catholic claim to the elective franchise, God forbid! but to check that intemperance of tongue, in which some gentlemen, makers of fine speeches, have so idly indulged themselves; and to shew the folly of those indignant appeals to ancient times, which prove nothing, but are designed by those who make them to augment the apparent injustice, and enormity of their present exclusion from the elective franchise, for the sole purpose of inflaming the minds of their catholic brethren.

To calm, instead of inflaming, to conciliate, instead of fomenting differences; to stifle animosity, and excite reciprocal confidence between the Protestant and the Catholic; to depricate hostile opposition, and persuade to fair and honourable compromise, to entreat a mutual relinquishment on both sides of some prejudices,—for tho' prejudices may be *relinquished*, they never can be *plucked* out of the human mind.—These are my objects, and my only objects in addressing this work equally to my protestant and catholic brethren.

If I have been able to produce this effect upon a single protestant or catholic mind, I shall not have written in vain.—There *is* a mind, upon which to have produced this effect, would indeed make me proud?—It is that of a venerable and venerated nobleman, who reflects a higher lustre on his rank, than any rank could reflect upon him,—in whom attic graces of the mind are united with Roman dignity of heart, who has been long what his illustrious merit could not fail to render him the favourite of his countrymen, beloved by them for his private, revered

by

by them for his public virtues. For this work to have made any impreſſion upon a mind like *his*, would be the higheſt reward to which its author could poſſibly aſpire; the ſincereſt wiſh, of whoſe heart is, that Ireland may ſee that happy day, when all her ſons ſhall form but one people, and but one community, whom chriſtianity ſhall unite, as its holy precepts teach in fraternal affection, when religion ſhall be only a queſtion between man and his creator; when in all the intercourſe of civil and political life; in all the friendly offices of ſociety, in all the ſocial duties of citizens, the Proteſtant ſhall know of no difference between him and the Catholic; the Catholic know of none between him and the Proteſtant, ſave only, that it is at different alters, that they both worſhip the ſame God.

That happy day when Ireland ſhall ſee all perſons united; prejudices reciprocally relinquiſhed; conceſſions mutually made; and all equally enjoying the bleſſing of that conſtitution, which to the charge "that governments are not made in virtue of natural rights" * ſtands a *proud exception*;—for I do maintain, that the Britiſh conſtitution in its principles and forms, is founded upon all the genuine principles of natural rights—is the beſt, if not the only form of government with which hiſtory makes us acquainted, to give the ſecure enjoyment of thoſe inherent rights, the poſſeſſion of which is ſo eſſential to the liberty of man, to the cultivation and dignity of the human mind, and to the happineſs of the human race.—A conſtitution the *ſlow growth* of ages, reared by experience, often bought with blood, and raiſed to be a monument of human wiſdom by the accumulated reaſon of many, many generations.

But

Mr. Burke.

But there are corruptions and abuſes ſay the reformers of the day—Well!—lay not the blame to the conſtitution, which in its *principles* is, I had almoſt ſaid faultleſs—in the *practice* there may be grounds for animadverſion—but muſt not this be the caſe in every human inſtitution?—can any human inſtitution be reduced to practice but through the inſtrumentality of man, that is of a very fallible being—very prone to ſeduction—the defect proceeds more from the imperfection of human nature than of the conſtitution.

But are we not to check thoſe corruptions and remedy thoſe abuſes? The *mode* of doing ſo is the queſtion—Are you to ſap the foundation, or pull down the very walls of a ſtately edifice, becauſe ſome of its interior apartments are diſfigured with dirt, and rubbiſh and cobwebs? or becauſe they have been perverted to another uſe than that for which they were originally deſigned? If the ſpirit of reform does go forth, let it be guided by the light of truth—let it approach OLD CONSTITUTION with tenderneſs and veneration—let it be ſober, judicious and deliberate in its progreſs—let it appear not arrayed in terrors and armed for deſtruction,—but as the harbinger of peace, and as the promiſe of future bleſſings—let it not aſſume the bold and hazardous march of blind though daring INNOVATION, to lead mankind into the dreary waſte of civil confuſion, civil vengeance, civil bloodſhed, and the unutterable horrors of all deſtructive ANARCHY.

FINIS.