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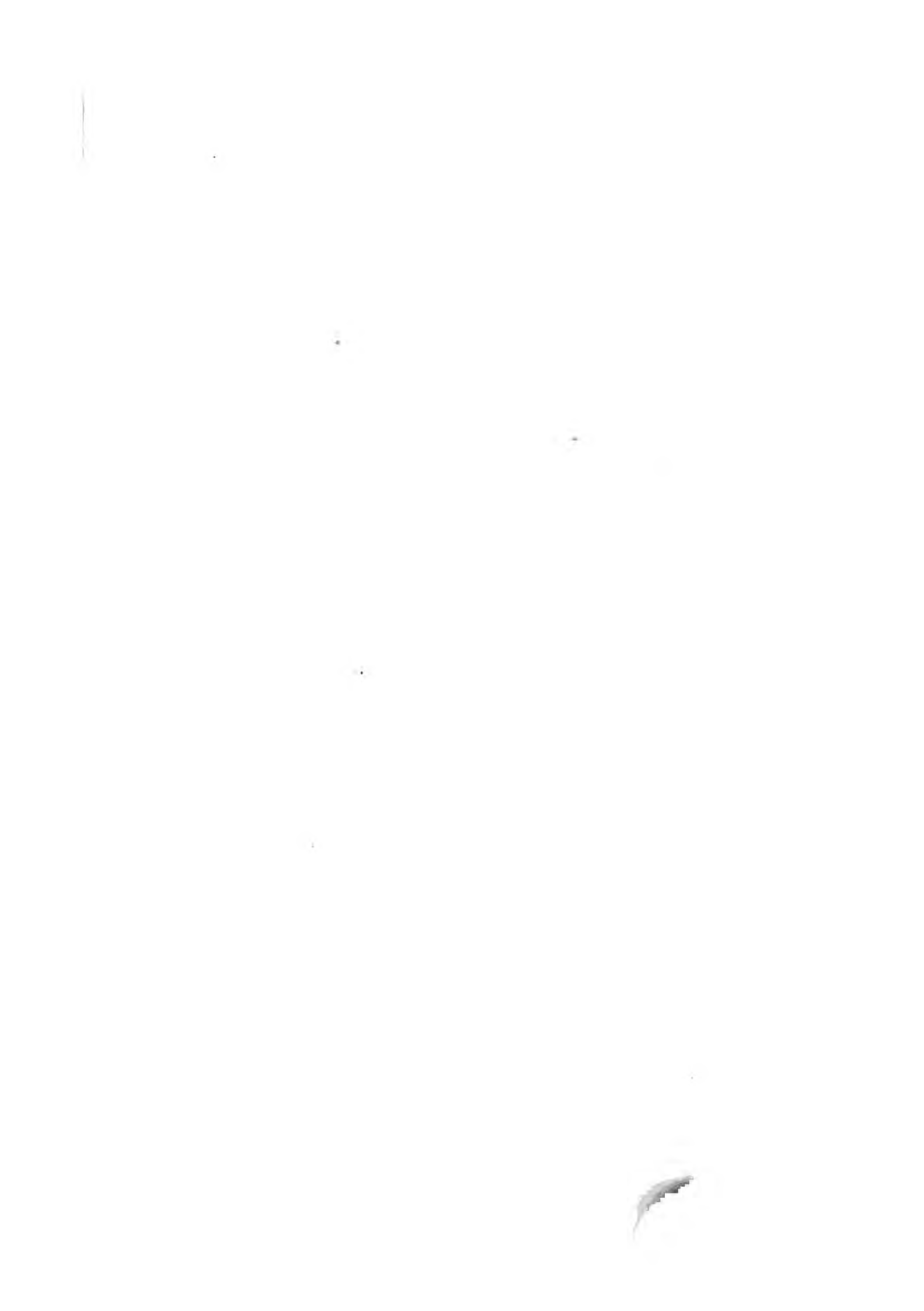
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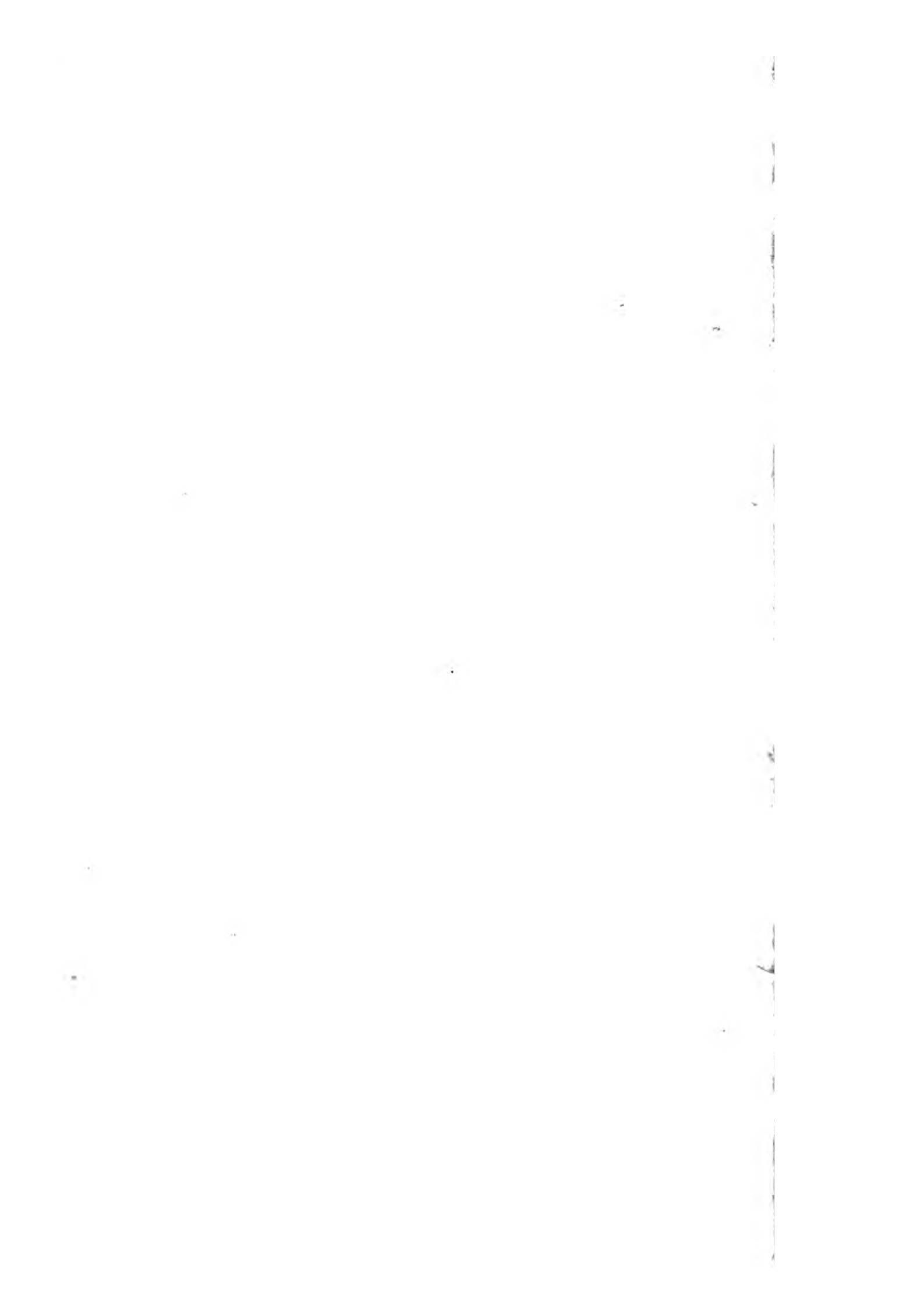


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Lanfair ynghosauwy

Anglesea N.W.

1798

Larry Williams



I N S T I T U T E S
O F
M O R A L P H I L O S O P H Y .

For the use of Students in the
College of EDINBURGH.

By ADAM FERGUSON, LL. D.

EDINBURGH:

Printed for A. KINCAID & J. BELL.

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MORAL PHILOSOPHY.

INTRODUCTION.

SECTION I.

*Of Knowledge in general. **

ALL knowledge is either of particular facts, or of general rules.

The knowledge of facts is prior to that of rules; and is the first requisite in the practice of arts, and in the conduct of affairs.

* Bacon's *Novum organum*.

A general rule is the expression of what is common, or is required to be common, in a number of particular cases.

General rules are the result of observation, or will; and consequently are derived from mind.

Practice, or conduct of any sort, though regulated by general rules, has a continual reference to particulars.

In speculation, we endeavour to establish general rules.

In practice, we study particular cases, or apply general rules to regulate our conduct.

S E C T. II.

Of Science.

A Collection of facts, in description or narration, constitutes history.

General

Sect. 2. PHILOSOPHY. 3

General rules, and their applications, to regulate or to explain particulars, constitute science.

Any general rule collected from facts, is termed *a law of nature*.

A general rule, when applied to explain or regulate particulars, is termed *a principle*; and explanation from principle is termed *theory*. The particulars to be explained are termed *phenomena*.

Method in science is of two kinds; analytic, and synthetic.

Analytic method is that by which we proceed from observation of fact, to establish general rules.

Synthetic method, is that by which we proceed from general rules to their particular applications.

The first is the method of investigation.

The second of communication,
or of the enlargement of science.

Argument is of two kinds:

A priore, and *a posteriore*.

By an argument *a priore*, the
fact is proved from the law.

By an argument *a posteriore*, the
law is proved from the fact.

S E C T. III.

Of the laws of Nature.

THE laws of nature are ei-
ther physical, or moral.

A physical law is any general
expression of a natural operation,
as exemplified in a number of par-
ticular cases.

In every operation, men are by
nature disposed to apprehend an
operating power or cause.

Causas

Sect. 3. PHILLOSOPHY. 5

Causes are of two kinds:

Efficient, and final.

The efficient cause, is the energy or power producing an effect.

The final cause, is the end or purpose for which an effect is produced.

In supposing final causes, we suppose the existence of mind.

Physical laws refer only to efficient causes; such therefore are the immediate objects of science.

A moral law is any general expression of what is good; and therefore fit to determine the choice of intelligent beings.

A physical law exists so far only as it is the fact.

A moral law exists in being obligatory.

The subject from which physical laws are collected, may be classed under four principal heads:

A 3 Mechanism,

Mechanism, vegetation, animal life, and intelligence.

It has not hitherto been made appear, although sometimes attempted, that the operations of any of these different natures are comprehended under the same laws to which the others are subjected.

The phenomena of vegetation are not comprehended under any known law of mechanism, much less animal life or intelligence.

The subjects from which moral laws are collected, are the sentiments and actions of intelligent natures.

The immediate use of physical laws, is theory.

The immediate use of moral laws, is moral philosophy.

S E C T.

S E C T. IV.

Of Theory.

Theory consists in referring particular operations to the principles, or general laws, under which they are comprehended; or in referring particular effects to the causes from which they proceed.

To point out any general rule or law of nature previously known, in which any particular fact is comprehended, is to account for that fact.

Thus Sir Isaac Newton accounted for the planetary revolutions, by showing that they were comprehended in the laws of motion and gravitation.

To pretend to explain phenomena,

mena, by showing that they may be comprehended in any supposition, or by applying to them, metaphorically, the language which is derived from any other subject, is illusory in science.

Thus the vortex of Descartes, being a mere supposition, made no true explanation of the planetary system: and the terms, *idea*, *image*, or *picture*, of things, being terms merely metaphorical, cannot explain human knowledge or thought.

All phenomena not comprehended under any known law, are the proper materials of natural history.

All facts that cannot be explained by any rule previously known, or better known than the facts themselves, may be termed *ultimate facts*.

It

Sect 5. PHILOSOPHY. 9

It is evident, that all theory must rest on ultimate facts.

To require proof *a priore* for every fact, were to suppose, that human knowledge requires an infinite series of facts and explanations; which is impossible.

S E C T. V.

Of Moral Philosophy.

Moral philosophy is the knowledge of what ought to be, or the application of rules that ought to determine the choice of voluntary agents.

Before we can ascertain rules of morality fitted to any particular nature, the fact relating to that nature should be known.

Before we can ascertain rules of morality for mankind, the history

ry

ry of man's nature, his dispositions, his specific enjoyments and sufferings, his condition and future prospects, should be known.

Pneumatics, or the physical history of mind, is the foundation of moral philosophy.

S E C T. VI.

Of Pneumatics.

Pneumatics treat physically of mind or spirit.

This science consists of two parts.

The first treats of man; the second, of God.

That part which treats of man, may contain the history of man's nature, and an explanation or theory of the principal phenomena of human life.

That

Sect. 6. PHILOSOPHY. II

That which treats of God, contains the proofs of his existence, attributes, and government.

The history of man contains either such facts as occur on a general view of the species, or such as occur to the individual, in recollecting what passes in his own mind.

The first may be termed, *the history of the species*; the second, that *of the individual*.

In the theory of human nature are solved questions relating to the characters of men, to the nature and future prospects of the human soul.

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MORAL PHILOSOPHY.

PART I.

The natural history of Man *.

CHAP. I.

History of the Species.

SECT. I.

General arrangement.

THE history of the human species contains the following articles.

I. The form and aspect of man.

* See Buffon's Natural History.

B

2. His

2. His residence, and manner of subsistence.
3. The varieties of his race.
4. The period of his life.
5. His disposition to society.
6. Population, or the generations and numbers of mankind.
7. Varieties of choice and pursuit.
8. Arts and commerce.
9. Disparities of rank and estimation.
10. Political establishments.
11. Language and literature.

S E C T. II.

Of the form and aspect of Man.

THE human form is erect, furnished with articulations and muscles, fitted to retain this posture,

posture, and to move in it with ease and safety.

The hand and the arm of man, is an instrument and a weapon, not a prop or support to his body.

His form and posture are well fitted to observation, to the use of reason, and to the practice of arts.

He is naked and unarmed ; but by his invention qualified to supply these defects.

The final cause appears to be, that the talent of man for invention should be employed.

His aspect is expressive of his thoughts, sentiments, and intentions. It is calm or agitated ; mild or fierce ; languid or ardent ; doubtful or decided ; timid or intrepid.

His natural expressions consist of actions, gestures, smiles, frowns, tears, looks, together with chan-

ges of colour; and exhibit, on the whole, a variety, and a grace, which either do not take place, or are not observed, in other animals.

S E C T. III.

Man's Residence, and manner of Subsistence.

Other animals have their ranges on the earth, beyond which they do not willingly stray, or beyond which they are not qualified to subsist.

Some subsist only in the hot climates, others in the cold or the temperate; but man resides equally in every climate, and can subsist on great varieties of food, both animal and vegetable.

He either accommodates him-
self

self to the inconveniences of his situation, or learns to surmount them.

S E C T. IV.

Varieties of the human race.

UNDER the general form and aspect of mankind, there are considerable varieties of the race.

Men being dispersed over the face of the earth, receive the influences of climate, situation, and soil.

The animal and rational temperament, is comparatively phlegmatic and dull in cold climates; is more ardent and quick in warm climates; but has always possessed a distinguished superiority in the temperate.

Apart from these distinctions, the diversities of race are marked by a difference of stature, features, and complexion.

Mankind may be referred to six different races.

The European, the Samoeide, the Tartar, the Hindoo, the Negro, and the American *.

S E C T. V.

Period of human life.

EVery species of animal is preserved by succession.

The death of one generation is as much a part in the order of nature, as the birth and succession of another.

In the human species, accor-

* Buffon of the varieties of the human race.

ding

ding to some observations, half the numbers that are born die before the seventeenth, the seventh, or even the third year of their age is expired.

Long life *, in all climates, consists of between seventy and a hundred years.

It appears from the annual register of deaths where the numbers of people are known, That about one in thirty dies each year :

That of twenty-seven or twenty-eight, one is born :

That about a fourth of the whole number are males between eighteen and fifty-six, able to carry arms.

* Buffon's Natural history. Halley's Tables. Lowthorp's Abridgement of the Philosophical Transactions, vol. 3. p. 662.

S E C T. VI.

Disposition of man to society *.

ANimals have been distinguished into two classes; the solitary, and the social.

Animals of prey, for the most part, are solitary.

Other animals are, for the most part, associating.

The associating may be farther subdivided into two kinds :

1. Those which assemble in flocks or herds, merely for company or safety :

2. Those who unite their labours for some common purpose,

* Essay on the History of Civil Society, part 1. sect. 3.

and

and distribute the burdens of the community according to some rule of instinct or of reason.

The latter are associating and political. Man, though an animal of prey, and from necessity or sport addicted to hunting or war, is nevertheless, in the highest degree, associating and political.

The species is every where found in troops, companies, and fraternities, or in national confederacies.

They associate in certain numbers from affection and choice.

In greater numbers, they are assembled by necessity, or the authority of leaders.

They make peace or war from common interests, or common animosities.

If the wars subsisting between separate communities, be a proof
of

of estrangement and hostility, the peace and union subsisting in each community apart, is a proof of attachment and amity.

Men accommodate the form of their society to the number and disposition of their members, to their situation and pursuits.

By their confederacy, as well as by their artifice, they are enabled to subdue every other species of animal, to subsist by their spoil, and to employ the strength of other animals, though superior to their own.

Separate societies are, for the most part, rivals or enemies*.

By the casual or forced coalitions of small communities, great states have been generally formed.

* Essay on the History of Civil Society, part I. sect. 4.

S E C T. VII.

Of Population *.

MEN exist in greater numbers than any other species of the larger animals.

In some cases they are found to increase, in others to decrease, in their numbers.

The quick or slow increase of animals in general, depend on the laws of propagation, on the security, and the means of subsistence they enjoy.

The first relate to the age at which the parent becomes prolific ;

* Essay on the History of Civil Society, part 3. sect. 4. Wallace's Numbers of mankind. Hume's Populousness of ancient nations.

to the time that elapses in pregnancy; to the frequency of breeding; to the numbers of each brood; and to the period during which the parent continues prolific.

The laws of propagation determine the numbers that may spring from any single pair, and the numbers of generations that may subsist together.

These laws, in every species of animals, are, in favourable circumstances, sufficient to its increase.

Men, in every secure situation, people up to their resources; and the aid of government is required, not to improve on the laws of propagation, but to bestow security and plenty.

Animals of prey have most difficulty in procuring their food.

Animals which are made a prey are least secure.

The

customs, mutual objects of wonder and censure, of contempt and averfion.

Even of two men placed in the fame or like circumftances, one acquiefces, or is pleafed ; the other complains.

They differ in refpect to the means which they employ for the attainment of the fame, or of fimilar ends.

S E C T. IX.

Arts and Commerce *.

THE external purfuits of men terminate in procuring the means of fafety, of accommodation, or ornament.

They praftife a variety of arts,

* Harris on Coins.

or inventions, for these purposes ; and are more or less successful in proportion as they have multiplied and completed their arts.

Men appropriate the fruits of their skill and industry, and endeavour to accumulate wealth.

The arts which they practise for safety, are, the inventions of arms, places of retreat and defence.

The earliest weapons appear to have been, the club, the sling, and the bow : to these succeeded, in process of time, the spear and the sword, joined to the buckler or shield :

Fire-arms ; cannon, and then musketry.

The desire of retreats has given rise to the art of fortification.

The art of war, in every age, must be accommodated to the spe-

cies of arms, engines, and methods of fortification, in use.

The arts which men practise for subsistence, are, fishing, hunting, pasturage, and agriculture.

Nations that know least of the means of subsistence, have recourse to hunting and fishing; or rely on the spontaneous growth of the field in herbs or fruit.

In the result of these arts, the hunting-ground, the lake, the river, or the bay, may be appropriated to the society; but the game is seldom appropriated to the individual.

Nations that have observed the method, and the advantage, of breeding herds, betake themselves to pasturage.

They at first, generally, migrate, or wander, with their herds.

The individual acquires an immediate

mediate property in cattle, but not in land.

Nations that are acquainted with the use of herbs, fruits, and grain, which do not grow spontaneously, or do not grow in sufficient quantities, betake themselves to agriculture.

The culture of land, to a certain degree, is compatible with commonty, as it was among some ancient nations of Germany *, and among some modern nations of North America.

Agriculture, where the object is the temporary produce of land, is compatible with migration: where the object is the improvement of soil, and perpetual fertility, agriculture requires settlement, and the property of land.

* Vide Cæsar, lib. 3. cap. 1.; and lib. 6. cap. 22. Charlevoix's History of Canada.

As the property of land excites to invention in agriculture, it likewise excites to invention in other arts.

They who have no land betake themselves to manufacture, that they may have wherewith to buy the produce of land.

By manufacture, men are furnished with the means of accommodation and ornament.

The means of accommodation are, cloaths, houses, furniture, utensils, equipage.

Men, in different ages, are unequally furnished with these different articles; they are even found to subsist without them; but, in the ruder climates, under such inconveniences, as diminish the numbers of the species, or prevent their increase.

The means of decoration are such things as please the fancy,
without

without being necessary or useful.

Men, in all ages, are fond of decoration; they combine ornament with the means of subsistence and accommodation: but they may subsist, and enjoy every conveniency, without regard to ornament.

Ornaments are principally made of rare materials; as gems, precious metals, &c.

Riches consist in the abundance of things that conduce to safety, subsistence, accommodation, and ornament.

Riches are the result of arts and industry.

Whatever ingenuity men exert in the practice of arts, their success will depend on a proper distribution of their employments, and on their making a separate business of each.

In

In making this distribution, the parties trust, that they may be able to exchange what they have to spare for what they want.

The progress of arts, as well as the casual distribution of commodities, depending on situation, climate, and soil, render commerce expedient, or even necessary.

The first species of commerce consisted of barter.

There was no common standard of valuation, nor medium of exchange: each party gave what he had to spare of one kind, for what he wanted of another.

The practice of trade introduced a general medium of exchange; and this became a standard of valuation.

The first medium of exchange, was generally some staple commodity, as corn, cattle, &c.

These were things of uncertain value,

value, of inconvenient bulk, perishing or expensive in the keeping, and not easily divided, without making a change of value:

To avoid these several inconveniences, the precious metals have been admitted in every trading nation as the medium of exchange.

They are, for the greater conveniency, employed in the form of coin.

The pound, or other ascertained weight or quantity of the precious metals, was employed as the standard of valuation.

The coin of all nations has undergone considerable changes, both in respect to fineness and weight.

The present standard for silver in England, is 11 oz. 2 dw. fine, to 18 dw. allay.

For gold, 22 carats fine, to 2 carats allay.

The

The pound of standard silver, is cut into 62 shillings.

That of gold, into $42\frac{1}{2}$ guineas.

The pound of silver was originally cut into 20 shillings: hence 20 shillings are still the nominal pound in money.

In the reign of Edward VI. the standard of silver was greatly debased, and the coin greatly diminished: The standard consisted of three parts of fine to nine of alloy; and the pound of this debased metal was cut into 72 shillings.

The standard and weight of the coin have, since the reign of Elizabeth, remained the same.

Operations on the coin embarrass trade, by perplexing transactions, and by alarming the interest of debtors and creditors.

If, in debasing coin, the interest of the creditor is not guarded, he must be defrauded.

In

In raising the value of the coin, the debtor would be defrauded.

Most operations on coin have been of the former kind.

The use of coin, and actual payments in money, are not necessary in every commercial transaction.

In the transfer of great sums, even the precious metals would be cumbersome and inconvenient.

To avoid this inconvenience, the practice of circulating bills has been adopted.

This practice is founded in credit, and tends to extend it.

Commerce employs a number of separate professions; the manufacturer, the factor, the carrier, the merchant, the retailer.

The price of commodities in trade is as their scarcity combined with their demand.

Articles, in the production of
which,

which, labour, time, and skill, are required, continue to multiply, while the price is sufficient to maintain the labourer during the time he is employed, to reimburse his apprenticeship, and other expences, and to furnish an adequate reward.

When the price falls below this measure, the manufacture is discontinued, until the scarcity brings up the price.

S E C T. X.

Disparity and Rank.

MEN are diversified, in respect to their personal qualities and conditions.

Resemblance of aspect, and even of disposition, sometimes run in the blood; but two persons
the

the most nearly resembling, may be distinguished by peculiarities.

Unequal strength and capacity, unequal knowledge resolution and courage, create a subordination.

The weak are dependent on the strong, the ignorant on the knowing, and the timorous on the brave.

Even the affectionate are dependent on those whom they love.

Property gives rise to varieties of condition; and these varieties increase in the result of arts and commerce.

The respect paid to the parent is continued to the child.

Fortune and titles becoming hereditary, give rise to the distinction of birth.

When property is unequally divided, the poor are dependent on the rich.

The correlative terms of *depend-*

D

ence

ence and *power* do not express the whole foundations of inequality. The conditions and qualities of human nature, are considered under the predicaments of excellencies and defects: One man is held to be more worthy, another less. The notions of superior and inferior prevail; and men, prior to any positive institution, are found to occupy different ranks.

They differ in their opinions of the particulars to be classed under the opposite predicaments of perfection and defect.

The most universally acknowledged, and the only real excellencies, are personal qualities:

Capacity, disposition, and force of mind.

But men still differ in their predilection of qualities, and of their supposed effects.

They

They prefer qualities the most necessary in their own situations, and the most eminent in their own way.

In dangerous situations, and in warlike ages, they chiefly admire valour.

In learned societies, they admire knowledge and ingenuity.

In trading nations, they admire industry, punctuality, and fair dealing.

But there being some circumstances common in the situation and disposition of all mankind; such as, their being united in society, and concerned in what relates to their fellow-creatures; men universally admire qualities which fit the individual to promote the good of mankind; as, wisdom, justice, courage, and temperance.

Such qualities are generally comprehended under the title of *Virtue*.

Opposite qualities, under the title of *Vice*.

Men, notwithstanding, frequently mistake for excellencies, the external appearances or decorations of the person, together with the possession of such things as are generally coveted around them; as, riches, power, and fame.

They mistake, on the contrary, for defects, the opposite conditions; so much, that whilst they commend virtue, or censure vice, they admire still more than the one, equipage, dress, fortune, station, and name; they fear still more than the other, poverty and obscurity.

These admirations and fears are a symptom, that personal qualities are neglected, and that men are degenerated.

S E C T.

S E C T. XI.

Of Political Establishments *

WHere men associate from affection and choice, and with little sense of private or of separate interest, they have been known to subsist without rule or political establishment.

Even where they associate from a sense of expediency or necessity, they follow, without rule, the suggestion of every particular occasion.

But in maintaining an union which has arisen from casual coalitions, or force, societies have

* L'Esprit de Loix, liv. 2. Essay on the History of Civil Society, part 1. sect. 10. Ibid. part 3. sect. 2.

been obliged to adopt, and to submit to, government.

Where the coalition was casual, or forced, individuals felt separate interests, and wished for rules to adjust their disputes.

Some suffered themselves to be governed, and others pretended to government, on the footing of casual dependency and superiority.

The abuses of casual subordination have led men to think of positive institutions.

Positive institutions have confirmed, altered, or restrained, the powers which arise from casual subordination.

All the political institutions of men may be reduced to two general classes :

The simple, and the mixed.

Under the simple institutions, the supreme power is committed to

a single person, or to a single assembly or body of men.

In mixed institutions, the supreme authority is exercised by a plurality of collateral powers.

Simple institutions are, democracy, aristocracy, monarchy, and despotism.

Democracy is the supreme power of the collective body.

This institution is calculated to correct, or to remove, the effects of adventitious dependency and subordination, and to reconcile equality with order.

Aristocracy is the supreme power of a particular rank or class of men.

This class of men has, in some cases, been elective; in others, hereditary.

The institution itself, though calculated to confirm the superiority of one rank, and the dependence
of

of the other, may, notwithstanding, preserve equality among the members of each class.

Monarchy is the supreme power of a single person, who, placed at the head of many subordinate dignities, has an authority defined by laws.

This institution is calculated to confirm adventitious dependency and subordination.

Extensive and perpetual military arrangements have led to monarchical subordination.

Despotism is the supreme power of a single person, assumed and maintained by force, on the ruin of every other pretension to rank.

Despotism has arisen from conquest, or military usurpation.

Mixed institutions are, either mixed republics, or mixed monarchies.

In mixed republics, the supreme
power

power has been shared betwixt the collective body, and a senate or convention of nobles.

In mixed monarchies, the supreme power has been sometimes shared betwixt a king and nobles, or betwixt a king, nobles, and people.

S E C T. XII.

Language and Literature.

Language, in the most general sense, comprehends all the external signs of thought, sentiment, or will.

Signs are, either original, or conventional *.

Original signs are such as men

* See Reid's Inquiry into the human mind.

are

are led by instinct to employ, and to interpret.

Such are, tones of the voice, change of features, and gestures.

Conventional signs are such as men have agreed upon, or rendered customary.

Conventional signs may be ranged under the three following heads.

1. Mute signs.
2. Speech.
3. Written characters.

Where men are forbid the use of speech, or are defective in the organs of hearing, or of pronunciation, they have recourse to mute signs; and attain, in a considerable degree, the purposes of language.

Nations employ unequal measures of action, and of mute signs, together with speech.

Speech is universal to mankind, and peculiar to the human species.

Every

Every separate nation, or tribe, for the most part, has had a separate language, or different dialect.

The theory of speech, whether universal or particular, is the science of grammar*.

Written characters are the signs of words, or of articulate sounds.

They are either verbal, or alphabetical.

Verbal characters are such as stand for entire words.

Alphabetical are such as stand for elementary sounds, or modulations; and which being combined, constitute words.

Writing preserves the memory of past transactions, of observation, and experience. It preserves literary productions, and tends to improve and to extend the use of speech.

* See Harris's Hermes.

C H A P. II.

History of the Individual.

S E C T. I.

General Arrangement.

THE history of the individual contains the following articles.

1. Consciousness.
2. Animal sense and perception.
3. Observation.
4. Memory.
5. Imagination.
6. Abstraction.
7. Reasoning.
8. Foresight.
9. Propensity.
10. Sentiment.
11. Desire.
12. Volition.

The

The first eight articles are commonly referred to the understanding; the remainder to the will.

S E C T. II.

Of Consciousness.

THE mind is conscious of itself, as acting or suffering, in all its operations and feelings.

It is conscious of the laws of thought or reason, which are termed the *metaphysical* or *geometrical axioms*.

These axioms are the conditions on which all thought proceeds, and which need not be expressed, but for the sake of order or method.

S E C T. III.

Animal Sense and Perception. *

Sensation is obtained by means of corporeal organs ; and is, for the most part, attended by an original or acquired perception of some external cause, or object of the perception.

The organs of sense are commonly reduced to five heads :

Touch, Taste, Smell, Hearing, and Seeing.

T O U C H.

The whole animal frame is in some degree an organ of touch.

The sensations of touch, or feel-

* See Reid's Inquiry into the human mind.

ing,

ing, are either pleasant, painful, or indifferent.

The interior or subcutaneous parts, are sensible only to the pains which arise from hurts or disorders.

The final cause appears to be, that in their ordinary and sound state, they should require no attention; but in case of disorders, that they should give the alarm.

On the exterior surface of the body, harmless sensations are indifferent, but whatever hurts is painful.

Indifferent sensations are the indications of the mere contact of innocent bodies.

Painful sensations are indications of hurts or wounds.

Pleasant sensations are the sign of relief from what hurts or wounds; as of moderate warmth

E 2 succeeding

succeeding to great cold, or the converse.

Many indifferent sensations, in particular parts of the body, as in the hands, the tongue, &c. are indications of the intimate properties, and nice distinctions, of bodies; as of their figure, polish, hardness, softness, as well as comparative heat or cold.

The perceptions of this sense are, in some instances, original; in others, acquired.

The figure, hardness, softness, heat, and cold, of bodies, are matter of original perception.

Many of their salutary or pernicious qualities are learned by experience, and are matter of acquired perception.

We sometimes perceive the nature, as well as the existence, of qualities; as of figure, hardness, softness.

In

In others, we perceive the existence of the quality, but not its nature; as of heat and cold.

The first have been termed *primary*, the other, *secondary, qualities of bodies*.

The sensations by means of which we perceive primary qualities, are, for the most part, indifferent, and have no name.

The sensations by which we perceive secondary qualities, are, for the most part, either pleasant or painful; are considered apart from the perception they bring; and frequently usurp the name of the quality perceived, so as to occasion a considerable ambiguity in language. Thus heat or cold, which are the names of certain unknown properties in bodies, are sometimes understood of animal sensation or feeling.

The animal sensation can, in no case, have any resemblance to the subject or quality perceived.

Its informations, therefore, are not like that we receive from the inspection of a picture or image; but like that we receive by means of language, or other arbitrary signs.

In original perception, the sign is affixed by nature, and the interpretation instinctive.

Our sensations are not fitted to furnish us with the means of investigation, and of proof, but with perceptions which precede all investigation or proof.

The sceptic, who affects to disbelieve the informations of sense, has the same perception with the dogmatist, who professes to believe.

TASTE.

T A S T E.

The organ of taste is placed in the tongue and palate.

Its sensations are, for the most part, either pleasant or painful.

The qualities of bodies perceived by it are secondary, as already explained *.

The sensations of taste become, after some experience, the indications, or signs, of what is pernicious or salutary in food, &c.

But the same subject is frequently known by sensations which differ greatly in respect to pleasure or pain.

The sensation is sometimes pleasant, at other times painful, or indifferent, while the same object is still perceived.

Thus under the influence of appetite, the taste of food is plea-

* See p. 52. & 53.

sant;

fant; when the appetite is cloyed, the taste is disgusting or painful.

It is likewise oft-times not in any considerable degree either pleasant or painful, or it is indifferent; yet in all those cases the object is still perceived, and its qualities nicely distinguished.

S M E L L.

The organ of smell is placed within the nostrils, near to the passage of the air in respiration.

There is a greater analogy between the sensations of smell and taste, than between those of any other two of our senses.

They agree in giving a perception of secondary qualities; in enabling us, by the help of experience, to distinguish external subjects, and to recognise the same subject frequently, whilst the quality of the sensation varies from
pleasant

pleasant to painful or indifferent.

H E A R I N G.

The organ of hearing is placed in the interior part of the ear.

The sensations of sound, whether single, or multiplied, and variously combined, are either pleasant, painful, or indifferent.

The quality perceived is secondary, found, by investigation, to be pulses of the air, occasioned by explosions, or by the tremors of tense and elastic matter of any sort.

Sounds are diversified by their intensity and musical tone.

Tones being a natural language of sentiment, are, by certain combinations, easily rendered pathetic.

Different

Different sounds are, by experience, learned to be the signs or indications of different subjects, and of different movements.

S I G H T.

The organ of sight is placed in the eye.

Its sensations are sometimes pleasant or painful, but for the most part indifferent; and therefore overlooked.

Of the qualities perceived by means of these sensations, some are primary, others secondary.

The original perception obtained by sight, is that of the visible appearance of things external. This appearance includes superficial extension and figure, apparent magnitude, illumination, shade, and colour.

The

The acquired perception is that of the real dimensions, figures, and distances of bodies.

In the use of this organ, there is a series of signs and interpretations.

1. The visible appearance is perceived by means of some sensation in the eye that is extremely slight, and never attended to.

2. Objects are perceived by the intervention of this appearance.

The same object is perceived under great varieties in the visible appearance.

The solid dimensions of bodies are understood from the disposition of light and shade on the visible surface.

The distances of known bodies are inferred from their apparent magnitude and distinctness.

The real magnitudes of bodies
at

at a known distance, are inferred from their apparent magnitudes.

This discernment of objects from their visible appearance, is the result of observation: where we have no opportunity of greatly changing the place of our observations, so as to employ different senses, as in the case of the celestial bodies, we have no such discernment.

The perceptions of sense are communicated to others by information or testimony.

S E C T. IV.

Observation.

Observation is, the collecting, from consciousness, perception, or testimony, facts relating
to

to the existing qualities and operations of things.

Facts become remarkable by their reference to ourselves, or by their comparison, similitude, or contrast, with each other.

Collections of facts constitute history, either descriptive or narrative.

Descriptive history is the detail of coexistent circumstances and qualities.

Narrative history is the detail of successive events.

S E C T. V.

Memory.

Memory is the recollection of subjects past.

It is casual, or intentional.

F

It

It is casual, when subjects or thoughts, by any connection of their own, recur to the mind.

It is intentional, when the mind, from design, recalls any subject or thought.

S E C T. VI.

Imagination.

Imagination is the stating objects as present, and invested with all their qualities and circumstances, real or fictitious.

Objects imagined may be described, may excite sentiment and passion, and are the sole objects of desire and aversion.

Hence imagination is the chief faculty employed in description, invention, and persuasion, and in
forming

forming the various opinions by which mankind are governed.

These opinions, or imaginations, are confirmed by habit; and when erroneous, are not corrected even by experience.

Objects are imagined separately or jointly.

In the separate images of things, are considered their real or possible qualities and circumstances.

In their joint images are considered their similitude, analogy, or opposition.

Similitude consists in the likeness of parts.

Analogy consists in the similarity of relation and proportion of parts.

Opposition consists in the contrariety of qualities, and proportions, or relations.

Similitude leads to arrangement,

ment, and the classing of objects together.

Analogy leads to the rhetorical figures of simile, metaphor, and allegory.

Opposition leads to distinctions, antitheses, and contrast.

S E C T. VII.

Of Abstraction.

ABstraction is the stating of certain qualities and circumstances apart from other qualities and circumstances to which they are actually joined in nature.

Thus a quality is stated apart from its subject, or an operation is stated apart from the operator, and becomes an abstract.

A few qualities in which many subjects agree, are stated apart
from

from the qualities that distinguish those subjects; and such abstractions are expressed in generic names.

By different abstractions, the general classes or predicaments to which objects may be referred, are variously conceived.

Abstraction is the reverse of imagination: it is the foundation of general and comprehensive reasoning, not of description or passion.

Men are sometimes the dupes of their own abstractions, and consider those things as separate in nature which are only separate in thought.

Too much abstraction tends to disqualify men for affairs. It is the habit of considering circumstances apart; but, in affairs, all circumstances come together, and none must be overlooked.

S E C T. VIII.

Of Reasoning.

Reasoning consists of investigation, arrangement, and argument.

Investigation is the discovery of general rules, or of laws, from particular and various instances.

Investigation is the foundation of theory.

Arrangement is the classing of objects together according to some relation they have in nature.

Relations are those of similitude, contiguity, cause, and effect.

Similitude and contiguity furnish the arrangement of natural history :

The relation of cause and effect,

fect, the arrangement of science or theory.

The laws of nature, which describe, in the most general terms, the operations of existing causes, comprehend, by a relation of similitude, the phenomena which are the effects, or particular operations, of those causes.

Argument is the use of reason to produce conviction.

Argument is taken, either *a priore*, or *a posteriore*.

Argument *a priore*, proves or disproves the fact from the law, or the effect from the cause.

Every argument of this sort may be reduced to a perfect syllogism, consisting of three propositions: of which one announces the law, either negative or positive; another compares the law with the fact to be proved; and the third affirms or denies the fact,

fact, from its conformity with, or opposition to the law.

Argument *a posteriore*, proves or disproves the rule, from the enumeration of particulars.

Every such argument may be reduced to a syllogism, consisting of two propositions: one is induction or enumeration of facts; the other affirms or denies the law, from the concurrence, or want of concurrence, in the particulars brought to establish it.

S E C T. IX.

Of Foresight.

FOresight is the faculty of conjecturing what is to follow from the past or present.

It requires penetration and sagacity: the first, to comprehend
all

all the circumstances of the case in question; the second, to perceive what is likely to follow from those circumstances.

Penetration and sagacity are the foundations of good conduct, art, and skill.

S E C T. X.

Of Propensity.

MEN, like the other animals, are active, from original choice, and propensity.

They delight in freedom and exercise; they pine under restraint, or in the absence of objects fit to excite them.

The activity of man's nature consists in propensity, sentiment, desire, and volition.

Propensities

Propensities have their effect prior to the experience of pleasure or pain.

They are either animal or rational.

The animal propensities are the appetites to food, sleep, and the propagation of the species.

These appetites are periodical or occasional, and are intermitted when their ends are obtained.

The rational propensities are, the care of self-preservation, the affections of parent and child, the affections of the sexes, the affection to society, and the desire to excel.

These, like animal appetites, give a direction to human nature prior to any experience of their gratifications.

But, contrary to the analogy of animal appetites and gratifications, they may continue to occupy habitually,

bitually, without satiety or disgust.

All affections of kindness are, in their own nature, pleasant.

Having these natural propensities, we state objects under the predicaments of good or of evil as they are supposed conducive or opposite to the purposes of our propensities.

Whatever is thought conducive to preservation, is reckoned good.

Whatever is thought pernicious, is reckoned evil.

Whatever promotes the welfare of society, or of any object beloved, is therefore supposed good.

What is pernicious, is supposed evil.

Whatever is thought in itself to constitute a perfection, or to give eminence, is supposed good.

Whatever is thought to constitute imperfection, or to sink our comparative

comparative value, is supposed evil.

Hence the great influence of opinion on the external pursuits of men.

S E C T. XI.

Of Sentiment *.

Sentiment is a state of mind relative to what is thought to be good or evil.

Sentiments are pleasant or painful.

The sentiment arising from a supposed good attained, is pleasant; from a supposed good missed or forfeited, is painful.

A supposed evil avoided, is pleasant; incurred, is painful.

* See Theory of agreeable sentiments.

The

The pleasure in both these cases is termed *Joy*.

The pain is termed *Sorrow*, or *Grief*.

A supposed good in expectation of being gained, is pleasant; in expectation of being lost, is painful.

The pleasure in either of these two cases is termed *Hope*.

The pain is termed *Fear*.

Thus all our sentiments, or passions, may be referred to four general heads:

Joy, Grief, Hope, and Fear.

But there is a great variety in the sentiments of joy and grief, of hope and fear, corresponding to the nature of the supposed good or evil, and of the propensity by which we are directed towards it.

The sentiments of those who are occupied chiefly in their own preservation, are, the sense of safe-

ty and success, or of danger and disappointment.

The first may comprehend security, exultation, and insolence; the second, jealousy, terror, and despair.

The most painful sentiments of those who are occupied chiefly by their regard to mankind, are alleviated by the pleasures of affection, confidence, and good will.

The sentiments of those who are occupied chiefly with the consideration of excellencies or defects in themselves, or in others, are, on the one hand, respecting themselves, and their own absolute perfections or defects, self-approbation, and elevation of mind; on the other hand, shame, remorse, and dejection.

In respect to comparative advantages, and superiority to other men, their sentiments are, exultation,

tion, vain-glory, insolence, and contempt.

The sentiments of men respecting real excellencies in others, are, esteem, respect, and veneration.

Esteem is a sentiment of approbation tending to confidence.

Respect is a sentiment of approbation tending to submission.

Veneration is a high degree of respect.

The sentiments of men respecting defects are, contempt, ridicule, indignation, and rage.

Contempt is a sentiment of disapprobation, tending to indifference or neglect.

Ridicule is a sentiment of disapprobation, mixed with mirth or pleasantry.

Men of wit sometimes render the subjects of which they treat ridiculous.

Buffoons render themselves so.

As the sentiment of disapprobation predominates, ridicule approaches to scorn.

As the sentiment of pleasantry predominates, it approaches to mirth, and may even be mixed with tenderness.

The scornful are rarely susceptible of admiration or love.

Indignation is a sentiment of disapprobation, mixed with resentment.

Rage is a sentiment of disapprobation, mixed with hatred.

The sentiments of men respecting comparative advantages in others, differ according to the state of their affections, and according as they state a comparison with themselves, or with other men.

The superiority of those they love, compared to themselves, produces deference and respect.

The superiority of those they hate,

hate, so compared, excites envy; of those who are indifferent, excites humiliation, or is a mortification.

The superiority of those they love, compared to others, excites exultation; of those they hate, compared to others, excites animosity and regret.

S E C T. XII.

Desire and Aversion.

DESIRE and aversion arise from opinion, founded in experience or fancy.

Mens desires and aversions are various as their opinions.

The most common examples of settled or habitual desire, are, sensuality, avarice, ambition, public spirit, *elevation of mind*, or

the desire of excellency and perfection.

These desires have a foundation in some natural propensity, and lead to the objects which, in our opinion, tend to fulfil the purpose of our original propensities.

Sensuality is founded in animal appetites; and arises from an opinion, or expectation, of good, in the means of their gratifications.

Avarice is founded in the care of self-preservation; and aims at security, by amassing and hoarding the means of subsistence.

Ambition is the desire to command; and arises from an opinion, that to have rank or power over other men, is to excel.

Public spirit is founded in benevolence: its object is indefinite, men, or intelligent natures, wherever they present themselves to our view or conception.

Elevation

Elevation of mind is founded in the love of perfections, and in the aversion to defects.

S E C T. XIII.

Of Volition.

Volition is the act of will in free determinations.

The determination is free where-ever it is voluntary.

The motives from which we chuse, do not destroy our freedom; for to act from motives not forced upon us, to be willing, voluntary, and free, in any action, are synonymous terms.

I N S T I -

8 8 J A R O M I . D O
I N S T I T U T E S
O F
M O R A L P H I L O S O P H Y .

P A R T I I .

Theory of Mind.

C H A P . I .

General Observations.

TH E theory of mind is the knowledge of physical laws, collected from fact, and applicable to explain appearances.

It hath been said, that the intellectual system, as well as the material, hath its laws; but that
the

the laws of the intellectual system are not equally well observed *.

The term *law* is ambiguous.

It sometimes signifies the fact, as it is regularly and invariably established in the course of nature.

In this sense it is employed by natural philosophers †.

In this sense chiefly the material system is said to have its laws.

And in this sense every law must be strictly observed; because it is law only so far as it is observed. Gravitation is a law only because all bodies actually gravitate.

But in this sense, too, the intellectual system hath its laws;

* Spirit of Laws, book 1.

† See Laws of nature, in the Introduction to every system of mechanics.

for there are facts relating to the operations of mind which are fixed and invariable.

In this sense, therefore, the laws of the intellectual system are equally well observed with those of the material.

The term *law*, however, has a farther signification, and means some rule of choice, or expression of what is good.

In this sense it is employed commonly by moralists and civilians.

In this sense most commonly it is meant, that the intellectual system hath its laws.

And in this sense the law may subsist, without being strictly observed: for it is law in consequence of its rectitude, or of the authority from which it proceeds; not in consequence of its being the fact.

But

But although the more important laws of this sort relate to the intellectual system, yet there are laws of the same kind relating to the material system.

Such are the expressions of what is required to elegance, beauty, or utility, in natural subjects; or of what is required to perfection in works of art.

Here the material, as well as intellectual system, may depart from its laws.

In the vegetable and animal kingdoms, there are deformities, distortions, and diseases, as there are in the intellectual kingdom follies, absurdities, and crimes.

To avoid, as much as possible, these ambiguities, laws of the first sort, whether relating to mind or matter, have been termed *physical laws*;

laws; and laws of the second sort, *moral laws* *.

Common use will authorize this interpretation; although the use of these terms is by no means determined and precise: for frequently, whatever relates to matter, is said to be physical; whatever relates to mind, is said to be moral.

In consequence of this vague use of the term *moral*, any theoretical question relating to mind has been substituted for moral philosophy; and speculations of little moment have supplanted the study of what men ought to be, and of what they ought to wish, for themselves, and for their country.

* See Introduction.

C H A P. II.

Enumeration of Physical Laws.

S E C T. I.

Laws of the Understanding.

THE history of the understanding may furnish two principal rules, or physical laws.

The first relates to the perception obtained of what exists beyond ourselves.

The second, to the comprehension of subjects perceived.

FIRST LAW.

Perception is obtained by the intervention of media, no way resembling

resembling the subject of such perception :

1. The medium of sensation.
2. The medium of signs.

Most theories of the human understanding proceed on a supposition, that all information is received in a manner analagous to the representations given by means of images or pictures.

We are so accustomed to metaphor or allegory of this sort, that we think it demonstrable *a priore*, that there must be images, types, or resemblances, of external subjects, in the brain, or in the mind, from which the mind receives information of the originals, and in comparing which its reasoning concerning the originals consists.

But when we compare the knowledge of any subject with the picture of a subject, we must be satisfied, that the whole language

guage transferred from one to the other is merely metaphorical.

Systems founded in metaphor, are commonly mere allegories, by which we are made to mistake the interpretation of the allegory for an accession of science.

The sensation, by means of which we naturally perceive the existence of external subjects, has no resemblance to those subjects.

The signs by which we naturally perceive the existence and meaning of other minds, have no resemblance to the things signified.

Yet we cannot refrain our perception in the one case, nor our interpretation in the other.

The general law of information then has two branches:

That which relates to the perception of material subjects:

And that which relates to the

interpretation of meaning and thought.

SECOND LAW.

To comprehend any particular subject, is to know some general predicament or class to which it may be referred.

Thus to comprehend the nature of any particular being or quality, is to be able to refer it to some known species or class.

To comprehend any operation or phenomenon, is to be able to refer it to some established rule, or known law of nature.

Thus we comprehend all the phenomena that can be referred to the laws of gravitation, cohesion, electricity, and so forth.

To make a new discovery, is either to investigate some law, or
to

to point out some new application.

Thus Sir Isaac Newton discovered the law of refraction, and applied it to the rainbow, and to the colours of natural bodies.

Dr Franklin applied the laws of electricity to lightning, and to the aurora borealis.

The laws of nature are the genera and species under which particular facts are ranged, or the predicaments to which they are referred.

Some predicaments have their generic names in every language, have been universally admitted, and are coeval with human thought.

Such are, substance, quality, quantity, number, perfection, defect, good, evil, time, place, &c.

Others are more arbitrary, and

H 3

chosen

chosen to render human knowledge methodical and comprehensive.

Such are the classes and orders of being employed in the method of different natural historians.

S E C T. II.

Laws of the Will.

THE history of the human will may furnish the three following general rules.

F I R S T L A W.

Men naturally desire whatever they think is useful to themselves.

Under this title they desire the means of subsistence, health, strength, beauty, parts, temper, resolution, &c.

This

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This is commonly termed *the law of self-preservation*: but so great is the variety of mens opinions, and such the caprice of their passions, that they appear in some cases to desire what is destructive.

S E C O N D L A W.

Men naturally desire the welfare of their fellow-creatures.

General calamities are matter of regret; general welfare is matter of joy.

This may be termed *the law of society*; and is that which qualifies the individual to be a member of society, inclines him to contribute to the general good, and intitles him to partake in it.

The reality of this law has been disputed :

1. Because

1. Because men do not generally act for public good.

2. Because what they do of this kind, may be accounted for from other motives.

The actions of men are regulated, not by this law only, but by this combined with every other law of their nature.

If the law of self-preservation, for the most part, prevail, it does not follow, that the law of society has no effect.

The external effect, or tendency, of every law, is diversified in different circumstances.

The general tendency of the law of gravitation is, to cause bodies to approach to each other; as the tendency of the law of society is, to cause men to produce public good, or to abstain from public harm.

But

But the external result is opposite in opposite circumstances.

Heavy bodies are not always falling, nor social natures always acting for the common good.

When bodies are falling, gravitation accelerates; when they are placed on a support at rest, it causes a pressure; when they are thrown upwards, it can only retard; when they are moved obliquely, it turns their motion into a curve path, &c.

The analogy of this law may fully illustrate the law of society.

This law, in some cases, excites to beneficence; in other cases, only retards mischief. It increases our ardour in actions beneficial to our fellow-creatures; it restrains or diminishes our ardour in actions hurtful: it gives satisfaction in one case, and remorse in another. And thus the operation

tion of the law of society, like that of gravitation itself, is always real, though the external result is not always the same.

As to the motives from which men act for the good of their fellow-creatures, those may be various in various instances; but no person can know, except in his own case, that there are no sincere affections of benevolence and good-will.

THIRD LAW.

Men naturally desire what constitutes excellence, and avoid what constitutes defect.

Different objects have their distinguishing qualities, and become, in the view of different animals, objects of desire or aversion: but in the view of man, they are likewise,

wife, in many cases, objects of esteem or contempt.

This is an ultimate fact in the nature of man, and not to be explained by any thing that is previously or better known.

Excellency, whether absolute or comparative, is the supreme object of human desire.

Riches, power, and even pleasure, are coveted with extreme ardour only when they are supposed to bestow eminence or rank.

C H A P. III.

The foregoing laws applied in explaining the phenomena of Interest, Emulation, Pride, Vanity, Probity, and Moral Approbation.

S E C T. I.

Of Interest.

Interest is the concern men take in things supposed useful or necessary to the purposes of animal life.

Things useful to animal life may be comprehended under the titles of *food, accommodation, and cloaths.*

But property in land, money, or effects, secures the possession of
such

such things, and is therefore a principal article of interest.

The state of a man's interest fluctuates by his profits and his losses.

Men whose ruling passion is the desire of profit, or the fear of loss, are said to be interested.

This passion is comprehended in the law of self-preservation, and is a partial application of this law, founded in an opinion of the great consequence of external things.

Opinions, and their consequences, are more or less prevalent, in proportion to the prevalence of circumstances by which men are led to entertain such opinions.

For this reason interestedness is very prevalent.

The opinion on which it is founded, arises from the following circumstances.

I

1. The

1. The instinctive desire of life.
2. The early prepossession taken of the importance of sensual objects that ingross our first attention.
3. The continued care of estate or fortune that is necessary wherever property is established.
4. The rank which riches are supposed to bestow.

From this last consideration, the law of estimation comes to be combined with the law of self-preservation, in accounting for the interested passions of men.

The interested consist of two classes; the prodigal, and the avaricious.

The prodigal are commonly most rapacious, being urged by the desire of enjoyment.

The avaricious are more cautious, being restrained by the fear of want.

The

Ch. III. PHILOSOPHY. 99

The interested are frequently arraigned on the footing of selfishness, as if their fault consisted in a regard to themselves, not in a mistake of their own concerns.

They are sometimes flattered on the footing of prudence or wisdom, as if mere life, and the means of preserving it, were the sole object of human care.

Interest engages men in competitions, and stifles affection; it exposes them to anxiety, jealousy, and envy.

S E C T. II.

Theory of Emulation.

EMulation is the desire to excel other men, or the fear of being excelled by them.

It is comprehended in the law

of estimation; and arises from an opinion, that excellence is comparative, or subsists in things of mere comparative value.

Such are, riches, renown, or power.

The value of riches is comparative; for it consists, not in any absolute measure of wealth, but in possessing more than other men.

Renown consists in being more talked of than others.

Power consists in being able to command other men.

Happiness, when well understood, is not a subject of emulation; for it having an absolute value, the degrees possessed by one man, do not depreciate what is possessed by another.

Emulation, when directed to useful actions, has effects serviceable to mankind; but is itself an unhappy disposition.

It

It is rarely unmixed with envy and jealousy; frequently it prevents affection, where affection is most due.

The emulous are not satisfied with any attainment, while others possess an equal, or a superior, measure, of the same advantage.

The object of Cæsar's desire was not greatness, or goodness; but to be the first in respect to those articles which the vulgar admired; the first in a village, rather than the second at Rome.

The emulous are enemies to each other, and to men of superior reputation. They are for the most part, vigilant, courageous, and vehement; indulgent to those who are confessedly inferior, but malicious to those who are equal, or superior, in consideration to themselves.

They commonly prefer mean company in which they can assume a superiority, to better in which they must submit to equality.

S E C T. III.

Of Pride.

PRide appears in neglect, inattention, contempt, and arrogance.

It is founded therefore in a mean opinion of other men.

It is comprehended in the law of estimation; for it is in consequence of this law that men either admire or contemn.

Pride, or contemptuousness, is inconsistent with affection, candour, or any regard to the rights of mankind.

The

The desire of perfection, and even the love of virtue, have been confounded with pride.

This abuse sometimes proceeds from inattention to propriety of language.

Sometimes from affectation of figurative speech; as when we say, *decent pride, noble pride, &c.* Here it implies contempt; but, in a good sense, the contempt of what is unworthy.

At other times this confusion of words is affected, in order to favour a system; as when we would depreciate virtue, or disprove its reality, by speaking of it in terms which are commonly taken in a bad sense*.

Pride is connected with the desire of perfection, only so far as it

* Mandeville's Works.

is a misapplication and abuse of it; substituting the meanness of others for elevation in ourselves.

It is ridiculous to attempt confounding the love of virtue with pride: their tendencies are opposite.

Virtue is a respect for the rights of men, and esteem of what tends to the good of mankind.

Pride is a disrespect for the rights of men, and contempt of mankind.

S E C T. IV.

Of Vanity.

VAnity is a conceit of personal importance, joined to a perpetual desire of admiration.

Men are said to be vain of what they suppose constitutes their importance,

portance, as of their persons, fortune, equipage, talents, and adventures.

Vanity is comprehended in the law of estimation ; for it supposes the distinction of excellent and mean, however misunderstood.

It leads to the affectation of accomplishments and advantages which are not real, or to the ostentation of real ones.

The vain are capable of great efforts of courage and resolution, when supported by public opinion, and when acting in public view ; but without this support, are feeble and irresolute.

The attention they pay to other men not proceeding from the heart, but from the desire of consequence and applause, they always fail where the fruits or effects of real affection are expected.

S E C T.

S E C T. V.

Of Probity.

MEN who regard the rights, and feel for the sufferings, of others; who are ever ready to do acts of kindness; who are faithful and true to the expectations they raise, — are said to have probity.

Probity implies the love of mankind, founded in a temper that is compassionate, candid, and liberal.

It is comprehended therefore in the law of society.

Probity may be understood to constitute an excellency, but cannot be the foundation of pride or contemptuousness.

It may be understood to merit applause, but is directed by affection,

tion, not by the desire of admiration or attention.

Men of probity prefer integrity to any other kind of supposed excellency; but frequently have a modest opinion of their own merits.

S E C T. VI.

Of Moral Approbation in general.

Moral approbation is the judgement formed of characters and actions, as being excellent or just.

It is opposed to disapprobation or blame.

The apprehension of excellence, or defect, in other subjects, as of beauty or deformity in merely animal or material natures, is accompanied with simple emotions
of

of admiration or contempt: but the apprehension of excellence or defect in ourselves, is accompanied with elation of mind, shame, and remorse; in others, with complacency, veneration, love, pity, indignation, and scorn.

Men, fond of paradox, have questioned the reality of moral distinctions: but expressions of praise and blame in every language, the importance of mens actions to mankind, the opposite nature of dispositions that form the characters of men, the most vehement sentiments of the human heart, which refer to this subject,—show, that the distinction of moral good and evil is real, and universally acknowledged.

In treating of moral approbation, four questions may be separately stated.

1. What

1. What do men, for the most part, approve or blame?

2. By what principle, or consideration, are they directed, in particular cases, to bestow their approbations or censures?

3. What is the proper subject of approbation or censure?

4. What is the rule or principle by which men ought to judge of moral characters?

The two first questions are physical, and belong to this place; the two last are moral, and their answer will be comprehended in the first or most general laws of morality.

The subject of morality has been greatly perplexed by the blending of these questions together.

The actual errors and corruptions of men, have been mustered up as so many proofs, that there is

K nothing

nothing which men ought to esteem or desire.

In physical questions, we attend to the fact; in moral questions, to what is good or evil. The fact, however well established, and however universal, does not preclude us from conceiving and choosing what is better.

If all men were actuated by interest, emulation, pride, or vanity, it would not follow, that probity is no object of esteem or desire. When we are told, therefore, that the apparent candour and benevolence of ordinary men has no reality; that their courage is anger; and their temperance formality, or affectation, — we may ask, whether these allegations are meant as a state of facts merely, or as examples of what men ought to be? The facts may be true; but to chuse a pattern

tern confessedly bad, would be absurd.

S E C T. VII.

Of the Object of Moral Approbation.

THE object of moral approbation, is either some disposition of the mind, or some external action.

Probity is the most approved disposition; and the external expressions of probity, the most approved actions.

These constitute the whole, or the most essential part, of virtue.

Other subjects may be admired or contemned; but these alone are the subjects of moral approbation.

S E C T. VIII.

Of the Principle of Moral Approbation.

Moral approbation is comprehended in the law of estimation; and is indeed the principal fact from which we infer the reality of this law; as the vertical pressure and fall of bodies are the principal facts from which, in mechanics, we infer the law of gravitation.

Other desires or affections may lead us variously to bestow our esteem or contempt, but none other will account for our having esteem and contempt to bestow.

According to this law, men refer the qualities and exertions of their own nature, together with
many

many other particulars, to the opposite predicaments of excellency and defect.

Yet in this they are not led by any instinctive or invariable rule : they differ in their choice of characters, and bestow their esteem on different subjects.

One man admired Cato ; another admired Cæsar.

The affections and desires of men, though different from approbation or esteem, yet warp their judgements, and determine their opinions.

The ambitious and interested seldom admire what is adverse to their own designs.

Cæsar wrote an invective against the memory of Cato ; and though this, by others, was thought ridiculous *, yet it is probable that

* Vid. Cicero Epist. to Atticus, book 12. ep. 45.

he himself was sincere, and really felt the zeal of Cato for the preservation of the republic, as matter of disservice and demerit to himself.

Men are led, by the prepossessions of custom, or by superstition, to approve or condemn mere external rites and observances.

They are led by interest, or ambition, to approve of actions favourable to their own designs.

They are led by benevolence to approve of qualities that fit men to procure the good of mankind.

So far as the merit, or moral excellence, of a man consists in such qualities, we may venture to affirm, that benevolence, or the law of society, combined with the law of estimation, is the principle of moral approbation *; and that

* Vid. Lord Shaftsbury's Inquiry into Virtue.

to bestow our esteem on virtue, is to love mankind.

Systems have differed chiefly by deriving our choice of actions and characters, some from the law of self-preservation, and others from the law of society *: but the fact is, that the laws of self-preservation, and of society, when well understood, coincide in all their tendencies and applications.

Man is by nature a member of society; his safety, and his enjoyment, require that he should be preserved what he is by nature; his perfection consists in the excellency or measure of his natural abilities and dispositions, or, in other words, it consists in his being an excellent part of the system to which he belongs. So that the effect to mankind should

* See Smith's Theory of Moral Sentiments.

be the same, whether the individual means to preserve himself, or to preserve his community: with either intention he must cherish the love of mankind, as the most valuable part of his character. As this is the foundation of probity, it is that which leads men to give to probity, as such, the preference to every other disposition or habit of mind *.

* Essay on the History of Civil Society, part 1. sect. 6.

C H A P. IV.

*Of the nature and future prospects of
the Human Soul.*

S E C T. I.

Of the Immateriality of the Soul.*

THE nature of man has been universally considered as mixed, or composed of an animal and intellectual part, of body and mind.

Those functions which are referred to corporeal organs, belong to the animal nature; those which are not referred to any corporeal

* See Baxter on the Immateriality of the Soul

organ,

organ, belong to the intellectual nature.

Man, in the result of his animal nature, differs from the brutes only in the degree or manner of what he exhibits; but in that of his intellectual nature, he differs totally, and in kind.

Being destined to act from observation and experience, not from special instinct, he is, when ignorant, apparently inferior in artifice and power to the other animals; but when knowing, greatly superior.

That by which he excels other animals, is termed *his mind*, and has been universally distinguished from *body*.

The properties of mind have no analogy to those of matter: properties of the one are even opposite and contradictory to properties of the other.

Matter

Matter is divisible and inert; mind is indivisible and active.

What are called *faculties of mind*, are its active powers.

They are not distinct parts of a complicated nature, but abstractions, under which the operations of mind are classed.

S E C T. II.

Of the Immortality of the Soul.

EVERY question relating to a future state, must be solved, from the nature of the soul, from the state of the fact at death, or from principles of religion.

The nature of the soul being indivisible, or not subject to a dissolution of parts, and annihilation being unknown in the order
of

of nature, it follows, that the soul is physically immortal.

The fact at death is, that the body ceases to be animated, or to give signs of the presence of mind: but mind being of a different nature, may exist apart.

No argument can be drawn from principles of religion, until these principles be considered.

INSTI-

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OF

MORAL PHILOSOPHY.

PART III.

Of the Knowledge of God.

CHAP. I.

Of the Being of God.*

SECT. I.

Of the Universality of this Belief.

THE belief of the existence of God has been universal.

The cavils of sceptics do not de-

* See Ray's Wisdom of God in the creation. Sermons at Boyle's lectures.

L

rogate

rogate from the universality of this belief, no more than like cavils derogate from the universality of the perception men have of the existence of matter ; for this likewise has been questioned.

This belief does not imply any adequate notion of the Supreme Being. Men, for the most part, have entertained notions on this subject, unworthy even of human reason.

But the belief that an artist, or author, exists, is consistent with mean and improper notions of his capacity and intentions.

The belief that Homer composed the Iliad, is compatible with inadequate notions of that poet's genius.

The belief that books read at school were composed by men, is consistent with a notion, that even
the

the classics were written for the use of children.

S E C T. II.

Of the Foundations of this Belief.

THE belief of God being universal, cannot depend on circumstances peculiar to any age or nation, but must be the result of human nature, or the suggestion of circumstances that occur in every place and age.

In the nature of man, there is a perception of causes from the appearance of effects, and of design from the concurrence of means to an end.

Sceptics have not denied the reality of these perceptions; they have rather complained of them,

as the foundation of general and vulgar errors.

But natural perceptions are the foundations of all our knowledge. This is the foundation of what we know from sensation, from testimony, and from interpretation.

In any of these cases, we can assign no reason for our belief, but that we are so disposed by our nature.

No argument is required to prove, nor can argument have any effect to refute, where nature has determined that we shall continue to believe.

No one can refrain believing, that the eye was made to see, the ear to hear; that the wing was made for the air, the fin for the water, the foot for the ground; and so forth.

The perception of an end or
intention

intention in the works of men, comprehends the belief of an artist. The perception of end or intention in the works of nature, comprehends the belief of God.

Nature presents final causes where-ever our knowledge extends.

Final causes may be considered as the language in which the existence of God is revealed to man.

In this language the sign is natural, and the interpretation instinctive.

C H A P. II.

Of the Attributes of God.

S E C T. I.

Of these Attributes in general.

THE attributes of God are characters of the Supreme Being suggested by his works.

They may be referred to five heads; Unity, Power, Wisdom, Goodness, and Justice.

S E C T.

S E C T. II.

The Unity of God.

THE perception of final causes implies the belief only of one God.

The notion of a plurality of gods is a corruption.

Different nations separately formed their notions of the Deity. On comparing these notions, they did not endeavour to reconcile them to the belief of one supreme being; they formed a list composed of many gods, having their different attributes and separate provinces in nature.

S E C T.

S E C T. III.

Of Power.

Power is the attribute of the first cause; and in the creator of all things, cannot be circumscribed by any thing that exists.

S E C T. IV.

Of Wisdom.

Wisdom is the attribute of intelligence; and the belief of wisdom in the author of nature, is implied in the belief of final causes.

The wisdom of God comprehends

hends the knowledge of every nature, of the mutual relations and dependencies of different natures, and of what is best for each, and for the whole.

S E C T. V.

The Goodness of God.

THis is the attribute of the creator and preserver of all things.

The proofs of goodness are,

1. The creating of sensitive and rational beings.
2. The measures of good which they are made to enjoy.
3. The order established for their preservation.

Without the first, there would be no object on which goodness could exert itself.

And

And the numbers of such objects, as well as the enjoyments they are made to receive, are proofs of goodness in the first cause.

2. What their numbers or enjoyments, cannot be known to us; but the order and tendency of what we know, leads to the belief of universal good.

The lot of man is mixed, but his nature likewise is fitted to a mixed scene.

He complains of evil in his external circumstances, or in his own nature and conduct.

The first subject of complaint is termed *physical evil*; the second, *moral*.

His complaints of physical evil are not symptoms of absolute evil in nature, but the symptoms of an active nature in himself properly

perly placed, and having proper excitements to exert its power.

A scene in which there were no apparent evils to be corrected, or, what is equivalent, no accession of good to be gained, would be a scene of inaction, adverse to the nature of man.

Or, in other words, a being that perceived no evil, or had no want, could have no principle of activity.

Man, by being employed as an active power in the order of nature, is not made to forego his own happiness.

His happiness does not depend on the measure of conveniency he enjoys, but on the part he acts; not on his safety, but on the degree of courage he possesses; not on what he gains for himself or others,

others, but on the degree of ardour and affection he exerts.

Complaints of moral evil are the symptoms of a progressive or improving nature.

A being that perceived no moral evil, or no defect, could have no principle of improvement.

To remove the complaints of moral evil, it is necessary that men were either freed of all imperfections, or rendered insensible of the imperfections they have.

The first is impossible: Men must have the imperfections of created nature.

What is the least possible measure of these imperfections, we know not.

But man, imperfect as he is, is not a blemish in nature.

He has a pungent sense of his own errors and defects. This is the
the

the source of his complaints, and of his improvements, and is a beauty in his nature.

He is a voluntary agent, destined to act under the following wise restraint :

That his hurtful dispositions are painful to himself, and his beneficial dispositions are pleasant.

The suffering, as well as the enjoyment, in this case, is a proof of beneficence in the power that inflicts it.

3. Every part, in the order of nature, is calculated for the preservation of the whole.

Things the most remote, are made to concur to the same salutary purposes.

The order of the planetary system is calculated for the preservation of every being that occupies any part of this system.

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The pains, as well as the pleasures, of living and sensitive creatures, tend to their preservation.

The order of nature is preserved by succession, not by perpetuity of life: and whilst the individual is perishing, the species of every animal is safe, and the system of nature is secured from decay.

S E C T. VI.

Of the Justice of God.

JUSTICE is the result of wisdom and goodness.

Justice is goodness impartial and universal, rendering every part subservient to the good of the whole, and calculating the whole for the preservation of its parts; but precluding every part
from

from any enjoyment in what is pernicious to the whole.

The pains and pleasures incident to man's nature, are distributed agreeably to this rule of justice.

For to sum up the whole, benevolence is always pleasant, malice is always painful.

C H A P. III.

Of the belief of the Immortality of the Human Soul, as founded in Principles of Religion.

Contrary to the appearances at death, the human soul has been generally supposed to survive its separation from the body, and to be reserved to a future state of rewards and punishments.

This apprehension is agreeable

M 2

to

to the most rational notions of the goodness and justice of God.

That goodness which disposed the Almighty to create, may likewise dispose him for ever to preserve his intelligent creatures.

There is a continual creation of rational as well as animal natures.

But animal natures are certainly extinguished; why not rational?

The first is necessary. The world would be overstocked with animals, if generations did not die to make way for each other.

But the world of spirits may, without inconvenience, increase for ever.

The desire of immortality is instinctive, and is a reasonable intimation of what is intended by the author of this desire.

The

The progress of man's intelligent nature may be continued beyond the attainments of this life.

The government of God is righteous; but man's instinctive desire of distributive justice is not fulfilled in this life. Hence the universal belief, that wicked men are to receive additional punishments, and good men additional rewards, in a future state.

“Diverso itinere, malos a bonis
“ loca tetra, inculta, foeda, at-
“ que formidolosa, habere *.”

* Cato, in Salust's Hist. Cat. conspiracy.

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INSTITUTES
OF
MORAL PHILOSOPHY.

PART IV.

Of Moral Laws, and their
most general Applications.

CHAP. I.

Definitions.

MORAL law, as distinguished from physical law, is any general expression of what ought to be.

In this sense, the rules of art, the canons of beauty and propriety,

ty, relating to any subject whatever, are to be classed with moral laws *.

Moral law, as referred to intelligent natures, is any general expression of what is good.

It is the characteristic of intelligent beings, to act from opinion, and to chuse what, in their opinion, is best.

To act from determinate instinct, is the characteristic of mere animals.

To act without object or opinion, is insanity or madness.

Hence the nature of what is good, where-ever apprehended or expressed, implies an obligation to determine the choice of every rational being to which it refers.

Moral laws may be considered under different aspects, and distinguished by different titles.

* See Hutcheson of the Ideas of Beauty and Virtue.

Considered

Considered in respect to their source, they may be distinguished as original, or natural, and conventional, or adventitious.

Considered in respect to their subject, they may be distinguished as laws of religion, or of society; as laws of peace, or of war; as laws political, civil, or criminal.

Considered in respect to the persons to whom they are applicable, they are laws of nations, or the laws of particular states.

Moral philosophy is the knowledge and application of the law of nature, or the original law of mankind.

This law is applicable to every person, and to every subject.

This law comprehends the obligations of convention.

The first or fundamental law of nature, relative to mankind,

is

is an expression of the greatest good competent to man's nature.

Subsequent laws are branches and applications of this.

C H A P. II.

Of Good and Evil in general.

Good and evil imply enjoyment and suffering, consequently have an exclusive reference to sentient and intelligent beings.

The supposed cause of enjoyment is an object of desire.

The supposed cause of suffering is an object of aversion.

What is not supposed to be the cause of either is indifferent.

Some things owe their effects entirely to the opinion that is entertained,

tertained, or to the use that is made, of them.

With respect to these things, certain opinions, and a certain use, are good; other opinions, and a different use, are evil; and the things themselves are occasionally, but not always, to be chosen.

Other things contain the effect and the use in their own nature.

Of these things the presence is always good, or always evil; and they are not occasionally, but invariably, to be chosen or rejected.

So important a difference, merits the clearest and most striking distinction that language can furnish.

Disputes among the ancient philosophers, related chiefly to the manner of stating this distinction*.

* See Cicero De Finibus.

Socrates

Socrates always stated it in the strongest terms *.

According to him, *they who prayed for riches, long life, &c. seemed to desire a throw of the dice, or the chance of a battle.*

The Peripatetics classed every thing that was by its nature, or use, desirable, under the general predicament of *good*.

And every thing, by its nature or abuse, to be shunned, under the opposite predicament of *evil*.

The Stoics maintained, that nothing was to be classed under the predicament of *good*, but what was at all times invariably to be chosen.

That nothing † was to be classed under the predicament of *evil*,

* See Memorabilia of Xenophon.

† See Epictetus and Antoninus.

but

but what was at all times invariably to be shunned, or rejected :

That to call that good which ought at any time to be rejected, or that evil which ought at any time to be chosen, was not only absurd in terms, but tended to weaken the resolution with which a man ought always to make his choice.

The Epicureans substituted the term *pleasure* for *good* ; intimating, that whatever was pleasant was therefore good.

CHAP.

C H A P. III.

Of the Objects of Desire or Aversion, and their comparative Importance.

S E C T. I.

General Division.

THE objects which men, governed by the physical laws of self-preservation, of society, or of estimation, either desire or shun *, may be comprehended under the following titles.

Life and Death, Pleasure and Pain, Excellence and Defect, Happiness and Misery.

* See Part 2. ch. 1.

N Other

quire organization, and terminate together with the functions of organized parts. Intellectual life terminates with the existence of mind. Mixed life terminates by the separation of mind and body.

The right employment of life, and the proper means of preserving it, are good; the abuse is evil.

There are times in which it is good to preserve life, and times in which it is good to resign it.

S E C T. III.

Of Pleasure and Pain.

Pleasure is enjoyment considered abstractly; that is, without regard to its kind, measure, or comparative importance.

Enjoyments or sufferings being various in respect to kind and

N 2 measure,

measure, and being frequently but alternatives of which only one can be gained or avoided at a time, they must be compared, in order to determine our choice.

They may be referred to two principal classes :

1. Animal.
2. Intellectual.

Animal enjoyments are the gratifications of sense or appetite.

They arise with the least mixture of inconvenience, from the proper use of things salutary to animal life ; and are, in their final cause, subsidiary to the desire of life, or to the law of self-preservation.

They keep pace with the returns of appetite, or the exigencies of nature, and cannot be rendered continual.

Animal sufferings arise from circumstances or causes any way hurtful to animal life: they are
sometimes

ther, agreeable; and to a third, indifferent.

Enjoyments or sufferings of affection, are constituted by the opposite natures of love and hatred.

Love is always pleasant, though sometimes mixed with affliction or regret.

Hatred is always painful, tho' sometimes mixed with exultation.

The pleasures of exercise arise from occupation of mind or body.

They are commonly termed *amusement*.

Amusements of every sort are bounded by lassitude, or the desire of change.

Every animal or intelligent nature is active; but natures are more or less active, in proportion to the variety, and to the continuance, of their occupations.

Man is more active than any other known nature.

Animal

Animal enjoyments or sufferings in general, are subordinate to the intellectual.

Sensual enjoyments depend much on opinion.

They are marred by an opinion of evil in being addicted to them.

They need the consideration of innocence, the accompaniments of elegance, and of society or passion, to give them the appearance of objects that merit a continual regard.

The relish for them is entirely suspended by any vehement affection, or by any active engagement.

Attempts to render them continual, impair the faculties of the mind, and produce sottishness.

What is commonly termed a *life of sensuality*, is either a state of great insensibility, or of frivolous pastime, arising from gratifi-

gratifications of fancy, or at best from the entertainment of insignificant conversation.

Bodily pain is likewise under the influence of opinion.

The cowardly, who fear pain extremely, suffer much.

The brave, or the resolute, who do not fear it, suffer less.

Pain is suspended by vehement affections and active engagements.

Bodily pain may be prolonged to a greater measure than any bodily pleasure; and sometimes actually ends only in death.

Suitably to its final cause, the pain remains while the attack on animal life continues; and it increases as the danger approaches.

But death, and its causes, are necessary: the improper fear of them is evil; it diminishes every enjoyment, and imbitters every suffering.

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The affections, and active engagements, that have been observed to suspend or to diminish sensual enjoyments or sufferings, may be rendered continual, or so frequent as to occupy human life.

Men of ardent and active dispositions, give perpetual examples of this fact.

The pleasures of opinion, of affection, and exercise, however, are not equal among themselves.

False opinions may be occasionally and transiently productive of hope and joy; but they are, sooner or later, necessarily productive of disappointment, grief, and fear.

True or just opinions are naturally or necessarily productive of success and joy. And this, according to Epictetus, was the blessing of God conferred on man: *That whoever knew, and chose,*

chose, his true good, could not be hindered or disappointed.

Affections are pleasant in proportion as they are diffused or extensive.

Occasions of grief or regret are less frequent in the consideration of general good, than in that of partial interests.

For this reason, the affection of a mind enlightened to conceive what is the object and what the efficacy of God's providence, is, of all others, most pleasant, and approaches most to an entire exemption from pain.

This affection is a capacity of receiving enjoyment from the consideration of every being that exists, and of every event that happens, in the creation of God.

Men are best amused with exercises that engage them most,
that

that awaken their affections, and occupy their talents.

For this reason, the more serious and urgent occupations are to be preferred to the more slight, and apparently pleasant.

It appears, upon the whole, that just opinions, benevolent affections, and serious engagements, are the preferable enjoyments of human nature.

S E C T. IV.

Of Excellence and Defect.

THE excellence of a man is probity, supported by wisdom, temperance, and fortitude.

Probity is the love of mankind.

Wisdom is the knowledge and choice of what is good.

Tempe-

Temperance is the power to abstain from mean pleasures, in behalf of what is more valuable.

Fortitude is the power of surmounting difficulties, or of braving dangers, in behalf of worthy objects, or in the course of worthy engagements.

These personal qualities constitute the virtue or excellency of a man; and are in fact his state of greatest enjoyment or least suffering.

S E C T.

S E C T. V.

Of Happiness.

ACCORDING to vulgar opinion, men are to be counted happy or miserable, for having their desires gratified or disappointed.

But if happiness be the state of greatest enjoyment of which human nature is susceptible, it will follow in many cases, that a person is not to be deemed happy for having his desire gratified, but wretched for having such a desire.

The malicious is not to be deemed happy for the gratifications of his malice, but unhappy for having this passion.

The fool is not to be deemed happy for possessing what he admires, but unhappy for admiring what is of no value.

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The intemperate is not to be deemed happy for enjoying a mean pleasure, but childish and unhappy, for suspending the higher enjoyments of his nature for the sake of what is inferior.

The coward is not to be deemed happy for having escaped a danger, but wretched for being subject to fear.

If a mind, benevolent, wise, and courageous, have the highest enjoyments and least suffering, this alone is to be accounted happy *.

These qualities contain in themselves the use and the value for which they are desirable.

Men who have them not, may entertain different opinions concerning them ; but they who have them, must know that they are happy.

They are to be chosen in pre-

* See Theory of agreeable sentiments.

ference

ference to pleasure of any other kind, and at the hazard of any suffering, from which they are not exempted. This is what Epictetus and Antoninus meant, by saying, "That virtue is the sole good." Unhappy is he who understands their meaning, and yet can treat it with scorn.

S E C T. VI.

General Inferences.

IT appears, that the definitions of virtue and of happiness are the same; and it follows, that happiness is a personal quality, not an attribute of external condition.

Mere life constitutes neither happiness nor misery, but is the supposition on which men are susceptible of either.

Pleasure is a term too vague to be substituted for happiness.

This substitution has a tendency to vindicate indiscriminate voluptuousness, if not to encourage sensuality, the sort of pleasure with which men are soonest acquainted.

If pleasure be the only object proposed, it must lead to sensuality; for all our enjoyments, besides those of sense, arise from our having some pursuit or affection, to which pleasure is not the object, but an accession. Thus the pleasures of hunting arise from eagerness to seize the prey; the pleasures of occupation arise from the ardour with which we pursue our object; the pleasures of affection arise from the regard we have for other men; and the pleasure of good actions arises from the esteem of virtue. If pleasure be
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our sole object, we must forego it in all these instances.

With respect to pleasure, it may be said, that all good is pleasant, but that all pleasure is not good; for any pleasure that excludes a greater, or that brings an overbalance of pain, is evil.

The love of what is excellent, is a sure guide to what is pleasant; but the desire of pleasure is not a sure guide to what is excellent.

Things in general may be referred to one of three classes:

Good, Evil, and Indifferent.

The classing of objects is, in some measure, discretionary: but reason requires, that every class be distinguished by circumstances that merit attention; and where happiness or misery are in question, that every subject of choice or aversion be placed in the strongest light.

C H A P. IV.

Of the degrees of Happiness, and the means of Improvement.

S E C T. I.

Of the actual Attainments of Men.

MEN conceive perfection, but are capable only of improvement.

Their dispositions are various, and their forces unequal. It is impossible to ascertain the limits of their progress.

Philosophers have been censured as recommending a perfection too high for human nature :

Would it therefore be reasonable to recommend defects ?

It

It is the object of human reason, to distinguish perfections from defects; and it is the tendency of human nature, to make some progress in all its pursuits, whether worthy or unworthy.

If the object of pursuit be good, every step in the progress must be an accession of happiness.

Philosophers must be very absurd, if they suppose, that men attain to any thing above their strength.

The apprehension of what is perfect, is the guide and incentive to improvement.

No one is so distant from an end, but he may direct his motion towards it. The worst archer, as well as the best, still aims at the mark; and he who sets up the mark, is not blamed, although no one should hit it.

Human nature is actually in
 motion,

motion, either in a right or in a wrong path.

One man improves his fortune or his rank; another extends his fame: they all mean, in the vulgar phrase, to *better* themselves.

If they studied candour, magnanimity, and force of mind, there is no doubt but they would really better themselves.

We cannot dissuade the miser from the care of his fortune, by telling him, he never will amass all the riches in the world; nor a man of sense from the love of probity and courage, by telling him, that he never will attain to perfect virtue.

S E C T.

S E C T. II.

*Of Opinions productive of Misery, or
that hinder Improvement*.*

IT is unhappy to lay the pretensions of human nature so low as to check its exertions.

It is unhappy to entertain notions of what men actually are, so high, as upon trial to incur disappointment, disgust, or despair of virtue.

It is unhappy to rest our own choice of good qualities on the supposition, that we are to meet with such qualities in other men.

It is a wretched opinion, that happiness consists in a freedom

* See Epictetus by Arrian, and Antoninus's Meditations.

from

from trouble, or in having nothing to do.

In consequence of this opinion, men complain of what might employ them agreeably.

By declining every duty, and every active engagement, they render life a burden, and complain that it is so.

By preferring amusement to business, they reject what is fitted to occupy them, and search in vain for something else to remove their languor.

It is unhappy to entertain an opinion, that any thing can amuse us better, than the duties of our station, or than that which we are in the present moment called upon to do.

It is an unhappy opinion, that beneficence is an effort of self-denial, or that we lay our fellow-
creatures

creatures under great obligations by the kindness we do them.

It is an unhappy opinion, that any thing whatever is preferable to happiness.

The vulgar, as well as the learned, have their paradoxes: They frequently prefer interest, fame, and power, to acknowledged happiness.

They prefer consideration, or the imputation of worth, to worth itself.

It is wretched to rely for happiness on what we cannot command.

It is wretched to have an opinion of good in things which we might forego with indifference, or of evil in things which we might endure with patience.

It is an error to employ terms of admiration or contempt loosely,

ly, and without attention to their proper meaning.

We vulgarly say, that *a man* is the better or the worse, when we mean only that something has happened to his fortune.

Such phrases, we suppose, may be understood; but, like many others of the same kind, they slur over a very absurd apprehension, that confounds external circumstances with personal qualities, and what does not belong to a man with what does.

S E C T. III.

Of Opinions, or Circumstances, productive of Happiness, or that lead to Improvement.

IT is happy to value personal qualities above every other consideration.

It

It is happy to rely only on what is in our own power; to value the engagements of a worthy and strenuous mind as our sole good, and the debasements of a malicious and cowardly nature as our sole evil.

It is happy to have continually in view, that we are members of society, and of the community of mankind; that we are instruments in the hand of God for the good of his creatures; that if we are ill members of society, or unwilling instruments in the hand of God, we do our utmost to counteract our nature, to quit our station, and to undo ourselves.

I am in the station which God has assigned me, says Epictetus. With this reflection, a man may be happy in every station; without it, he cannot be happy in any. Is not the appointment of God suffi-

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cient

cient to outweigh every other consideration? This rendered the condition of a slave agreeable to Epictetus, and that of a monarch to Antoninus. This consideration renders any situation agreeable to a rational nature, which delights not in partial interests, but in universal good.

Whoever possesses good personal qualities, holds them in dependence only upon God: but the circumstances in which men are placed; the policy or government of their country; their education, knowledge, and habits, — have great influence in forming their characters.

C H A P. V.

Of the fundamental Law of Morality, and the Subjects to which it is applicable.

S E C T. I.

The Law, and its immediate Consequences.

THE greatest good competent to man's nature, is the love of mankind.

The consequences of this law are,

1. That the good of communities, or of mankind, is likewise that of the individual.

2. That in the works of God

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the whole is preserved by that which constitutes the good of the part, and that there is no happiness of the part consistent with what is hurtful to the whole.

3. That the greatest service which benevolent men can render to their fellow-creatures, is to promote disinterestedness and candour.

4. That things are to be estimated, independently of opinion, or temporary fashion, by their tendency to the good of mankind.

This law may be applied separately to the mind, and to external actions.

S E C T.

S E C T. II.

Application to the Mind.

Happiness and misery, good and evil, are qualities of mind.

In these qualities, the distinction of right and wrong subsists.

This distinction is to be found in the opposition of benevolence to malice, of wisdom to folly, of courage to fear, and of rational occupation to sensuality and dissipation.

The fundamental law of morality requires an affection determinate in its nature, but indefinite in respect to its object.

The affection is constituted by a disposition compassionate and benevolent.

Let no one complain, that this law presents an object beyond the conception of most men, and beyond the influence of any single man.

It requires nothing beyond these limits; but it requires, that a man should love where-ever he conceives a fellow-creature susceptible of happiness or misery, and that he should do good where-ever he has influence.

This affection being an active principle, requires, or inspires, all the qualities which are requisite to attain its end, or all the qualities which fit one man to procure the good of another.

Among these qualities, next to the affection itself, wisdom occupies the principal place.

Good intentions have no effect if not properly conducted.

Good

Good intentions, when misled, or abused, end in disgust, or a distaste to good actions.

This affection requires courage and fortitude; for weak and timorous minds are too much occupied about their own safety, to entertain any sincere or vigorous affection.

It requires temperance; for men addicted to sensuality or dissipation, are not capable of continued or serious attachments.

This affection, when sincere and ardent, naturally occupies the mind to the exclusion of inferior pleasures, of personal anxieties and fears; and is therefore a principle of temperance and fortitude.

The mind that possesses itself, and its best affections, undisturbed by external circumstances, must possess continual satisfaction,

tion, uninterrupted by any of the unhappy passions that afflict the malicious, the envious, the timorous, the jealous, the interested, the emulous, the vain-glorious, and the ambitious.

Such men are either by their tempers unhappy, or by their pursuits exposed to disappointments and mortifications, and engaged in jealousy and enmity to their fellow-creatures.

S E C T. III.

Application to external Actions in general.

EXternal actions, considered apart from affection or intention of mind, are mere movements of the body, constituting
neither

neither enjoyment nor suffering, good nor evil.

But affection or intention being good or evil, it follows, that the same law of morality which requires or forbids the affection, must likewise require or forbid the external conduct that is supposed to result from it.

The law which requires the love of mankind, supported by wisdom, courage, and temperance, likewise requires every external action that is suited to this affection, and to these qualifications.

The law that prohibits malice, remissness, cowardice, or intemperance, prohibits likewise every external effect of these characters.

S E C T.

S E C T. IV.

*Diversity of Opinions concerning the
Morality of external Actions.*

THE difference of moral good and evil cannot be ascertained in the description of mere external actions.

Actions materially the same, are in one case morally good, in another case morally evil. Men are not universally agreed concerning the actions which they require or prohibit in any case whatever. What is reckoned innocent or praise-worthy in one country, is reckoned a heinous offence in another. The definitions of theft, murder, or treason,

son, are different in the laws of different countries.

The terms expressing the external duties of men in one language, have not a precise equivalent in another,

S E C T. V.

Causes of this Diversity.

THis diversity does not arise from any difference of opinion, or experience, concerning the nature of good or ill affections and dispositions.

All mankind are agreed, that benevolence and courage are pleasant, that malice and cowardice are painful; and if it should be alledged, that any number of men are of contrary opinions, yet every

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ry individual may, from his own experience, correct the error.

This diversity proceeds from three different causes:

1. The difference of the case.
2. The different choice of the parties who are affected by the external actions.
3. The different interpretation of actions.

S E C T. VI.

Difference of the Case.

CAses change with the person, and with circumstances.

An action materially the same is permitted to one person, and forbidden to another: It is the duty of a magistrate to put the guilty to death; this would be criminal in a private party.

A

A person may kill in his own defence, but not in different circumstances.

Cases are varied indefinitely; and rules of action being general, cannot provide for all the peculiarities of any case whatever.

The only direction on which men can rely in every particular case, is the discernment of a wise and benevolent mind.

S E C T. VII.

Difference of Choice.

THE different choice of parties interested in the effect of any action, arises from opinion.

One person believes that to be good for himself, which another

Q person

person believes to be evil. In their requisition of beneficent actions, they differ accordingly: One man requires as a favour what another would resent as an injury.

There is no external effect of which men may not entertain contradictory opinions, even of life and of death.

The father among the Esquimaux requires, at a certain age, that his own children should put him to death.

The widow in Europe desires to have a good settlement made by her deceased husband: in India, she desires to be burnt on his funeral pile.

In every case, actions are required as the effects or expressions of kindness and regard.

S E C T.

S E C T. VIII.

Difference of Interpretation.

IN many instances, external actions are, in their own nature, indifferent, or of no effect; but are the established signs and expressions of neglect or attention, of good or of ill will, or of some affection or disposition.

Such are many religious rites in every country, and many ceremonies observed in common life. Even actions of more consequence, are frequently more regarded on account of their meaning, than on account of any other effect.

So far as actions are mere expressions, the choice of them, like that of words, is perfectly arbitrary; and nations may differ

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from each other in their external observances, as they do in their speech, without any inconvenience whatever. One nation commends what another condemns, merely because they interpret the same, or a like action, differently.

The diversities of manners arising from difference of choice or interpretation, render it difficult to judge of the merits or personal qualities of men, in ages or nations remote from each other.

The vulgar are able to interpret only the manners of their own condition and country; they commonly mistake those of a different rank, or of foreigners.

There is in fact nothing in external manners which opinion may not render agreeable or disagreeable; and the opinion of one country is not the rule or standard

standard by which to judge of the manners of another.

The definitions of crimes vary in the law of different countries; because different overt acts are specified as the marks of guilt.

Terms of praise or blame, have not their precise equivalent in different languages; because men combine variously, under different terms, the circumstances from which they infer merit or demerit.

This is consistent with a perfect agreement of opinion concerning any of those circumstances apart.

Q 3 S E C T.

S E C T. IX.

*Fundamental Laws of external Ac-
tion.*

1. **I**N matters indifferent, we ought to observe the manners of our country, as we speak its language, or wear its dress.

2. In matters of importance, we ought to chuse what is for the good of mankind, in opposition to opinion and custom.

Thus we ought to do whatever tends to promote goodness, to prevent corruption, and to secure the rights of mankind; and to avoid whatever tends to corrupt or to seduce, and whatever tends to make way for oppression.

When the habits or affections of men change for the better or
the

the worse, they improve or degenerate.

When their customs change from what is innocent, or beneficial to mankind, to what is pernicious, they are said not to undergo a change of manners merely, but to be depraved.

If they should be ignorant of the tendency of their own pernicious customs and manners, even this ignorance would be an article of depravity.

S E C T. X.

Of the different Sanctions under which external Actions are required or prohibited.

THE sanction of any law, is the good or ill annexed to the observance, or to the neglect, of it.

The

The sanction of the fundamental law of morality is, that the observance of it is happiness, and the neglect misery.

The sanction of this law in every application is, that to observe it is to act the part of a happy man; to neglect it, is to act the part of a wretched man.

These sanctions, when referred to external actions merely, come under two heads:

1. The sanction of compulsory law.
2. The sanction of duty.

The sanctions of compulsory law are, any forcible means employed by men to vindicate their own rights, or those of others.

The sanctions of duty are, any considerations that determine men, from choice, to act properly.

S E C T. XI.

Of parties to whom the Laws of Morality refer.

THE law of morality may be referred to the conduct of single parties, or to that of collective bodies.

The conduct of single parties is required, or prohibited, under the special functions of compulsory law, or under the functions of duty.

Conduct required or prohibited, under the function of compulsory law, is the subject of jurisprudence.

Conduct required or prohibited under the function of duty, is the subject of casuistry.

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Conduct prohibited or required of men in what affects the state and form of their community, is the subject of politics.

Communities stated in their relation to each other, are to be considered as single parties.

INSTI-

WILEY & SONS, PUBLISHERS
NEW YORK

INSTITUTES
OF
MORAL PHILOSOPHY.

PART V.
Of Jurisprudence.

CHAP. I.

*Of the Foundations of compulsory
Law.*

THE first application of the fundamental law of morality to the actions of men, is prohibitory, and forbids the commission of wrongs.

This

This prohibition, so far as every person may defend himself, and any of his fellow-creatures, even by force, is the first compulsory law of nature.

Any article in the state of a man which may be maintained by force or otherwise, is termed *his right*.

Jurisprudence consists of two parts.

The first relates to the rights; the second, to the defences of men.

C H A P.

C H A P. II.

Of the Rights of Men in general.

THE regard to rights is comprehended in the law of self-preservation, combined with the law of society; or, in other words, it arises from our disposition to preserve ourselves, and our fellow-creatures.

Whatever constitutes the person, or the state, of a man, either original, or acquired, without wrong to others, is his right.

Wrong is opposed to right. The sentiment arising from a sense of wrong in our own case is resentment; in that of others, is indignation.

No one can have a right to what is not possible, or not real.

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The right of one man is exclusive of the right of another.

C H A P. III.

The Law of Defence in general.

A Right may be maintained by any means that are effectual and necessary.

This law of defence includes three clauses:

1. That a wrong apprehended may be prevented.
2. That a wrong offered may be repelled.
3. That a damage done should be repaired.

C H A P.

C H A P. IV.

Difference of Rights.

S E C T. I.

General Division.

Rights may be considered in respect to their subject, or in respect to their source.

In the first respect, they are said to be personal, or real.

In the second, they are said to be original, or adventitious.

S E C T. II.

Of Rights Personal.

Personal rights subsist in the person, and are the constituents of its nature.

Persons are said to be natural or artificial.

Persons natural are single men.

Persons artificial are corporations or states.

The rights of natural persons subsist in the limbs and members of the body, in the faculties and talents of the mind, and the uses of both.

The rights of artificial persons subsist in their constituent members, their forms, and their laws.

S E C T.

S E C T. III.

Of Rights Real.

R eal rights subsist in things of which any person may have the exclusive use.

Real rights may be referred to three principal heads:

Possession, Property, and Command.

Possession constitutes right only while a thing is in actual use.

Property constitutes a continual right.

No one can have a right of possession to the property of another.

Command is a right to the services or obedience of other men.

S E C T. IV.

Of Original Rights.

ORiginal rights are the universal appurtenances of man's nature, and coeval with his being.

The personal rights of men are original.

The right of the parent to command the infant child is original; but in every other instance, no man has an original right to force the obedience of another, except in obliging him to abstain or desist from wrongs.

S E C T.

S E C T. V.

Of Adventitious Rights.

ADventitious rights are such as accrue variously to men in the course of human life.

Original rights are recognised on being mentioned.

Adventitious rights are matter of discussion, and recognised only so far as they are proved.

In treating of adventitious rights, we must not only enumerate their subjects, but likewise the means by which they may be acquired.

Possession, property, and command, are adventitious rights.

The adventitious distinctions in society are founded, for the most part, on property and command.

C H A P.

C H A P. V.

Of the Laws of Acquisition in general.

NO right can be acquired by injustice; or, in other words, by any deed pernicious to mankind.

The means of acquiring any right may be referred to four principal heads:

Occupancy, Labour, Convention, and Forfeiture.

C H A P.

C H A P. VI.

Law of Occupancy.

Occupancy is such a relation of a person to a thing, that no other can use the same thing, without detriment or molestation to the occupier.

In this manner, a person may occupy the ground on which he lies, &c.; but no one can occupy the light of the sun, the air of the atmosphere, or the waters of the sea, &c.

C H A P.

C H A P. VII.

The Law of Acquisition by Labour.

L Abour is any effort by which a person may, for his own use, fabricate, procure, or improve, any unappropriated subject.

The right acquired to the fruits of labour, is implied in the original right all men have to the use of their talents or faculties.

Prior to convention, men do not acquire rights by the observance of any form or ceremony that is of no effect; for the right acquired is only to the use of what is produced.

Mere accession, or what is not the effect of any care and labour, if there
be

be no convention to the contrary, falls to the first occupier.

The increase of a man's flocks or herds, being the fruits of his care, is his property; but the accession of new lands, or islands, contiguous to his, falls to the first occupier.

A man, by labouring on another's property, cannot annul the others right; on the contrary, the fruit of his labour, if it cannot be removed without damage to the principal subject, falls to the proprietor of that subject.

But a person who happens *bona fide* to employ his labour on the subject of another, may remove or enjoy the fruit of his labour, if this can be done without detriment or inconveniency to the other.

Civil conventions accommodate
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the effects of accession or of labour to the conveniency of parties, and to the policy of particular states.

C H A P. VIII.

The Law of Acquisition by Contract.

S E C T. I.

The Obligations of Contract.

A Person is intitled to exact what another has stipulated to perform.

Men by nature rely on the promises of others.

The object of a promise or engagement becomes part of a man's state; he is intitled to exact the performance of it by force.

Here the compulsory law, which in its original form is prohibitory,
or

or negative, becomes positive, requiring, that every just engagement should be fulfilled.

S E C T. II.

Laws of Contract in general.

1. **T**HE source of conventional obligation, is the right of one party to exact a performance upon which another has made him rely.

2. Contracts, therefore, create right only to what depends on the will of contracting parties.

3. To constitute a contract, mutual promises, or a promise and acceptance, are necessary between parties, acting freely, and possessed of the use of their reason.

Although one party has promised, if the other has not accepted,

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the last cannot pretend to have an expectation raised.

But mutual promise implies acceptance.

Men who are known not to act voluntarily, or rationally, cannot raise any reasonable expectation.

4. A party may stipulate in person, or by his agent, or messenger, in words, actions, or signs, that are understood.

5. A person is bound by the stipulations of a servant, or messenger, to whom he has given credentials, or whom he has authorized by repeated acknowledgements of his trust.

6. Words are to be interpreted in their most ordinary sense, or in the sense in which it appears from other signs that they were intended to be used.

7. An action of any kind, performed

formed with a view to raise expectation, or by which it is known that expectations are naturally raised, is sufficient to constitute a contract.

8. Custom is a reasonable ground of expectation; and therefore is binding on all parties.

Great part of the civil conventions of men are constituted by the received customs of their society.

A practice introduced by force, may become a legal custom: for being such as men are reconcileable to, after they are reconciled, and continue to observe it voluntarily, it becomes a matter of convention.

But practices, or sufferings, to which men are not reconcileable, and with which they are made to comply by force, can never be considered as matter of convention, but usurpation.

S E C T. III.

Contracts of different Denominations.

Contracts may be distinguished as absolute, or conditional; and as single, or reciprocal.

Absolute contracts are constituted by a simple promise and acceptance.

Conditional contracts express promise and acceptance under a condition.

Single contracts consist in the promise of one party, and acceptance of the other.

Here one party is stipulating, the other accepting.

Reciprocal contracts consist of mutual promises, and mutual acceptance.

Here

Here each party is both stipulating and accepting.

S E C T. IV.

Of the Exceptions to Contracts in general.

ANY promise given is rendered void, by the exceptions of force, fraud, injustice, or impossibility.

FIRST EXCEPTION.

Force is constituted by actual violence or menaces employed by the accepting party.

This exception is valid,

1. Because a person extorting a promise by force, cannot have a reasonable expectation of its performance's being intended.

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2. Because the party offering force commits an injury; and instead of acquiring a right, may be prevented, repelled, or obliged to make reparation.

N. B. This exception does not extend to the case of contracts entered into with one party, on account of the violence offered by another.

Nor is this exception admitted by the practice of nations in the case of any surrender at war, or military capitulation.

SECOND EXCEPTION.

Fraud is constituted by the deceit which a party employs to obtain a promise in his own favour.

This exception is valid,

1. Because a party who is known to be deceived concerning what he promises, cannot raise an expectation

expectation that he will perform when undeceived.

2. Because deceit, or imposition, is an injury, and gives a title to reparation.

N. B. This exception does not invalidate the promise made to an innocent party in consequence of the misinformation of another.

Nor does it invalidate any military capitulation, though obtained by stratagem.

THIRD EXCEPTION.

Injustice consists in the wrong which a third party would suffer from the performance of a contract.

There are four different cases in which this exception may be offered:

Case 1. When neither of the contracting

contracting parties, at the time of stipulating, was aware of the wrong.

In this case the contract is simply void.

Case 2. When only the party accepting was aware of the wrong.

In this case, the contract is void; and the party accepting has committed an injury against the party stipulating, as well as against the third party, who, if the contract had taken effect, was likely to have suffered.

Case 3. When only the party stipulating was aware of the wrong.

If he stipulated with intention to perform, he is injurious to the third party concerned.

If he stipulated with intention to plead the exception, he is injurious to the party accepting.

Case

Case 4. When both parties were aware of the injustice.

Both are injurious to the third party concerned.

FOURTH EXCEPTION.

Impossibility extends to every case that cannot, in the nature of things, take place; to every article that exceeds the power, or that does not depend on the will, of the parties.

This exception, like the former, may be offered in four cases.

Case 1. When neither contracting party was aware of the impossibility; —

The contract is simply void.

Case 2. When only the party accepting was aware of the impossibility.

This conduct is either irrational, or may be injurious to the stipulating

pulating party, by drawing him into snares and fruitless attempts.

Case 3. When only the party stipulating was aware of the impossibility.

It is injurious to the accepting party, by creating vain expectations.

The 4th case, Supposing both parties aware of the impossibility, is altogether irrational and absurd.

S E C T. V.

Exceptions peculiar to Conditional and Reciprocal Contracts.

ALL conditional contracts are void, if the condition has failed, or is found to be unjust or impossible.

The

The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpose, as they do in games of skill and dexterity.

Or they may not be allowed to interpose, as in games of chance.

If the condition depend on the will of the stipulating party, he becomes bound to perform one action, only in consequence of having performed another.

If it depend on the will of the accepting party, he acquires a right, only in case of having performed his condition.

In mutual contracts, a party failing on his part, has no title to exact performance on the other part.

C H A P. IX.

Of the Law of Acquisition by Forfeiture.

WHoever has done an injury, is bound to repair it. In this manner, the injurious person may have forfeited to another what was formerly his own right.

No man can forfeit by actions casual and involuntary. Such actions, when prejudicial to others, are misfortunes, not injuries.

C H A P.

C H A P. X.

Of the Law of Acquisition, as applicable to particular Rights.

S E C T. I.

Of Possession.

THis is acquired by occupancy alone.

S E C T. II.

Of Property.

THis is acquired, to any subject formerly unappropriated, by labour alone.

The effect of prescription in ci-

T

vil

vil society, results from convention, not from occupancy.

Property may be transferred by convention or forfeiture.

A convention transferring property, is a conveyance.

A conveyance consists of consent and delivery.

A party who has obtained consent without delivery, may defend, or occupy, the subject, in right of the former proprietor, not in his own.

Hence it is argued, that the mere consent of a party deceased, without delivery, cannot convey property; because the party deceased having no right, the subject falls to the first occupier.

The force of last wills is an effect of convention among the living, not of right surviving the dead.

S E C T.

S E C T. HI.

Of the Right to Command, or Service.

THE right to command is acquired by contract or forfeiture.

The contract between the master and hired servant is a reciprocal contract.

The terms are such as they mutually stipulate, or such as known customs establish.

The civil contract or convention between the magistrate and subject, or sovereign and people, is likewise reciprocal.

The terms are such as the parties stipulate in express charters and statutes, or such as may be ascertained from known customs.

The social compact, from which, according to some writers, the mutual duties of men in society are to be deduced, is a mere fiction in theory, resembling the fiction in law, by which a plea which arises from one source, is sustained as coming from another.

Thus mutual pleas of guardian and ward, which arose from equity, were sustained in the Roman law as arising from contract.

There never was in reality any contract prior to the establishment of society. Customs, charters, and statutes, which constitute or express the civil conventions of men, are all posterior to the establishment of society.

Fictions of law may be convenient in arranging civil actions, but are of no use in explaining the laws of nature; for by the
law

law of nature, every right, and every obligation, is admitted only where it is real, and can receive no confirmation from any fiction whatever.

The original rights of men, founded in humanity, and in the title of every person to defend himself, are so far from gaining force, by being referred to a supposed convention, that they are actually weakened.

Men are equally sensible of their obligation to abstain from wrong of any kind, as from breach of faith. The last is actually comprehended in the first, or is founded upon it.

A right to command is sometimes acquired by forfeiture, when a person who has done a wrong, becomes bound to repair it by his services.

No contract or forfeiture can
 T 3 deprive

deprive a man of all his rights, or render him the property of another.

No one is born a slave ; because every one is born with all his original rights.

No one can become a slave ; because no one, from being a person, can, in the language of the Roman law, become a thing, or subject of property.

The supposed property of the master in the slave, therefore, is matter of usurpation, not of right.

C H A P.

C H A P. XI.

Of the Law of Defence.

S E C T. I.

Of the Means of Defence in general.

BY the law of defence, a person may maintain his right against any other person who wrongs, or is likely to wrong, him, by any means that are necessary for that purpose.

The means of defence may be referred to three principal heads:

 Persuasion, Artifice, and Force.

The law of defence does not authorise the use of any means that are unnecessarily hurtful to the party against whom they are employed.

A

A man is intitled only to preserve his own right: whatever harm he does beyond what is necessary for this purpose, is an injury.

The law of defence may be applied to persons in three different cases :

1. That of parties supposed strangers, and unconnected.
2. That of fellow-citizens.
3. That of nations.

S E C T. II.

The Case of Parties Strangers to each other, and unconnected.

THis case is commonly treated of under the title of the state of nature; and in this state every man is supposed unconnected with all men.

It

It is absurd to intitle that the state of nature to which men are not naturally disposed, and in which they most certainly never were known.

Writers have not recollected, that it was sufficient for the purpose of their reasonings, to suppose any two or more parties unconnected with each other, tho' not unconnected with all mankind.

Such parties are possessed of their original rights; but having no convention, can have none of those rights, and none of those obligations, which arise from convention alone.

If either party shall commit an injury against the other, the injured is intitled to his defence.

The injured may act and judge for himself; and where persuasion and artifice have failed, or are not likely to succeed, may employ force.

S E C T.

S E C T. III.

The Case of Fellow-Citizens.

Fellow-citizens are connected by civil and political conventions; on which are founded a variety of adventitious obligations and rights.

The obligations of fellow-citizens are either those of fellow-subjects, or of magistrate and subject.

Fellow-subjects have stipulated, to refer their differences to the judgement of courts, and to employ, in their defence, the power of the magistrate.

This law admits of the following exceptions :

1. Where the judgement of courts cannot be had, nor the
power

power of the magistrate interposed, to prevent an injury.

2. Where the relief by civil suit, cannot be adequate to the injury apprehended.

Judges have stipulated to decide according to law and justice.

Magistrates have stipulated to defend the rights of the subject.

The magistrate, as acting in defence of the state, and of its subjects, is intitled to repress crimes by restraints and punishments.

He is directed, in the application of restraints and punishments, by the law of nature, and of convention.

The law of nature, where there is no convention to the contrary, limits the power of the magistrate to what is necessary to defend the innocent. All restraints or severities

ties employed beyond these limits, are unlawful.

The laws of convention are various in different states; in some nations permitting arbitrary imprisonment, unlimited severities and tortures, for every crime, at the discretion of the magistrate.

Powers of this sort are frequently usurpations on the part of the magistrate, not his rights.

Punishments applied according to some fixed rule of law, give stability to the principles of justice; but appearing to proceed from personal resentment or indignation, produce terror, and destroy the security of the innocent, together with that of the guilty.

S E C T.

rors, by pointing out the real tendencies of virtue and of vice in external actions.

C H A P. V.

Of the Tendency of Virtue in external Actions *.

S E C T. I.

Of the different Branches of Virtue.

IT has been observed, that a fool can neither come into company, nor go out of it, can neither sit, stand, nor walk, like a man of sense †. It may be said likewise, that a knave can do nothing like a man of probity.

* Cicero de officiis, lib. 1.

† Maxims of La Bruyere,

The law of external action is so essential to morality, that men very frequently confine the whole of morality to this law.

But virtue is in reality a qualification of the mind; although the term equivalent to *virtue*, in every language, implies all the required effects and appearances of this qualification.

Its constituents are, Disposition, Skill, Application, and Force.

Corresponding to the number of these constituents, virtue has been divided into four capital branches, called the *Cardinal Virtues*.

These are, *Justice* or *Probity*, *Prudence*, *Temperance*, and *Fortitude* *.

Justice or probity is the regard shown to the rights and happiness of mankind.

* This division is so natural, that it has always presented itself when we have treated of the felicity or excellence competent to man's nature.

Those

Those effects of justice which mere innocence implies, are required under the sanction of compulsory law.

Those that constitute beneficence, are required under the sanctions of duty only.

Prudence is that discernment by which men distinguish the value of ends, and the fitness of means to obtain them.

Without this qualification, men are not fitted to act with any measure of steadiness, consistency, or good effect.

Temperance is abstinence from inferior pleasures, or amusements, that mislead our pursuits.

No one can apply himself effectually to any worthy purpose, who is liable to the interruption of mean pleasures or amusements, that occupy an improper part of

his time, that stifle his affections, or impair his talents.

The maxim of temperance is, That a person having once ascertained what his best and happiest engagements are, should count every moment lost, that, without necessity, is otherwise employed.

Fortitude is the power to withstand opposition, difficulty, and danger.

All the good qualifications of men have a reference to some effect to be produced, and to some difficulty that is to be overcome. Hence dispositions and capacities of any sort are of no avail, without resolution, and force of mind.

S E C T.

S E C T. II.

Of Duties referred to Probity or Justice.

Duties referred to probity, are either private or public.

The private duties are, *Innocence, Candour, Piety, Friendship, Gratitude, Liberality, Charity, Civility, and Politeness.*

Innocence has been observed to be the object of compulsory law, and is the most indispensable characteristic of probity.

It implies, beside other effects, *Veracity* and *Faithfulness*: the first opposed to deceit; the second, to perfidy.

Candour is the just allowance given to the pretensions or merits of other men, in opposition to pre-

judice, or to the suggestions of interest.

Piety is the exercise of veneration and love; first, towards God; next, towards those who by nature or choice are proper objects of our respect and affection.

The expressions of piety to God are either fixed or arbitrary.

Its fixed expressions are acts of beneficence, which concur with the providence of God in promoting the good of his creatures.

Its arbitrary expressions are the different rites established in different countries.

Friendship is the beneficence of private parties, proceeding from motives of particular esteem and attachment.

This includes the reciprocal duties of parent and child, of husband and wife, and of all other private relations.

The

The duties of the parent are, to maintain, to protect, to educate, his child; and, as far as he is able, to establish and to secure his state or condition.

The duties of the child are, to carry every mark of piety, deference, and obedience, and to make every necessary return of care and of support.

Many of the duties of husband and wife are conventional; and, as such, are matter of strict law; but no law can supersede the inclinations of the heart.

Consanguinity is a natural tie. The fortunes of men are commonly involved in those of their family; and relations are, on account of this connection, among the first or nearest objects of beneficence.

Gratitude is the return made for favours received.

Men of probity are neither ungrateful,

grateful, nor jealous of ingratitude in others.

To require a base action under the title of gratitude, is to forfeit the title of benefactor.

The returns due from the grateful, cannot be ascertained by any precise measure, nor can they be exacted by force.

The intention of the benefactor is more to be regarded, than the value of his benefit.

Were it established, that returns could be exacted by force, it would follow, that benefits could not be distinguished from fees, nor the effects of gratitude from those of constraint.

The ingratitude of mankind is sometimes alledged as an excuse for neglecting good offices; but it is the business of a man to perform his own part, not to answer
for

for the returns which others may, or may not, be disposed to make.

Liberality is the free communication of what is ours, to oblige others.

Charity is the free communication of what is ours, to relieve the distressed.

Undistinguishing charity is pernicious in trading nations.

It is a wise maxim in trading nations, That no person able to earn his bread should be maintained gratuitously.

But charity to those who have no bread, and are unable to earn any, is a duty of the strongest obligation, and a very important object of public concern.

Civility is a guarded behaviour in the ordinary intercourse of society, to avoid giving offence.

Politeness is a behaviour intended to please, or to oblige.

Civility

Civility and politeness are comprehended in the general character of good breeding.

To be well bred, a man must possess discernment, candour, and good will, at least a sincere aversion to offend. The effects of affectation or design are easily distinguished.

Ill-bred men sometimes affect great politeness, but they shock and mortify those they pretend to oblige.

Flattery, excessive or insincere professions, are vicious.

The sentiments of the heart sometimes evaporate in words; and great professions are, even without any intention to deceive, put in place of benefits.

The public duties of probity are, *allegiance* on the part of the subject, *protection* on the part of the
the

the magistrate, and *public spirit* in all parties.

The *allegiance* of the subject, is the fidelity, deference, and submission, he owes to the magistrate.

The *protection* due from the magistrate, is the interposition of power to preserve the peace, and to secure the subject in the possession of all his rights.

The *public spirit* due from every member of any community is,

1. A faithful discharge of any office intrusted for the public good.

2. A continual preference of public safety, and public good, to separate interests, or partial considerations.

S E C T. III.

Duties referred to Prudence.

IT is the object of prudence, to direct a man in what he is to wish for himself, for his friend, for his country, and for mankind.

In this sense, prudence is the guide or directory in every duty; but in its more limited acceptation, it refers more particularly to the duties which affect a man's state or condition.

These duties may be referred to the following heads: *Decency, Propriety, Modesty, OEconomy, Decision, and Caution.*

Decency is the agreeableness of a person's appearance and carriage to the sense and opinion of other men.

The

S E C T. IV.

Case of Nations.

AMong nations, the act of the sovereign, or of those employed by the sovereign, is considered as the act of the nation.

The act of any private person is not the act of the state, except so far as, in his action, he is protected or acknowledged by the state.

A nation may receive an injury in the person of any of its members.

A nation injured, may make reprisals on the persons and effects of any, or all, the subjects of the offending nation.

Nations who maintain controverted rights by artifice, or by
U force,

force, are said to be in a state of war.

War is just only on the supposition of injuries apprehended, offered, or perpetrated.

Remonstrances and declarations, where-ever they can be safely employed, should precede hostilities.

The immediate object of war is victory.

The laws of war previous to victory are,

1. Such hostilities only are lawful, as are necessary to obtain the victory.

2. Where-ever it is safe to grant an enemy quarter, it is not lawful to refuse it.

3. Breach of faith is exploded in the practice of nations at war, and would be ruinous to mankind.

4. Any party may assist the injured;

jured; but whoever assists the injurious, may be treated as an enemy.

5. The person or effects of an enemy, where-ever found, may be seized, if this can be done without detriment to any innocent party.

6. The effects of a friend going to an enemy, if they would enable him better to carry on the war, may be seized.

7. Captives may be detained while the war continues, and until satisfaction and security be obtained.

Laws of war after victory :

1. The conqueror acquires no new right.

2. If he had been wronged, he is intitled to reparation, and to indemnification, for all his sufferings in the war.

U 2

3. He

3. He may take such precautions, by disabling his enemy, as give him a proper degree of security for the future.

4. Nations do not acquire a property in the persons of their captives, as they do in effects lawfully seized.

S E C T. V.

Conclusion of Jurisprudence.

BY the maxims of compulsory law, a person may, on every occasion, maintain his right: but from considerations of duty, he is, on many occasions, obliged to forego it.

A person is more concerned to maintain and to exercise the affections of a beneficent mind, than he is to preserve his condition in any other respect.

The

The conventional laws of society, in some instances, as well as the law of humanity, admit, that the extreme necessity of one party may supersede the right of another.

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INSTITUTES
OF
MORAL PHILOSOPHY.

PART VI.

Of Casuistry.

CHAP. I.

Of the Sanctions of Duty in general.

ALAW of duty is an expression of what a person ought to do from choice; and in doing which, he is said to have merit; or in doing the contrary, to have demerit.

The first application of the fundamental law of morality is prohibitory,

hibitory, forbidding the commission of wrongs.

The second is positive, requiring every external effect of virtue, or of good-will to mankind.

But acts of good-will or beneficence cannot be extorted by force.

The object of compulsory law, is the preservation of parties exposed to wrongs; who, in defending themselves, may, even by force, oblige others to desist from injuries.

The object of morality, in what relates to the duties of men, is the virtue of those who act.

Compulsion would alienate the affections of men.

Favours extorted by force would be robberies.

Whoever employs deception or force, except in his own defence, or in that of his fellow-creatures, commits an injury.

The

The functions of duty, are those of religion, of public repute, and of conscience.

C H A P. II.

Of the Sanction of Religion.

Religion is the sentiment of the mind relating to God.

The function of religion is its tendency to influence mens conduct.

This tendency is of two kinds.

The first is, to make men love wisdom and beneficence, as being the characteristics of the supreme being, whom they adore; and to make them love their situations, and their duties, as being appointed by providence.

The second is, to make them
hope

hope for rewards, and to fear punishments.

The religious doctrine of rewards and punishments, is a species of compulsory law, extending to all the thoughts and inclinations, as well as the actions, of men.

This law, in all its extent, can be safely applied by every person only to himself.

When magistrates think themselves armed with the sanction of religion, and intitled to restrain thoughts as well as actions, they attempt what is placed beyond the reach of their power.

Superstition, or the abuse of religion, has been accompanied with very fatal effects :

With a misapplication of moral esteem, and the substitution of frivolous rites for moral duties ; with cruel animosities of party, and a
false

false apprehension of sanctity in any acts of injustice and horror that proceed from a supposed religious zeal.

C H A P. III.

The Sanctions of Public Repute.

THese sanctions include the influence of prevailing opinions and examples, together with the commendations and censures men bestow on the actions that please or offend them.

The influence of prevailing opinions and examples, arises from the social nature of man; and is one condition by which men are fitted to act in companies and societies.

The tendency of this influence is good or evil, according to the nature of the opinions or examples that prevail.

Nothing

Nothing distinguishes men of a happy nature more, than that force with which they are sometimes able to correct false opinions, and with which they are always able to resist their contagion.

It is part in the social nature of man, to desire praise, and to shun blame.

This puts it in the power of every person to reward actions agreeable, and to punish actions disagreeable, to himself: but as commendation and censure are frequently ill distributed, it is a great weakness to be guided chiefly by such considerations.

C H A P.

C H A P. IV.

Of the Sanction of Conscience.

THis sanction is constituted by the satisfaction men have in doing right, and the shame or remorse which arises from having done wrong.

Men being desirous of personal excellencies, and averse to personal defects, have satisfaction in actions that tend to the purposes of virtue.

They feel remorse or shame for actions that tend to the purposes of vice.

The sentiments of conscience are frequently blended with those of superstition or custom, and, like them, are subject to error.

It is the object of casuistry to prevent, or to correct, such errors,

The rules of decency are prohibitory, and forbid whatever would offend, in nudity, filth, or obscenity.

Propriety is the suitability of a person's behaviour to his nature, his age, his station, and rank.

There is in all the external effects of virtue, as being suitable to man's nature, a propriety that may be considered apart from their other recommendations.

Diffidence, and a cautious approach to the manners and pretensions of manhood, are proper to youth.

Resolution is proper to manhood.

Calmness and *Deliberation* to age.

Dignity and *Reserve*, without contemptuousness or petulance, are proper to men of high station.

Deference, without servility, is proper to men of inferior rank.

Y

Modesty

Modesty is a proper reserve on every subject of self-estimation.

It forbids ostentation of what we possess, of what we have done, or of what we have suffered.

OEconomy is the proper adjustment of a person's expence to his fortune.

Where fortune constitutes rank and power, œconomy is required to preserve independence and freedom.

Sensuality and gaming are adverse to good œconomy.

Decision is a seasonable and resolute choice of what a person ought to do.

In some cases, hesitation is equal to a total purpose of inaction. Every opportunity is lost, and every measure comes too late.

Caution consists in a proper attention to all the difficulties that
may

may occur in what a person undertakes.

The great objects of caution are, not to engage in what is above our strength, nor to commit ourselves to persons that mislead or deceive.

S E C T. IV.

Duties referred to Temperance.

Duties referred to temperance may be comprehended under the heads of *Sobriety* and *Application*.

Sobriety is the moderate use of food, and of other animal gratifications.

The general tendency of sensuality, is to beget habits of sloth, and neglect of affairs.

The immoderate use of intoxicating drugs, or liquors, have these effects in a high degree. It reconciles men, otherwise of an active disposition, to inoccupation and idleness.

The debauch of the sexes being sometimes joined with passion, may occasion a continued or habitual neglect of affairs.

Application is the preference of business to amusement.

Business is supposed to terminate in some serious purpose; amusement in mere pastime.

Dissipation is a weakness of the mind, disabling it from chusing or prosecuting the occupations that would engage it most effectually, and with most advantage.

S E C T. V.

Duties referred to Fortitude.

THE duties referred to fortitude are, *Patience*, *Intrepidity*, and *Constancy*.

Patience is the calm and deliberate suffering of any trouble or pain that occurs in human life.

Peevishness, the reverse of patience, tends to realize imaginary evils, and to increase what is real.

Intrepidity is firmness, and presence of mind, in the midst of dangers.

Intrepidity is frequently the greatest security in danger.

Constancy is perseverance in all pursuits or engagements properly chosen.

The wavering are feldom capable of executing any purpofe.

S E C T. VI.

Ufes of Cafuiftry.

THE rules of cafuiftry cannot fupersede the judgement and good difpofition of a virtuous mind.

Attempts to give cafuiftry this confequence, have proceeded from fuperftition, and tended to confirm the moft flavifh fuperftition, by multiplying external obfervances, that miflead the attention, from qualities of the heart, to matters of form.

Good difpofition is neceffary to the happinefs of mankind; and dutiful conduct naturally results from good difpofition.

It

It is however of moment to anticipate, in general rules, the external effects of virtue.

These rules render the description of virtue itself more particular, and more complete. Being supported by the sanctions of religion, and of public repute, the rules of duty may procure to society the benefit of useful actions, even where they do not procure to the person acting the happiness of a virtuous heart.

S E C T. VII.

Of Merit and Demerit.

Actions are said to have merit or demerit, according to the nature and degree of the moral quality they express.

Actions that express good-will
to

to mankind in the highest degree, have the highest merit.

Hence beneficent actions performed in the face of dangers, difficulties, and personal sufferings, are allowed to have the highest merit.

Actions that express malice, and give examples of mischiefs done without inducement or provocation, are of the highest demerit.

We express our sense of demerit in the different degrees of crimes, offences, and faults.

A crime is an injury done from malice, jealousy, revenge, avarice, or some other passion that sets mankind at variance.

An offence is a wrong done in the gratification of some passion in its own nature consistent with amity.

A fault is a wrong done from inattention or ignorance.

Faults

Faults of inattention are culpable in proportion to the moment and importance of the subject.

Faults of ignorance are more or less culpable, as the defect of knowledge argues neglect and inattention.

It is a general maxim, That ignorance of the fact may be admitted as a plea of innocence; but not ignorance of the law.

Ignorance of natural law, or of duty, would be one of the greatest defects of a rational nature.

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PART VII.

Of Politics.

CHAP. I.

Introduction.

IT appears from the history of mankind, that men have always acted in troops and companies; that they have apprehended a good of the community, as well as of the individual;

dividual; that while they practise arts, each for his own preservation, they institute political forms, and unite their forces, for common safety.

It may be proved, that most of the opinions, habits, and pursuits, of men, result from the state of their society; that men are happy in proportion as they love mankind; that their rights and their duties are relative to each other; and, therefore, that their most important concerns are to be found in their mutual relations, and in the state of their communities.

A nation is any independent company or society of men acting under a common direction.

The united force of numbers, and the direction under which they act, is termed *the state*.

Nations

Nations are happy who are composed of happy men.

Nations are wretched who are composed of unhappy men.

Nations may be considered in respect to their resources, or in respect to their institutions.

National resources are the objects of public œconomy.

National institutions are the objects of political law.

C H A P. II.

Of Public OEconomy.

S E C T. I.

Of National Resources in general.

National resources include every article that tends to constitute the strength of a nation,
or

or that may be employed for its preservation.

They may be referred to three principal heads; People, Wealth, and Revenue.

S E C T. II.

Of Populoufness.

THE value of numbers is proportioned to their union and character.

Numbers without union or virtue, do not constitute strength.

A people fometimes, in confequence of their numbers, become difunited and corrupted.

If they inhabit a large and extenfive territory, they are difunited, and lofe fight of their community. A few ingrofs the management of public affairs, and

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with-hold from the many every subject of public zeal, or political occupation. The greater part are thrown into a state of languor and obscurity, and suffer themselves to be governed at discretion.

Human nature; in states of a moderate extent, has prospered and excelled; but in states overgrown, has generally declined and degenerated.

If great numbers are crowded into narrow districts, or cities, they are exposed to corruption; become profligate, licentious, seditious, and incapable of public affections.

The union of a people depends on the arrangements or dispositions by which their forces may be combined for the service of the state.

The

The union of the people in republics, arises more from their affection to the community, than from the power established to enforce their services.

In monarchies, it arises from the love of personal dignities, to which individuals aspire in serving the state.

In despotism, it arises entirely from the power that is prepared to enforce the services of the people.

The character of a people, considered as a national resource, is to be estimated from their fitness to reap, and to preserve, or improve, the advantages of their constitution, and to support their country in pursuit of its objects.

Different characters are required under different forms of government.

Under republics of every sort, high degrees of probity are required; under monarchy, less; and under despotism, least of all.

The principal objects in every state, next to the political constitution, are war or commerce.

In warlike nations, men are to be estimated by their hardiness, courage, and discipline.

In commercial nations, men are to be estimated by their industry, and by their skill in profitable arts.

Commercial nations may value accessions of art, as the surest means of gaining accessions of people; for in circumstances otherwise favourable, population keeps pace with the arts, and means of subsistence.

Institutions that, by securing property, and by preventing oppression, encourage the settlement
of

of families, and facilitate the rearing of children, are the most favourable to population.

S E C T. III.

Of Riches or Wealth.

MEN are supposed rich in possessing the means of subsistence, accommodation, and ornament.

Wealth is a national resource, because it may be employed in maintaining useful or serviceable men, and in supplying the exigencies of state.

The constituents of wealth may be considered in respect to their value, and in respect to their price.

As the use of wealth is to maintain and accommodate men, ar-

articles or commodities are valuable in proportion to the numbers they maintain and accommodate.

The means of subsistence are most valuable, because without them men cannot exist.

The means of accommodation which contribute to the preservation of men, and to the increase of their vigour and health, are next in value to the necessaries of life.

But articles of mere ornament are of no value at all.

The luxury of a people is to be estimated from their consumption of mere ornaments.

Articles of ornament are frequently of the greatest price.

The price of a commodity is measured by the quantity of any other commodity that is commonly, or occasionally, given in exchange for it.

Price

Price is most commonly expressed, and paid, in money.

Hence money is considered as the equivalent of all commodities, and the constituent of wealth.

But commodities are no less the equivalents of money, and constitute wealth apart from this consideration.

The price of commodities fluctuate; and keep pace with the quantity of money in circulation, with the scarcity of the commodity, with the demand, and with the riches of those who consume it.

Commodities that are the work of labour, time, and skill, cannot continue to be sold for less than will maintain the workman, and pay the whole of his advance.

As the value of commodities is measured by the numbers they will

will maintain, so the cost of a commodity may be estimated by the numbers and time employed in producing it.

The wealth of any country is proportioned to its natural advantages, to the industry and skill of its inhabitants, and to the profit of its trade.

Natural advantages are, good climate, fertile soil, and useful materials.

Industry and skill comprehend all useful arts, agriculture, and manufacture, in all their branches.

The balance of trade commonly stands for the difference supposed to remain due by one nation to another, after appretiating the whole goods that have passed in exchange between them.

The balance of value is the difference of real value in the whole goods

goods that have passed in exchange.

The profits of commerce are determined by the balance of value, not by the balance of price.

The nation that has the balance of price against it, may have the balance of value in its favour. It may have received the means of improving its land, and of extending its trade, &c.

The nation that owes the balance of price, will be obliged to part with its money, or some other commodity, in order to pay that balance.

When money can be spared from circulation, it is sent abroad for this purpose; when it cannot, some other commodity is disposed of for the same purpose.

A people amongst whom both public and private credit are well established, can, by substituting
bills,

bills, in a great measure dispense with money in circulation.

The use of bills in circulation tends to extend credit.

Credit is useful or pernicious, according to the use that is made of it.

It is useful to an industrious and thriving people.

It is pernicious to the spendthrift and the prodigal.

The expence of remitting money from one country to another, affects the exchange of their coins.

That nation which has occasion to remit most money, must pay this expence, and is said to have the exchange against it.

But as money may be remitted to make profit, it does not follow from the state of exchange, that a nation is either gainer or loser by trade.

The

The profits of trade are either mutual or partial.

They are mutual so far as commerce accommodates all parties with what they want, in exchange for what they can spare; and enables each to improve his peculiar materials, and to pursue his peculiar art; and procures to the merchant and carrier an adequate reward for their trouble.

In commerce mutually beneficial, that party gains most who receives the more useful commodity; and who receives the produce of much land, time, and labour, for the produce of less; and who, in conducting his trade, is employed in the more healthful and least corrupting occupations.

The following are laws of commerce founded in these considerations.

1. That

1. That where profits are mutual, commerce should not be restrained by either party.

2. That a trade which terminates in giving the means of accommodation and subsistence in exchange for mere ornaments, may be restrained by the losing party.

3. That monopolies are pernicious to commerce.

4. That the state of a nation's wealth is not to be estimated from the state of its coffers, granaries, or warehouses, at any particular time; but from the fertility of its lands, from the numbers, frugality, industry, and skill, of its people.

SECT. VI

S E C T. IV.

Of Revenue.

THAT part of national wealth which is allotted for purposes of state, is the public revenue.

The public revenue may arise from demesne and unappropriated subjects, or from taxes.

The first is the earliest species of revenue in rude nations, and is suited to their indolence, and ignorance of lucrative arts.

The second is better suited to the industry and skill of commercial nations.

It is not the interest of commercial nations, that any subject should remain unappropriated. While a subject remains unappropriated, it is commonly neglected.

Revenue arising from taxation,

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may

may increase together with the numbers, wealth, and frugality, of the people.

In judging of the absolute or comparative expediency of different taxes, the following axioms may be admitted.

1. That the exigencies of the state must be provided for at any hazard or expence to the subject.

2. That in levying taxes, no subject be unnecessarily burdened.

3. That the security of the subject, or that of his property, be not impaired.

4. That no useful branch of trade be unnecessarily burdened.

5. That taxes least felt as grievances be preferred.

6. That the least burdensome method of collecting taxes be chosen.

N. B. The method of farm appears, from experience, to be
more

more burdensome than that of revenue-office.

Taxes may be referred to four general heads:

Capitation, Assessment, Customs, and Excise.

Capitation is a tax on the person, and falling equally on the poor and the rich.

Capitation may be oppressive to the poor, without levying from the rich what they are able to furnish to the state.

Capitation is a symptom of despotic and oppressive government.

Assessment is a tax on riches, and is proportioned to the estate assessed.

Assessments may fall equitably, when property is unequally distributed.

Land-estate being most easily

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ascer-

ascertained and valued, is the properest subject of assessment.

The stock of the merchant is fluctuating; and attempts to ascertain it might give occasion to frauds, or improperly disclose the secrets of trade.

Customs are taxes imposed on goods in commerce, and advanced by the merchant.

Customs imposed on the necessaries of life, are a tax on the poor, and have the effects of capitation.

Customs imposed on matters of ornament, or costly accommodation, are a tax on the prodigal or the rich.

Such taxes are most suitable to establishments that are founded in humanity and justice.

Customs are an incumbrance on trade, and may amount to a prohibition of particular articles.

Customs,

Customs, though advanced by the merchant, fall on the consumer; but being involved in the price of the commodity, are not commonly felt as a tax.

As the merchant must not only be reimbursed, but have profit on all his advance, it follows, that the earlier in trade customs are paid for any commodity, the heavier they must fall on the consumer.

Excise is a tax on commodities in use, and paid by the consumer.

Excise may be rendered a tax, either on the rich or the poor separately, or on both proportionally.

Excise is less burdensome to the consumer, than an equivalent raised in customs; but is more likely to be felt as a grievance, and to create more animosity in the subject against the state.

C H A P. III.

Of Political Law *.

S E C T. I.

Of this Law in general.

WHere nations have occurred in the preceding parts of this system, they have been considered only in respect to the history of their establishments, or in respect to the foundations of civil rights, and of civil obligations: In this place they are to be considered in respect to what is expedient in political establishments or civil conventions.

* See Instructions of the Empress of Russia; L'Esprit de Loix, tom I.

Political law, in any particular community, is the statute, custom, or other convention, on which the institutions of that community are founded.

Political law of nature, is that branch of moral law which expresses what is beneficial in the civil institutions of men.

The following are fundamental laws of nature relating to political institutions.

1. That political institutions are beneficial, in proportion as they contribute to the safety and happiness of the people.

2. That political institutions are beneficial, in proportion as they are adapted to the character of the people.

3. That the distribution of office is beneficial, in proportion as it is adapted to the constitution.

4. That

4. That political establishments are the most important articles in the external condition of men.

S E C T. II.

Of the Safety of the People.

BY the *people* is to be understood, not any separate class, but all the members of the community, the magistrate as well as the subject.

The safety of the people consists in the secure enjoyment of their rights.

That the rights of men may be secure, it is necessary, either that there should be no one to invade, or that there should be a sufficient power to defend.

The first is not to be expected in human affairs; the second is the
the

the principal object of political establishments.

It has been the object, or the fortune, of some communities, to possess members who might be intrusted with any powers.

It has been the object of other communities, to grant such powers only as might be intrusted with any men.

These several cases, real or supposed, may be intitled, The government of *Innocence*, of *Virtue*, and of *Law*.

Under the government of innocence, or of virtue, matters of form are easily adjusted.

Under the government of law, it is necessary, that the rights and obligations of men should be clearly expressed.

This is the object of conventional law.

In

In every convention is supposed the consent of parties given in person, or by others properly authorized.

The sovereign is authorized to enact laws.

Laws relate to the constitution, to civil rights, or to crimes.

The most perfect laws relating to the constitution, are such as confer on the magistrate power to restrain crimes, and to defend the community; but under limitations sufficient to prevent the abuse of this power.

The most perfect laws relating to civil rights, are such as effectually secure every person in his state.

It is the maxim of civil law, That every person should remain in his possession, until a better title is undoubtedly proved.

Laws

Laws relating to crimes, prescribe the form of trials, and point out the overt acts for which certain punishments are appointed.

The following are maxims of natural law relating to prosecutions.

That every person is to be deemed innocent until he is proved to be guilty.

That no one shall be obliged to give evidence that may affect himself.

That no one shall be tortured into confessions or discoveries of any sort.

That no one shall be punished, unless he shall have committed such overt acts as the law has pronounced to be criminal.

That it is better the guilty escape, than that the innocent suffer.

That

That no severer punishment be inflicted for any crime, than is required to correct the guilty, and deter others.

To secure legal rights, it is necessary that the laws should be strictly interpreted and applied.

Under the government of law, discretionary powers are not safely intrusted, except to judges named by the parties; or to juries purged by the challenge of parties, and interested equally to protect the innocent and to punish the guilty.

In the security of rights consists civil and political liberty.

Liberty is opposed to injustice, not to restraint; for liberty even cannot subsist without the supposition of every just restraint.

Natural liberty is not impaired, as sometimes supposed, by political

cal institutions, but owes its existence to political institutions, and is impaired only by usurpations and wrongs.

The laws of different communities bestow unequal privileges on their members; but liberty consists in the secure possession of what the law bestows.

Those are the most salutary laws which distribute the benefits and the burdens of civil society in the most equal manner to all its members.

S E C T. III.

Of the Happiness of a People.

THE happiness of a people consists in the love of their country, and in that distribution of rank and station which is best
B b suited

suited to their merits and capacities.

Men who have least private interest, are best disposed to love their country.

Men who have the fewest adventitious distinctions of birth or fortune, are most likely to be classed according to their merits, to be employed suitably to their abilities, and to find the stations in which they are most likely to cultivate their talents and their virtues.

That a community may be loved in the highest degree, its members should be relieved of personal anxieties, and occupied in what relates to the public.

They should be made to consider the state as the equal parent of all, distributing equal benefits, and requiring equal services.

Where-

Where-ever the state confines political consideration to a few, who sacrifice the rights of others to their own interest or fancy, it cannot be loved.

The reason and the heart of man are best cultivated in the exercise of social duties, and in the conduct of public affairs.

S E C T. IV.

Of the Fitness of the Institution to the People.

MEN of speculation have in vain endeavoured to fix a model of government equally adapted to all mankind.

One people is unfit to govern, or to be governed, in the same manner with another.

Nations differ in respect to character, and to circumstances.

The character of a people refers to their degree of virtue, or of other principle, on which the state may rely for the discharge of social and political duties.

The circumstances of a people are determined chiefly by their casual subordination, and by the extent of their country.

Casual subordination is founded either in original or adventitious distinctions.

Original distinctions are, the differences of capacity, disposition, and force.

Adventitious distinctions arise from fortune and birth.

Questions relating to the propriety of any political institution, can be solved only hypothetically.

Such questions may be put on four different suppositions.

FIRST

FIRST SUPPOSITION.

The supposition of a people perfectly virtuous, distinguished from each other only by their original differences, and forming states of small extent.

Such a people are fitted to govern themselves.

They need no precaution against the commission of crimes, or the abuses of power.

The sole object of government is, to assemble and to direct their force for national purposes.

Being of small extent, the whole may be occasionally or periodical-ly assembled.

Being perfectly virtuous, every one will be willing to bear his share of the public burdens, and will receive, in his turn, that confidence and trust for which he is

by his capacity and experience qualified.

They have no adventitious distinctions to mar the effect of their personal qualities.

They may stipulate to be governed by the majority of their own number, or occasionally by single men; but to oblige such men by force to resign the sense of their own minds, and to follow that of another, were, by the supposition, to substitute vice for virtue.

This, however, is a mere supposition; for no entire nation was ever known to be perfectly virtuous.

SECOND SUPPOSITION.

A people in whom the virtuous and the vicious are mixed; who admit adventitious distinctions in
different

different degrees, and form states of various extent.

- This is not mere supposition, it is fact, and the most general description of mankind.

If there be no great separation or distinction of rank and condition ;

If virtue greatly prevails over vice ; If the state be of small extent ;

Such a people are fit for democracy.

Their numbers admit of being assembled in collective bodies.

Their virtues and their institutions may prevent crimes, and abuses of power.

They may reap the advantages of democracy, in a manner that will more than compensate its inconveniencies.

If such a people be separated into different orders or classes, they

they are fitted to aristocracy, mixed republic, or mixed monarchy.

If in two classes, one is distinguished from the other by a considerable superiority, they are fit for aristocracy.

Commercial nations of a small extent are, in the result of distinctions that arise from the practice of arts, and the unequal distribution of property, best fitted to aristocratical government, or to mixed republic.

The inferior class, if not greatly debased or corrupted, may have a share in the government, either by a negative on the determinations of the aristocracy, or by being intrusted, not with an active part in the government, but only with the choice of those who are to act for them.

The same supposition applied to states of a greater extent, and
to

to a people among whom a greater variety of rank is established, will justify the preference of mixed monarchy.

It were happy for mankind, if, together with changes of circumstances, they could always make suitable changes in government.

Where changes of circumstance are gradual, corresponding changes of government take place; but sudden innovations of any sort, precipitate men into situations in which they are not qualified to act.

THIRD SUPPOSITION.

A people, on whose vanity, and sense of personal importance, rather than virtue, the state must rely for the discharge of the social and political duties. A people amongst whom a continual adventitious subordination takes place,

place, without any example, or any desire, of equality.

Such a people are not fit to govern themselves.

Their subordination must terminate in a prince or monarch.

They require monarchy as a bond of union, and as a source of honour.

While every one attends to what concerns himself, the monarch, for the preservation of his own person and dignities, must attend to the public safety, and public order.

The subordinate ranks will court his favour, and consult their own dignity, by actions, either splendid in themselves, or useful to the state, whilst they are serviceable to the king.

The members of the state are drawn together, and moved in a body, not by their love to the community,

community, or to mankind, but by their veneration for their common superior, and by their expectations from their common source of preferment and honour.

The maxims of honour are not susceptible of sudden changes; and the dignities of family, tho' for the most part conferred by the prince, are hereditary; and therefore independent.

Both these circumstances oblige the prince to govern according to fixed and determinate laws.

FOURTH SUPPOSITION.

A people perfectly vicious, without sense of honour, or hereditary distinctions.

Such a people must be restrained by force.

Every constitution, even that which confides most in the virtue
of

of the subject, must employ force to repress crimes.

If the whole people be inclined to commit crimes, and be restrained only by fear, the prospect of prompt and terrifying punishments must be continually placed in their view.

This supposition may be employed as an apology for despotism.

Where every person is disposed to commit crimes, the fewer that have power so much the better.

When all power is committed to one person, even supposing himself to be a criminal, it is his interest, for the most part, to restrain the crimes of others.

His severities, or cruelties, by the supposition, can no where afflict the innocent.

His dominions, though, like a prison, committed to the keeping of
of

of vile and merciless men, is nevertheless the only fit place to receive those who cannot be otherwise restrained from injustice.

But this case, like that which was first stated, of a people perfectly virtuous, is a mere supposition, and never was realized in the character of any people.

Men are generally as far from the extreme of perfect vice, as they are from that of perfect virtue.

They who contend, that despotical government is in fact the best for mankind, proceed upon three suppositions, all equally violent and false.

1. That all men would commit crimes if they durst.

2. That crimes cannot be restrained without discretionary powers.

3. That a person to whom discretionary powers are committed,

ted, will employ them to repress the crimes of others, but not to commit crimes of his own.

These suppositions are contrary to experience.

The fact is, that the manners of men are various; and that the same penal laws, and forms of justice, by which a people may be successfully governed in a virtuous age, will not always be sufficient to restrain them in ages corrupted.

When the criminal passions increase in violence and boldness, it may be necessary to increase the measure of punishments.

When crimes multiply, and criminals are enabled to employ the forms of law as the subterfuges of iniquity, it may be necessary to alter such defective forms: but it never can be necessary to deprive the innocent of all the defences of reason and justice; for
the

the same reason and justice which protect the innocent, may condemn the guilty.

In times of occasional tumult, popular frenzy, or rebellion, it may be necessary to treat those who commit such crimes, not as subjects amenable to the laws, but as enemies, who, by invading the public peace, have deprived every citizen of his safety, and who therefore cannot have the benefit of laws until the public has recovered its security.

Such domestic disorders, like foreign wars, render discretionary power occasionally necessary; but this necessity is only temporary.

For the most part, even in corrupted states, it is as much the interest of the subject as of the magistrate, to keep the peace, and to repress crimes.

Continual despotism is never a necessary nor an useful expedient ; it is an usurpation, and a national misfortune.

It tends to produce that extremity of vice to which it is supposed to be adapted as a remedy.

The object of despotical government, is not to secure the subject in the possession of his rights, but to make him a property ; not to suppress vice, but to suppress the highest and noblest virtues of the heart, public spirit, independence, and courage.

S E C T.

S E C T. V.

Of the Distribution of Office fitted to the Constitution.

IN free governments of every denomination, where law is necessary, the law must be enacted, interpreted, and executed. Hence the offices or functions of state are, legislation, jurisdiction, and execution.

Legislation, under every constitution of government, is the immediate act of the sovereign power, and cannot be delegated without transferring the sovereignty.

This rule does not exclude the concurrence of councils, nor the observance of forms suited to the constitution.

Under democracies, the legislation is exercised by the collective

C. c 3 body ;

body; but it is not necessary that the collective body should deliberate, as well as decide.

The collective body may name senates, or select councils, to prepare questions of legislation.

They may vary the form of collecting the votes, or of promulgating the law.

They may fix, at discretion, what numbers are required to constitute a legal assembly, and what proportion of those present will decide any question in the affirmative.

Under aristocracies, the collective body of those who govern, whether by elective or hereditary title, must exercise the legislature.

They may act, notwithstanding, under the same forms and limitations that have been mentioned

tioned as compatible with the sovereignty of the whole people.

Under monarchy, the legislature is exercised by the king.

The king stands in need of councils; and his legislative power may be qualified by the forms of registration, or promulgation, required to give the force of law to his edicts.

In mixed government of any sort, the legislature must be exercised by the concurrence of all the collateral powers.

If a law could be enacted without the concurrence of any single power, that power might be suppressed by the others.

If the supposed collateral powers were to assemble, and decide questions of legislation by the majority, any way defined, the government would cease to be mixed.

The

The sovereignty of collateral powers is compatible with a variety of forms relating to the proposing and the enacting of laws.

Sovereigns of any denomination, who have suffered courts of justice to follow custom as a rule of decision, are to be understood as having established that custom into law.

Jurisdiction, or the office of judge, is, to interpret the law, and to apply it in particular cases.

This office, under every constitution, should be disjoined from that of legislation.

The sovereign, being accustomed to will, or to command, cannot submit merely to interpret, or to follow a rule.

Particular cases are modified by circumstances that create prejudice, or excite passion.

The

The sovereign, having no superior, may follow prejudice or passion at discretion.

The sovereign having enacted the law, would, under the influence of special motives, make free to dispense with it.

Popular or numerous assemblies would be swayed by faction.

Princes would be swayed by their passions, and by solicitation.

Two questions may be put relating to judicature :

1. Who ought to judge ?
2. Of what numbers are courts of justice best composed ?

1. Where ever laws are greatly multiplied, the knowledge of law becomes a profession.

No judgement can be safely given without the counsel of those who are knowing in the law.

The

The office for which counsel is necessary, is that of pointing out the law, and the whole law, in any particular case.

Persons who are not lawyers by profession, may interpret and apply a law which is pointed out to them; in the manner of the judges at Rome, and of the juries in Great Britain.

Beside the counsel employed by parties, the public may employ counsel for justice and law. This is the nature of official judges in Great Britain.

Jurisdiction committed entire to official judges, is attended with the following inconveniencies.

(1) The official judge being a continual magistrate, may entertain the prejudices of the magistrate against the subject.

(2) The peculiar prejudices and partialities

partialities of the official judge, if he has any, may be known.

They who enjoy his favour, are tempted to trespass in hopes of impunity, or to commence vexatious suits in hopes of success.

They who apprehend his displeasure, do not feel themselves secure even in possession of innocence.

These inconveniencies are removed, in a great measure, by the establishment of judicatures in the Roman form, or in that of juries.

The juryman is equally interested to protect the innocent, and to condemn the guilty.

Juries may therefore be intrusted with some measures of discretionary power, to mitigate the rigours of law, or to supply its defects.

Where a people are divided into a number of separate orders
and

and classes, as those of Patrician, Equestrian, and Plebeian, Lords and Commons, the rights of one order are not safely intrusted to the judgement of another; and it would be expedient, that every party were judged by his peers.

2. Under popular, or republican governments, of any sort, courts of justice are best composed of few members.

Courts composed of many members carry popular faction and party into the judgement-seat. The individual hopes to screen himself even in judging falsely, under the authority and credit of the whole body.

No one is accountable; no one is conspicuous; all are tempted to humour their party, and to judge at discretion.

Under monarchy, courts of justice are best composed of many.

Here

Here the influence of the crown is more to be dreaded, than the faction of the people.

This influence can less overawe or corrupt numerous bodies, than single men, or a few.

Numerous bodies, in their deliberations, admit of the zeal and ardour that animate popular assemblies; and even whilst they do not judge more impartially than single men would do, they judge with more independence.

The spirit of faction that in republics constituted corruption, in monarchies tends to prevent a greater corruption, servility to those in power.

The office of the executive is, to apply the force of the state for national purposes:

1. To give effect to the laws.
2. To defend the community against foreign enemies.

tizens, to whom any powers might be safely intrusted.

Some of the most important powers, both in Sparta and at Rome, were discretionary.

In monarchy, the abuses of the executive are restrained by the forms of law, and by the privileges of subordinate ranks ;

In all constitutions, they may be restrained by having magistrates and ministers accountable,

By the integrity of those who constitute the force committed to the direction of the executive.

When the armed force is part of the people, it is their interest, as well as their duty, to refrain from abuse.

S E C T.

S E C T. VI.

The Importance of Political Institutions.

BY political institutions, rights are preserved or invaded, men are placed in the relation of equals or of master and slave, their crimes are authorized or repressed, and their manners improved or corrupted.

Political institutions tend to augment the good or the evil with which they are fraught.

Human affairs, in some instances, tend to improvement; in others, to corruption.

The institutions of men, in one case, promote their improvement; in the other, hasten their corruptions.

Institutions

Institutions that preserve equality, that engage the minds of citizens in public duties, that teach them to estimate rank by the measure of personal qualities, tend to preserve and to cultivate virtue.

On the contrary, institutions by which men are stripped of their rights, or by which they are made to hold their possessions at discretion, under which they are supposed governable only by force, and by the fear of punishment, tend to beget tyranny and insolence in the sovereign, servility and vileness in the subject; to *cover every visage with paleness**, and to fill every heart with jealousy or dejection.

The greatest and most extensive benefit which single men can bestow, is the establishment

* Vid. L'Esprit des Loix, liv. 6. c. 5.

or

or preservation of wise institutions:

Or the greatest injury that wicked men commit, is the overthrow or corruption of such institutions.

T H E E N D.

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