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THE
 EFFECTS OF PROPERTY
 UPON
 SOCIETY AND GOVERNMENT
 INVESTIGATED:

CONTAINING
 An Illustration of the Influence of PROPERTY on Mental
 Energy, National Character, Manners, Government, and
 Civilization.
 By CHARLES PATTON, Esq; Captain in the Royal Navy.

TO WHICH IS ADDED,
 AN
 HISTORICAL REVIEW
 OF THE
 MONARCHY AND REPUBLIC OF ROME,
 Upon the PRINCIPLES derived from the EFFECTS of
 PROPERTY.
 By ROBERT PATTON, Esq.

LONDON:
 PRINTED FOR T. CADELL, JUN. AND W. DAVIES, (SUCCESSORS
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1797

THE SCIENCE OF POLITICS AND LEGISLATION
 BY
 JOHN STUART MILL
 WITH AN INTRODUCTION BY
 HENRY DE LA BECKFORD
 AND A COMMENTARY BY
 JOHN STUART MILL
 LONDON: PUBLISHED BY
 HENRY COLVERSON, 1851.

ADVERTISEMENT.

THAT the true principles upon which the science of Politics and Legislation ought to be founded have been imperfectly known, the history and experience of the world too woefully testify; that a discovery may be made, which, by enlightening mankind on these important subjects, may benefit the human species, is an expectation suggested by more than one intelligent writer. The following passage occurs in Professor Stewart's Introduction to Elements of the Philosophy of the Human Mind:—"But there is, nevertheless, a science of legislation, which the details of office and the intrigues of popular assemblies will never communicate; a science, of which the principles must be sought for in the constitution of human nature, and in the general laws which regulate the course of human affairs; and which, if ever, in consequence of the progress of reason, philosophy should be enabled to assume that ascendant in the government of the world, which has hitherto been maintained by accident, combined with the passions and prejudices of a few leading individuals, may, perhaps, produce more perfect and happy forms of society than have yet been realized in the history of mankind." (page 60). From Mr. Williams's History of

A D V E R T I S E M E N T.

of Monmouthshire, the following extract is made:—
 “Man, an individual acting from personal or
 “individual motives, is a savage. Man in society
 “is, in fact, a tyrant or a slave.—To meliorate,
 “and perhaps in some future or fortunate period,
 “to obliterate this fact, is the necessary object of a
 “wise and benevolent philosophy; but the lessons
 “of that philosophy must be from history, not
 “from romance, and they must be taken by genius.
 “The disciples of Montesquieu row along the
 “shore, and are perpetually entangled by shoals
 “and bays; those of Plato and Rousseau sail di-
 “rectly into the ocean, and they all perish.—
 “The *political compass* is not discovered, or it is
 “not generally known; and until the discovery be
 “fully made, the chances of safety will be thought
 “near the shore, and not in the ocean.” (page 71.)

Without laying claim to the cultivated philoso-
 phy of the one writer, or to the genius of the other,
 the Author of the following Sketches flatters him-
 self, that the true principles upon which equitable
 Legislation and rational Liberty (combining public
 and private virtue and happiness) must depend,
 will be found immediately connected with, and
 dependant upon the Effects of PROPERTY on
 Society and Government.

THE
 Effects of Property upon Society and Government

I N V E S T I G A T E D :

C O N T A I N I N G

An Illustration of the Influence of PROPERTY on Mental
 Energy, National Character, Manners, Government,
 and Civilization:

And including a Work formerly published under the Title of
 “An Attempt to establish the Basis of Freedom on simple and
 “unerring Principles:”

W I T H

A S U P P L E M E N T A R Y L E T T E R,

Explanatory of a Plan of equitable National Representation,
 regulated by the Standard of Property;

Which the FRENCH PEOPLE might have adopted with Advantage.

By CHARLES PATTON, Esq; Captain in the Royal Navy.

PREFATORY ADDRESS

TO

REAR ADMIRAL PHILIP PATTON.

YOU know that about three years since I published a small Pamphlet, intituled, "An Attempt to establish the Basis of Freedom on simple and unerring Principles,"—in a series of letters, which were addressed to you; containing, what appeared to me the true theory of all governments, and explaining the circumstances upon which civil liberty must depend. By the negligence of the publishing bookseller, three hundred copies out of five were lost; which reduced the number for sale, after deducting what were distributed by me, to a portion so small, as not to admit of properly advertising them to the notice of the public. One end, however, was answered by this experimental publication, which amply compensated for every other disappointment. The character given of the pamphlet in the most approved works of criticism, was to me gratifying in the highest degree; as it sanctioned my principles

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by the most unqualified approbation*. This encouragement confirmed my own ideas, and led me to prosecute still further my enquiry into the effects of property on society; where I found a field extensive and unexplored, abounding in prominent facts, which not only explained the principles of government I had adopted and published, but which gave a clear elucidation to causes and effects that had produced volumes of perplexity and error. When truth is discovered, the deductions from it are simple, natural, and easy; and its operations are found uniform and universal: by this test, I wish the inferences I have drawn from the effects of property, to be tried.

I was led, by this investigation, to consider the accounts which are given of mankind; from a state absolutely savage, through the progressive stages of improvement, to the complete attainment of civilization; and in all the mutations of manners and of mind, I found property the efficient agent and cause: from which not only proceeded laws and government, but mental capacity and energy. Without the knowledge of property, man, subsisting like other animals from the bounties of nature, makes use of no other faculties than they employ, for the attainment of food and the propagation of the species.

* See the Monthly Review for May 1794: the Analytical and Critical Reviews for the same month and year: the English Review for February 1795; and the New Annual Register for the year 1794, page 192.

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Among the authors whom I have consulted on these subjects, the remarks and observations of some; and particularly of the intelligent and eloquent Doctor Robertson, in his account of the different uncivilized tribes in North America; strongly illustrate the effects of property, either public or private, in producing the different degrees of civilization, laws, and government; and of unfolding the faculties of the mind. But by trusting to the unsatisfactory solutions of others, the Doctor overlooks the natural inference which his own observations suggest; and imputes striking and obvious effects, to inadequate and imaginary causes. The attentive consideration of this subject will clearly establish, that even the imperfection of mind, which is supposed to exist among the Americans, and which is attributed by De Paw*, and other writers, to the operation of atmosphere and climate; proceeds from the exclusion or the imperfect knowledge of property among them: the effects and influence of which are simple and uniform in all climates and all countries.

The public employment which for these two years past I have held†, has so completely occupied my time, that I have hardly found leisure for necessary avocations: It has been barely in my power, at interrupted intervals, to note down my thoughts

* See Recherches Philosophiques sur les Americains, partie 5^{me} sec. 1. Du Geni abruti des Americains, Tom. 2d.

† Resident Agent of Transports at Portsmouth.

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as they occasionally occurred. Yet I am assured, by those in whose opinion I place confidence, and my own judgment concurs, that the materials I have formed, being equally new and important, may contribute to correct error in opinion, and violence in action. This must be my apology, for a hasty publication, to those who may be disposed to censure the defects of method and arrangement.

In the remarks which have been made upon the letters before published, I only find the possibility of an objection mentioned to what has been said upon influence*; but as my reasoning on this subject is not contested, there does not appear occasion to make any alteration. It may be observed, that war will always have the effect of increasing the influence of the executive power; but this state of affairs seems to require an increase of influence. If it be objected, that this circumstance may operate in occasioning unnecessary wars, and protracting them without sufficient cause; the remedy for this defect will be found in a Legislature, chosen upon the principles, which it is the object of this work to recommend.

I have perceived, that the plan which was suggested for an equitable representation to such a nation as France, which had annulled established institutions, has been imperfectly understood; which has occasioned the addition of a supplementary letter on this important subject, fully explaining my ideas in a manner that will, I think,

* See Monthly Review as above.

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admit of arithmetical accuracy. But this plan, I must observe, is only mentioned as eligible in circumstances similar to those of the French Nation, or to any new establishment of government: and by no means as applicable to this country; further than as it may illustrate the peculiar excellence of its constitution, and correct the extravagance of some of the wild schemes suggested for its improvement.

To the system of classification by the standard of property, upon which this plan of national representation is founded, I am aware that a strong objection arises, from the supposed difficulty and impropriety of regulating this matter with precision. But precision is by no means required: and the operation of an established general tax, proportioned to the different degrees of opulence in the members of society, would sufficiently answer the purpose: which, in the Supplementary Letter, is illustrated by the window tax in Britain; because the instance was familiar to the people of this country, and because I had not a sufficient knowledge of the taxation of France to exemplify it there.

It is the farthest from my wish or intention, to disturb established institutions by any new ideas, to which my investigation of the effects of Property may give rise: but if truth and justice are the attendants upon this explication, the result must be generally advantageous; and particularly so in the correction of intended novelties. The

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only circumstances that occur to me, wherein the reality of the good effects of this doctrine might be put to the test of experiment, are in the case of distant and newly established colonies.

What was before entitled, "The Basis of Freedom, &c." is now reprinted, as the THIRD PART of the present work, being the discussion upon government and legislation, deduced from the effects of property upon society. Out of respect to the approbation which this part of the work has already received, I have continued it in the form of letters, as it was before published; with the addition of the Supplementary Letter already mentioned.

The application of the principles of government, which this work establishes to the monarchy and republic of Rome, is the performance of a friend; which is added to complete the volume. What is special to it will be found in the preface and introduction, which the writer has supplied.

I remain, &c.

CHARLES PATTON.

Portsmouth,
6th October, 1796.

PART

PART FIRST:

ON

CIVILIZATION AND KNOWLEDGE.

PREVIOUS to the investigation of the principles upon which every free government must necessarily be founded, it may not be improper to take a view of the general effect of Property in producing Laws, Government, Subordination, Rank, and Civilization, among mankind.

It is not only obvious from reason, but confirmed by observation and experience, that men, in their original or natural state, without having any idea, either of public or private property, have no occasion whatever for government or laws.

Without the knowledge of public or private property, man must be in some measure a solitary animal,

animal, at least he cannot live in a congregated state; because, subsisting entirely upon the bounties of nature, dispersion seems requisite to the attainment of sustenance.

Certain theorists on government suppose an impossibility, when they represent solitary man living independant of and unconnected with other men, and of course void of any knowledge of property, as an intelligent and rational being, capable of comparing and reasoning: which is absolutely not the case. Man, under such circumstances, possesses no more ideas, and no more intelligence, than the brutes that surround him. It is the knowledge of property alone, acquired in society, that unfolds the energies of the mind; The solitary and independant man, enjoying the only state of natural equality attainable to the species, must be a man altogether ignorant and incapable of exercising the faculties of mind, which necessarily remain inert, until roused by the stimulus of property. A contrary supposition has given rise to the reveries of Rousseau; the fallacy of which has proved so fatal to a great portion of mankind*. And even the reasoning
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* According to Rousseau, the powers of government are derived from the body of the people, upon the supposition of a perfect equality; which is altogether incompatible with a state of civil society. If a state, he says, consists of ten thousand persons, every individual in that state possesses, or ought to possess, a ten-thousandth part of the sovereignty; if of a hundred thousand, a hundred thousandth part, and
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of the more intelligent Locke, appears to me to be founded upon the same error.

Affociation among savages, is the first step toward any knowledge of *property*, either public or private. Whenever they come to combine with their fellows in any common measures, either of defence, or for the acquisition of food; as may be the case in hunting or fishing; the knowledge at least of public *property*, is immediately attained: and so far some advance is made toward civilization.*

With^s the knowledge of *property*, temptation to evil first arises among mankind; for, when ignorant of it, they are without an inducement to injure one another. Naked Indians, inhabiting an extensive forest, for instance, who know not of the existence of any other human beings, and who are wholly employed, individually, in procuring food

so on. Upon this impracticable foundation, which supposes the existence of irreconcilable circumstances; as of property with perfect political equality, the whole of his Utopian plan of government is built. And so imposing is his eloquence, as to draw the major part of an intelligent nation into error: for it appears obviously, from the phraseology of their legislation, as well as from the great honours which have been paid to the memory of Rousseau, that he is the guide whom the legislators of France have chosen in many respects to follow.

* By complete civilization, is understood that state of society which is most conducive to the existence of public and private virtue; and not that state of refinement, too frequently mistaken for it, which is a mark of its decline. This distinction will be fully explained in the sequel of the work.
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for their subsistence, and to support their families, having no call to associate, and being altogether unacquainted with *property*, can have no cause of quarrel requiring public interference: exempt from every temptation to do injury, mankind are naturally disposed to acts of humanity and beneficence towards each other; as may be exemplified even in civilized life. I know that philosophers have differed upon this point; but its existence is demonstrated by the general consent and mutual confidence which we repose in one another, when assured that no temptation can exist to produce a contrary effect. Passengers in a ship are under apprehension from rocks and sands, from the violence of the wind and tumult of the waves; but they apprehend no danger from the seamen who conduct the vessel, provided there is a confidence that they are under no temptation to do them injury: but should they hear that the mariners had received a bribe to throw them into the sea, their minds, from this cause, would be justly filled with dread and apprehension.

In some countries it is not uncommon to suspend a man by a rope, and let him down the rugged front of a stupendous precipice, in search of sea fowls eggs, or of their young; the man may entertain some doubts about the strength of the rope; but none respecting those who suspend him, whom he knows to be under no temptation to let him fall: experience of the natural good-will which mankind have toward each other, assures him of their
anxiety

anxiety for his preservation; and this would be the case, even if he were a total stranger to the men who held the rope. If any doubt should arise in his mind, it must be suggested by an idea that the people upon whom he depended for safety, had some interest or temptation, connected with *property*, to destroy him; no other thought could abate his reliance upon them.

Many examples of the same kind will, probably, occur to the reader; but these are, certainly sufficient to ascertain the fact, that mankind are naturally inclined to do good offices to each other, when they are under no temptation to do otherwise; and of consequence, that men in their original or natural state, having no knowledge of *property*, which alone could induce temptation to the injury of their neighbours, will naturally act in concert with them for mutual benefit, and be much more inclined to benevolent than malicious actions; the one proceeding from a natural propensity, the other from a species of temptation, which does not exist where *property* is unknown. And even where there is a dependance upon *property*, and of consequence temptation to do wrong, that instinct which inclines mankind to benevolence in their natural state, does not forsake them when civilized; breaches of this law being punished by self condemnation, remorse, and contrition.

It may be supposed that among savages in a state of nature, the love of the sexes might excite injuries and violence, independent of the knowledge
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of *property*, which laws and regulations would be required to restrain; especially as much ferocious contention arises from this cause among other animals in the same situation; but, as far as observation goes, the analogy does not hold. The human species are physically different from most animals in this respect; not being restrained in their desires to particular times and seasons: the temperance, labour, and anxiety of a savage life (and not the atmosphere and soil*) with the fear of that revenge which would naturally follow a personal injury, seems sufficient among them to render public laws for this purpose unnecessary. The evils, therefore, arising even from this cause, as well as all others attendant upon society, are a consequence of the events which depend upon the knowledge of *property*.

Savages, who have not the smallest idea of *property*, are therefore under no temptation to injure one another, nor can they have any apprehension of danger; consequently they require no public protection: they will yield no part of their natural liberty, for the preservation of that freedom which no mortal pretends to dispute, or is under the smallest temptation to infringe. It is evident that people in this state, would have no occasion whatever, either for government or laws; and therefore would obstinately resist the smallest encroachment upon their natural freedom. In this state, and in this state only, mankind are on a footing of perfect equality; because they procure their subsistence in-

* See Recherches Philosophiques sur les Americains, Parte I. Tom. I.

dependently

dependently of each other; even bodily strength, or superior mental powers, can, among them, make no great difference in point of equality; because these properties (far less conspicuous in a state of nature than among a civilized people) are fully counterbalanced by the exercise of unrestrained revenge; the effects of which, neither strength nor wisdom, in such a situation, could long avert. This is the defence which nature supplies to the weak, against the oppressions of the strong; and by this means equality and independence, among them, are effectually preserved. For, when there are no laws to restrain it, what can be so certain in its effect as revenge? The savage feels how naturally it rises in his own breast; and he knows that the weakest arm may execute its impulse: the dominion of sleep laying the strongest completely at the mercy of the most feeble of the human race.

To independent savages, the vicinity or approach of a neighbouring nation, will create alarms for the means of subsistence; which may occasion an association, and produce, for the first time, the idea of *public property*. In suggesting the measures for their common defence, the necessity of electing a chief to conduct them, will naturally occur, and some degree of subordination be introduced; which, in general, will be the first approach toward civilization; the first mark of inequality; and the first step from a state of nature to a state of society. But the public danger will no
sooner

fooner be removed, than every man will again assert his independence.

This species of submission to authority will generally be found to have preceded any kind of permanent government; because the knowledge of a public right to a particular territory which requires such a submission, commonly takes place, prior to any knowledge of private property, requiring for its security some kind of permanent government.

That such effects uniformly prevail in consequence of a knowledge of *public property*, prior to any idea of an exclusive right to private possessions, does not rest upon conjecture and theory, but upon the authority of history, and the test of experience. The discoverers of America found many nations of Indians, in the situation which has just been described. "They are conscious of their own connection with the companions in conjunction with whom they act; and they follow and reverence such as excel in conduct and valour. But during the intervals between such common efforts, they are scarcely conscious of the ties of political union. *No visible form of government is established.*"—"The first step towards establishing a public jurisdiction, has not been taken in these rude societies. The right of revenge is left in private hands."—"The object of government among savages is rather foreign than domestic; they do not aim at maintaining interior order and police, by public regulations, or the exertions of any permanent authority; but labour to pre-

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"serve such union among the members of their tribe, that they may watch the motions of their enemies; and act against them with concert and vigour."

Such are the words of that elegant historian Doctor Robertson, in his account of the American nations. But he does not seem to have been fully aware of the effects naturally produced by public, and by private *property*; because he ascribes to climate, in some cases, effects which *property*, the degree of freedom allowed to women, and superstition, could alone produce; and upon a proper investigation of this subject, it will be found, that national character owes its formation more to these agents, than to climate, or the operation of any natural cause whatever.

A dependence upon private property cannot take place in any nation unaccompanied by some species of permanent government; and superstition, to which an ignorant people are strongly addicted, may soon render any government an arrogant and cruel despotism. Mankind are instructed by the light of nature in their dependence on, and obligations to some invisible being or beings, with whom they cannot personally communicate, and to whose law they find all resistance ineffectual; they therefore submit with fear to whatever they suppose to be the will of the Gods, communicated by those whom they believe to hold a familiar intercourse with them. Advantage is taken of this propensity; and the people, from credulity and fear, give up

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that freedom, which they never would have yielded to any human authority.

In this manner, permanent governments, instituted in the first place for the protection of property, and in the next for the security of civil liberty, have often been transformed into engines of cruelty and oppression*.

As it has been shewn that a knowledge of *public property* will, generally, precede any idea of, or dependence upon, private possessions, it will also follow, that a knowledge of natural right to a particular territory may produce national quarrels, long before personal property has produced the same effect among individuals; and by the same rule, some part of the laws of nations must have preceded, in most countries, any knowledge of municipal institutions.

From the moment that private property became known to any nation, and not before, private quarrels, requiring public interference, would commence. There is scarcely an evil of which we complain in society, which does not, directly or indirectly, take its rise from this fertile source.

Whether property has produced among mankind, benefits more than equivalent to the evils which it has occasioned, is a question respecting which philosophers have differed in opinion. But

* These observations on the effects of superstition, do not apply to true religion, which must for ever be productive of virtue and human happiness.

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it may be safely affirmed; from the authority of history, and from experience, that it has been the sole cause of establishing governments, or making laws necessary among the human race:

It is the natural effect of private property, more especially when the society falls to depend upon it for subsistence; to produce a real inequality among mankind; because it naturally brings with it, in proportion to its extent, a certain degree of influence and power; which cannot, like personal superiority in a natural state, be counterbalanced by revenge; the very existence of property depending upon such a state of laws, as would prevent individuals from exercising the power of redressing their own grievances.

Having in this manner endeavoured to demonstrate that the origin of laws and government, as well as the difference of rank and subordination among mankind, have wholly taken their rise from an effect naturally produced by a dependence for support upon private property, in place of relying for the necessaries of life upon the spontaneous bounty of nature; it may be necessary to shew, for the better comprehending the principles laid down, that not only government and laws, but knowledge and civilization, with all the difference of character between a savage and polished people, wholly take their rise from the same cause; and uniformly produce consequences in every nation, exactly proportioned to the degree in which they depend upon *property*. Any interference, by government,

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vernment, or otherwise, tending to retard or interrupt the operations or natural effects of property, will of consequence produce a proportionate obstruction in the advancement of natural knowledge and civilization; or in other words, make some change in the national character.

A nation, for example, which draws one half of its subsistence from hunting, or the spontaneous productions of the soil, and for the other half depends entirely upon property, will remain in a situation only half civilized, while it continues to procure the necessaries of life equally from those two sources.

Some authors who have written on the legislation of nations, have supposed it to be regularly progressive, from the rude state of nature to the most refined state of society; without attending to the cause of this progress, or perceiving that nations may remain stationary with respect to civilization and useful knowledge, although there are countries in the world, the inhabitants of which have for thousands of years continued in a half rude and half civilized state, without experiencing any alteration whatever; and this obviously from their continuing to have, in all that time, the same limited dependence upon *property*. And while this is the case, all attempts by missionaries, or any other means, to introduce more knowledge than the state of property is suited to admit, will prove fruitless.

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From the most commendable of all motives, it has been a very common practice for enlightened nations, to wish to spread knowledge into countries, where error and ignorance prevail. Men every way qualified for such undertaking, as far as knowledge and disposition went, have been selected; and have with zeal and perseverance prosecuted their endeavours, but always without effect; they have left the people exactly as they found them; except, where they accidentally made some change in their ideas of property; because this alone must invariably and infallibly determine how far they are capable of the attainments of knowledge.

Why do many of the Tartar tribes remain at this day, with respect to civilization and knowledge, what they were represented to be some thousand years ago? Because they have no greater dependence upon property now, than they had at that time; their flocks, and horses, are still private property, but their lands continue to be common. Till they alter their system, and make the lands likewise property, no further progress in general knowledge and civilization can take place.

If the truth of this reasoning be admitted, it must follow, that the only successful method of propagating useful knowledge among savage nations, is, to begin by inducing them to depend upon property for subsistence; and the proper means of augmenting the knowledge of those who are already, in part, civilized, is to increase their

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dependence upon property. If the Tartars could be persuaded to give up their wandering and pastoral life, and divide their lands into lots, converting them into private property, so that the produce might reward the labour of the individual; knowledge would follow of course, as the never-failing attendant of civilization and regular government.

Although a national dependence upon property, will certainly produce civilization and useful knowledge among the inhabitants of any nation; yet it must again be remarked, that unless property be allowed, with absolute security, and no unnecessary restraints, to produce its natural effect; and unless every essential commodity shall have become private property; the national civilization will not be complete, and a deficiency of useful knowledge will be apparent.

If a government be so arbitrary as to render all private possessions insecure, and even to assume an exclusive right to the lands; in such a country property cannot produce its natural effects; and if we have reasoned justly, the inhabitants must be deficient in point of civilization and useful knowledge. All attempts to make any general improvement in these respects, would be ineffectual, till the system of government was altered, and property allowed to operate as nature directs.

In Turkey, for example, the Grand Seignor pretends to an exclusive right to the property of the lands; and his principal officers, whom he plunders

at pleasure, are allowed in their turn to oppress his subjects, and render their property extremely insecure: the consequence must be, according to the theory laid down, that such a nation will remain in a very imperfect state, with respect to civilization and useful knowledge: and that Turkey has actually done so, is confirmed both by the history of the past, and the experience of the present times.

Efforts have been made in that country to introduce knowledge among the inhabitants, by means of printing, and admitting foreigners to instruct them in arts and sciences; because they became sensible in time of war, of their own inferiority in those respects: but such attempts are found to have a very limited effect, while the vices of the government remain.

Similar efforts have been made to introduce knowledge and civilization among the Russians; but the general success of these endeavours, has only been proportioned to the degree in which property has been allowed to produce its natural effect.

Much has been said by the Abbé Raynal, and other authors, on the civilization and conversion of the Paraguay Indians, by the Jesuit Missionaries, who settled in that country. And it certainly is a subject worthy of investigation, to ascertain with some degree of certainty, whether that civilization was the effect of a dependence upon private property, or whether it proceeded from any other cause.

It must be observed, that Paraguay is bounded on the West by Chili and Peru, and that the Peruvians had made a considerable progress in civilization at the time they were first discovered by the Spaniards; and as they were inclined, like other civilized nations, to make converts and increase their dominions, they had endeavoured, both by force and persuasion, to subdue the Guaranis, a neighbouring nation of Paraguay. At the same time they carried on with them a trade for a particular herb, which was in great demand and high estimation among the Americans. This trade must have introduced some knowledge of private property; and although it did not occasion a dependence upon it for subsistence, yet it would naturally produce a small degree of civilization among the Guaranis. The Peruvians had likewise prevailed upon some of them to adopt their worship and superstition; which being directed to visible objects, and attended with pomp and ceremony, was well suited to the ideas of an ignorant people.

The Guaranis nation was in this condition, partly yielding to, and partly disputing the authority of the Incas of Peru, at the time the Jesuits settled among them.

These reverend fathers did not begin their mission by attempting immediately to make them Christians*; but perceiving the advantages to be

* Raynal, Vol. III. page 122.

made

made by extending the commerce for the herb of Paraguay, and other articles the produce of that fertile country, they engaged the natives, partly by persuasion, but probably more by allowing them to share in the profits of this advantageous trade, to depend upon *property* for many of the necessaries of life; with which they were supplied by the Jesuits, in return for their labour and industry.

By these means the Guaranis were reduced to depend partly upon *property*, and partly upon the bounty of the Jesuits for their support.

A dependence upon *property* for support produces civilization; but a dependence upon another man, or men, produces submission to their will, and checks the natural effect of *property*.

The Guaranis being, by this conduct, partly civilized, and partly enslaved by the Jesuits, were, from the nature of their condition, fitted in some degree to receive knowledge and instruction; but still sufficiently ignorant to believe implicitly whatever it became the interest of the Jesuits, their masters, to teach them. The churches of the Jesuits surpassed in magnificence the temples of the sun; and by out-doing the Peruvians in pomp and ceremony, they subjected the minds, as well as the bodies of the Indians, to their will and devotion.

Wherever there is both industry and a fertile country, there must be a considerable surplus of property,

property, beyond what is wanted for supplying the necessaries of life; and where property is allowed to produce its natural effect, every individual is entitled to his own share of this surplus. To increase it is the object of his ambition; because it insures to him the means of providing for a family, which promotes population; it raises the possessor to a superior rank, which by his increased influence, aids him to secure his property; it enables him to extend his trade, which increases the wealth of the state; and it affords him not only the comforts, but the luxuries of life.

In the fertile country of Paraguay the necessaries of life, and even what would appear to the natives to be comforts, or luxuries, might be procured by the skill of the Jesuits, at a small part of the value of the labour of the Indians. It was the policy of these missionaries to collect the whole profits of the labour of the Indians into one public stock, of which they kept possession, and only distributed as much among their subjects as afforded them a moderate subsistence; probably more comfortable indeed, than they could have obtained in their savage state; but certainly short of what they had a title to receive, and what would have produced an increase of civilization, of population, and of national prosperity, if allowed to circulate without restraint. In place of which, it went to aggrandize the order of the Jesuits, and to build churches; which might rather be looked upon as necessary engines for enslaving the minds of the ignorant
Indians,

Indians, than as temples devoted to the worship of the supreme Being.

It is not a little extraordinary that a person of the Abbé Raynal's liberal sentiments and penetration, should bestow so much praise on an institution, which was much better adapted to the enriching of the Jesuits, and establishing their absolute power over the Indians, than to promote among them civilization and useful knowledge. He observes, that there is no distinction of stations among them; and looks upon that equality as the second of all blessings, allowing liberty to be the first. He must however have perceived, that the Jesuits forming a very material part of their society, formed also among them a very important distinction of station. It is true, there were no intermediate ranks; which certainly was no advantage, but on the contrary, a very great loss, as it left nothing but absolute masters and complete slaves.

Equality of condition with respect to property, can never take place in a civilized society, without laying such restraints on the natural effect which *property* would produce, as are wholly incompatible with liberty.

What then are the advantages peculiar to this condition, which the Abbé Raynal has dignified with the name of second blessing? Would it add to the happiness of the wise, the good, and the industrious, that the fool, the wicked, and the idle, shared equally with them the fruits of their
labour,

labour, or superior skill? The very contrary must be the case. The fact is, that the Jesuits were masters, and the Indians slaves; treated, perhaps, with more humanity, than other slaves, because the Jesuits had more wisdom than other masters: they laboured for the aggrandizement of an order, and not the speedy enriching of an individual. The Indians under them depended in some degree upon property, and in a proportionate degree became civilized; an effect which must naturally follow its cause. And it may safely be added, that they will make no further progress in civilization, unless some alteration, more favourable to a perfect dependence upon property, and to its free operation, be introduced.

The inhabitants of the old world have, very uncharitably, concluded, that the inhabitants of the new are not capable of the same attainments in knowledge with themselves; without adverting to the true cause of their own superiority, and without inducing the Indians in any one situation, to depend entirely upon property for their support, and allowing that property to produce its natural effect. Till such experiments have been made, all decisions on the capacity of men in their original state, or but little removed from it, are premature. The inhabitants of any country whose dependence is least upon property of every kind, will appear, to a civilized people, the most stupid and the least susceptible of instruction. Whereas those who depend the most upon property,

erty, and suffer or experience the fewest restraints upon its free operation, will manifest the greatest share of civilization and useful knowledge.

Those countries which produce spontaneously, or with the smallest degree of culture, the greatest quantity of corn, or of the means of subsistence, beyond the wants of their inhabitants, must, by exchanging the surplus to their neighbours, be the first acquainted with property; and of consequence, the first advanced in civilization and useful knowledge. Egypt completely answers this description: Egypt is supposed to have been the first civilized country in the world, and is renowned as the cradle of science. Of late years, prior claims have been asserted in behalf of India. This is only the fertility of the Ganges contending against that of the Nile. In both instances the causes and the consequences have been the same*.

But

* That the ancient institutions of the Hindoo government were favourable to the free agency of property, appears more than probable, from the light of late years thrown upon these subjects by the researches of our countrymen in India, under the example and direction of the justly admired and lamented Sir WILLIAM JONES. Respecting the government of ancient Egypt, M. DE PAW gives the following account in his *Recherches Philosophiques sur les Egyptiens & les Chinois*, T. 2, page 285.—“ Le Gouvernement de l'ancienne Egypte étoit
 “ véritablement monarchique par la forme de sa constitution;
 “ puisqu'on y avoit fixé des bornes au pouvoir du souverain,
 “ réglé l'ordre de la succession dans la famille royale, &
 “ confié l'administration de la justice à un corps particulier,
 “ dont le crédit pouvoit contrebalancer l'autorité des Pharaons,
 “ raons,

But it is melancholy now to contemplate in each of those countries, the effects which despotic government has produced, by cramping and counteracting the free agency of property.

“raons, qui n'eurent jamais le droit de juger ou de prononcer dans une cause civile. Les juges faisoient même à leur installation un serment horrible, par lequel ils promettoient de ne pas obéir au roi en cas qu'il leur ordonnât de porter une sentence injuste. Outre le College des Trente qui résidoient continuellement à Thebes, outre les magistrats particuliers des villes qui prononçoient dans certains cas, les provinces envoyoit de temps en temps des députés, qui se réunissoient dans le Labyrinthe où l'on disentoit des affaires d'état, qu'on croit avoir été relatives aux finances: Car Diadore assure que les rois d'Egypte ne pouvoient taxer arbitrairement leurs sujets, comme cela est établi, ajoute-t-il, dans de certains états où l'on ne connoissoit point de plus grand fleau: ensuite il insinue que la classe sacerdotale avoit l'inspection sur les finances; ce qui suppose que les provinces devoient aussi donner leur consentement aux nouveaux impôts.

“Maintenant nous voyons qu'on a été dans l'erreur en soutenant que les anciens n'ont eu aucune idée d'un véritable gouvernement monarchique. Si Monsieur de Montesquieu n'en a pas trouvé des traces chez eux, c'est qu'il ne les a point cherchées où elles étoient: il s'arrête à considérer quelques états de l'ancienne Grece où les rois prononçoient eux-mêmes dans les causes civiles; mais cet usage, qui choque les principes de la monarchie, n'eut jamais lieu en Egypte. Je parle de ce qu'ont fait les princes: Je ne parle pas de ce qu'ont fait les tyrans.”

The above passage appears to me curious and interesting:—It clearly establishes, that Egypt was early possessed of the best form of Government for securing Property and personal Liberty; and that the conclusion inferred in the text is supported by history and experience.

PART

PART SECOND.

ON NATIONAL CHARACTER AND MANNERS.

GOOD breeding made manifest by benevolent actions, and by words expressive of real sentiments, are indubitable marks of civilization, and will only be found to prevail where property is allowed to produce its natural effect.

That difference of rank which well protected property must naturally produce, not only gives influence to its possessor, but attracts from others a voluntary degree of respect proportioned to the quantum of wealth, provided the proprietor has not by his conduct forfeited the esteem of the public; and this difference of respect proceeding from the unequal but natural division of property, is productive of very beneficial effects to society.

But refined and artificial manners, dignified perhaps by the name of politeness, and invented to gratify the vanity of the possessors of artificial rank, will be found when carried to too great a height, to produce a very different and contrary effect.

Artificial rank may be proper to a certain extent; but if carried beyond due bounds, it will

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not

not only raise too great a number of individuals above their natural level, and of consequence depress others under it; but by creating a redundant body of nobility and titled men, it will materially affect the manners of a nation: because those privileges and that respect annexed by law or custom to their rank, when repugnant to the natural distinction which property creates, must be enforced by the arm of power.

It has already been observed, that a certain degree of respect is voluntarily paid to the possessors of property; which, more perhaps than any other circumstance attending the accumulation of superfluous wealth, has made it, in all civilized countries, an object of eager desire and ambition. Advantage has been taken of this propensity of the human mind; and the outward marks of respect, if not the thing itself, has been annexed by authority to certain titles; and when these marks of honour and distinction are bestowed for public services, they serve to point out the persons deserving of respect and national gratitude. But, if they be indiscriminately bestowed, or for improper purposes, and the numbers increased beyond what sound policy requires, then, artificial in place of natural manners, will be the certain consequence: outward marks of respect and esteem will be exacted, and often bestowed, when not really felt; on the contrary, the party so honoured may, on many occasions, be an object of hatred and detestation. In such a nation, professions of regard and flattering speeches, will either have no

real meaning, or a bad one; because they may serve as a cloak to conceal antipathy and hatred. Submission and respect are not only sincere, but readily yielded, when the reason for exacting them meets with public approbation; but when this is not the case, they may be given in compliance with custom and in obedience to authority, but they will be void of sincerity; all marks of attention will be artificial; and the more extravagant the display of respect, the further it will be from reality and truth.

As it is common to judge of what is passing in the human mind, by attending to the words or actions of the individual, the person who receives the adulation, conceiving himself entitled to it, will seldom trouble himself about the motive of the giver; the appearance will gratify his vanity; and the superficial observer will admire the complaisance and politeness of a nation, where such manners prevail; and where the frequent demands for gratifications of this kind has made it the fashion, he will be apt to conclude, that the most polite is the most civilized nation.

In this, however, he would be greatly mistaken; as that excess of civility, commonly termed politeness, is a strong indication of concealed barbarism; and takes its rise from the interruption given to the natural effect which property would produce in creating distinction of station in society; substituting in place of natural order, an artificial rank, which derives its origin from a different source.

The one is sterling coin, made current by its intrinsic value; the other a counterfeit metal, deceiving the eye by its high polish, of which the general circulation may be productive of much mischief.

It is curious to observe how much those nations, which falsely pretend to the highest degree of civilization, and which really are the most polite, resemble the most barbarous, or the least civilized nations, in the vices to which they are both peculiarly addicted. In both, deep play or gambling is carried to an excess. The savage stakes his wife, his children, and even his personal liberty. In polite nations, and among the most polite individuals, fortune, family, every thing dear and valuable, are sacrificed to the gratification of the same fordid passion.

Among savages, the right of private revenge is tenaciously asserted. What is the practice of duelling among the polite part of the most polite nations? It is the gratification of private revenge, and therefore incompatible with a state of civilization. Thus those nations who think themselves in the highest degree polished, appear to be the farthest estranged from civilization, and the nearest allied to barbarism. In such nations, a disregard to those laws, on which the very existence of civil society must ever depend, is very conspicuous; more especially, among the highest and the lowest classes of the community: and whatever may be their pretensions to civilization, it seems evident that

that such nations, instead of being highly civilized, are tending, as fast as their population and other circumstances will admit, to the total dissolution of their political union.

If this reasoning be just, it will follow, that the most polite nation will have the greatest body of noblesse*, and be less civilized than any other under a similar form of government.

This may seem a paradox to such readers as have been accustomed to estimate civilization, by national politeness; but on due consideration, they will be found to differ very widely. Even in the same society, the highest and the lowest classes, taking them in general, will be found to be the least civilized; because, the one has too much rank, and the other too little. In the one, all is hid under dress, parade, ceremony, and artificial manners: in the other, all is open, without a proper sense of decorum; because it is the effect of property alone in producing rank, which gives rise to becoming manners among mankind.

Savages for instance, in the very rudest state, have no ideas of modesty, or decency of manners: and if it were possible to annihilate all natural rank among a civilized people, they would soon be in the same condition; because it is the effect of property in producing rank, that gives rise to modesty and manners.

* The word *noblesse* is meant to include the nobility with all its branches, and all persons possessing artificial rank and orders of knighthood.

In the rudest state, savages are found without any kind of cloathing or covering whatever, on any part of their bodies; but when the slightest dependence upon, or even knowledge of property, produces the smallest degree of civilization, they never fail to cover particular parts of their body*; and wherever this is done from a sense of modesty, the first step toward civilization has taken place.

Left the arguments for shewing that the most polite nations are not the most civilized, should not have been sufficiently perspicuous to carry conviction to the mind of every reader, it may be proper to enforce this part of the subject by example; and the French nation affords a very recent and striking illustration.

It will readily be admitted, that the French had a much greater proportion of noblesse than any other nation in Europe; and it will likewise be admitted, that they were the most refined and polite in their manners; that is to say, their behaviour was more artificial, they professed more and meant less than any other people.

If that politeness for which the French nation

* May the scriptural account which is given of the fall of man, be quoted in this place as an illustration? If by the tree of knowledge, knowledge of property be understood, the effect is striking. "As soon as our first parents had eaten of the tree of knowledge, they knew that they were naked, and made themselves aprons of fig-leaves."

were

were celebrated, had been a certain sign of complete civilization, which consists in philanthropy and the exercise of every human virtue; the removal, or rather annihilation of the nobles (to the superfluous number of whom I have imputed their obsequious manners) would have made no difference in the benevolent disposition of the people; and if their politeness to their superiors had been sincere, they would have felt for their change of circumstances, and have treated their fall with kindness and humanity. On the contrary, if this politeness was the effect of fear, and extorted by compulsion, it would be productive of dislike and hatred, and would conceal a spirit of resentment and revenge, which would break forth in acts of outrage and cruelty on the first opportunity: and that this has been the case in France, in consequence of the revolution, the whole train of recent events there, too conspicuously demonstrates.

It may however be necessary to observe, that if the great difference of rank, occasioned by the aggrandisement of so many nobles, and the consequent depression of other classes, had not produced barbarism, at the same time that it generated politeness, the different orders of the state would not have harboured any antipathy against each other: the great would not have treated the lower orders with contempt and inhumanity; nor they, in their turn, have manifested the greatest obsequiousness where they bore the

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most implacable hatred. This was notoriously the case in France prior to the revolution; and there could scarcely be a stronger proof, in a nation depending wholly upon property, of barbarism and want of civilization.

It seems to follow from this reasoning, that the acts of cruelty and gross inhumanity, committed in that country, upon the emancipation of the lower people from restraint and abasement, however detestible in themselves, were effects to be expected from such a cause. Redundance of compulsory rank produces excess of politeness, accompanied by want of civilization and virtue, and the attainment of freedom from this restraint immediately remove the veil, and discovers the real disposition of the people. If the power of the state should, by such a convulsion, fall wholly into the hands of the lowest order of the people, the greatest excesses may be expected; because their antipathy to the highest classes is the strongest; and their want of civilization, from the cause already assigned, probably the greatest*.

A nation

* A similar revolution to that in France has now taken place in the United Provinces; at least upon the success of the French arms in that country, they have held general assemblies, dissolved their allegiance to the Stadtholder, and adopted a republican form of government, like that of France: but we have heard of no cruelties, no murders, no guilotine; hardly any confiscations among them. I beg leave to transcribe from the English Review for November 1795, the contrast, which is there drawn, of the late conduct of the French, compared with that of the English, under similar circumstances, about 150 years ago,

A nation where the natural and proper effect of property has been perverted, by numerous titles and forced accumulation of wealth, although less favourable to the attainment of useful knowledge, than a more perfect state of civilization, will, notwithstanding, afford greater encouragement to the polite arts, and all others which administer to luxury, or the gratification of powerful and wealthy men: literature, as an accomplishment which gives additional dignity to rank, will likewise flourish, and produce general knowledge among the higher stations. The lower classes of the people, depending, in a great measure, upon their superiors, will become proficient in those arts and trades, that are calculated to please the vanity of the higher orders, and in such accomplishments will excel the people of other countries.

When immense wealth, acquired by means unconnected with the natural effect of property, had occasioned refinement and the consequent decline of civilization among the Romans, they excelled more in the fine arts, and even in literature, than in the most virtuous and completely civilized state of their progress.

Any great influx of wealth, not acquired by the

ago "The French are at this moment as fanatical in their atheism, as ever the English were in their religion; and in politics too, the fanaticism of both were equal: yet the English were gentle and forbearing towards one another, except in arms; the French cruel and bloody, delighting in delations, proscriptions, assassinations, and massacres."

natural effect of property, seems dangerous to a state; but more particularly so, if by injudicious laws it be prevented from circulating freely and without restraint. An unrestrained circulation and equitable succession, might entirely prevent that national decline, which experience as well as reason, may teach the inhabitants of every country, in such circumstances, to expect.

Polite manners and polite arts, are the consolations appropriated to the decline which a nation experiences from the constraint and impulsive direction of property (the natural source of all arts and manners;) and they serve in some measure to smooth the road to ruin.

Having endeavoured to prove how very prejudicial too great a difference of rank must be to society, it becomes necessary to shew, that the opposite extreme is not less dangerous; and that equality, if it were compatible with a dependence upon property, would prove equally destructive of civilization.

It is the natural operation of property, when not laid under unnecessary restraints, to occasion a regular gradation of rank in society; and to this circumstance may fairly be attributed, not only mutual civility, modesty, and every degree of good manners, but in a great measure civilization itself; as without this difference of rank, we would differ little in our conduct and behaviour from savages. The whole history of human civilization, is a continued proof of this fact; because

wherever there is no knowledge of property, there is no difference of rank, no civilization, no modesty, and no civility of manners. Wherever there is a small dependence upon property, there is a small difference of rank, a small degree of civilization, a small degree of modesty, and a small degree of mutual civility. As the dependence upon property increases, these never-failing attendants increase with it in exact proportion; provided the progress of property, in producing these natural effects, be not interrupted by improper and unnecessary restraints.

These facts do not depend upon speculation, as every nation in the world is not only an example, but a proof of the truth of them; they are effects which ever did, and while the Supreme Being is pleased to uphold the system of nature, ever must follow their cause: and it is demonstrable from hence, that equality never did, and never can exist, in a nation depending upon property for support; it is only to be found where property is unknown.

That difference of rank, which is the natural effect of property, is absolutely necessary in every civilized nation; it never did, and never will produce any bad effects on society; on the contrary, it is the cause of all the benefits and advantages of civil life. The discontents of the people at their political situation, and the consequent revolutions and convulsions of states, have proceeded from giving such a direction to property, as occasioned
either

either too much or too little rank in the community, which equally produce bad effects; the medium is obvious, and if followed, must be attended with the greatest possible degree of national virtue and national happiness.

To force an accumulation of property in the hands of a particular class, like the nobility of France, and to keep it there by laws which seem to be both impolitic and unjust, must tend to destroy the natural gradation of rank, and with it the civilization of the country. That it has had this effect in France, in Poland, and in many other countries, the slightest attention to the circumstances of those nations will render apparent.

How far property should be secured by law in the families of a useful and necessary nobility, where such is requisite from the nature of the government, I shall not pretend to determine*; but the laws of entail and primogeniture, wherever they become too general, must be productive of bad consequences, from the interruption they give to

* This seems to be the single instance where the law of primogeniture is defensible; because, whenever rank is intended for public benefit to be maintained, it ought to be accompanied with superiority of fortune or property, to render such rank natural, and not wholly artificial. For the same reason, such public offices as are meant to confer a certain degree of rank, ought to be accompanied with corresponding salaries, otherwise they will cease to produce the intended effect; and when that is connected with the preservation of authority and discipline, they will cease to answer the purposes of their institution.

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the natural effects that property would otherwise produce: the tendency they have to place the permanent property in few hands, might even prove subversive of freedom. It is evident from reason and experience, that when the property of the lands, and the powers of the state, are vested in the same person, despotism and slavery are the consequences. When they come to be combined in more persons than one, the effect takes place with aggravation; because the greater the number of despots, the more intolerable the tyranny. The adoption of laws, therefore, which have a strong tendency to place the permanent property in few hands, must operate to produce this general effect*.

If these facts be admitted, laws having this tendency should be carefully avoided in a free country. "Shew me a black man, and I will shew you

* The law of primogeniture did not exist in what were esteemed the best governments among the ancients. "The Greeks, the Romans, the Britons, the Saxons, and even originally the Feudists (says Sir William Blackstone) divided the lands equally; some among the children at large, some among the males only." Commentaries, Book II. Ch. XII. Primogeniture was first introduced into England by William the Conqueror; and into Wales by Henry the Eighth; Princes whose character was congenial with such an institution! Yet, in some parts of England the custom of gavelkind is still prevalent, by which land is inherited by the sons alike, particularly in Kent.—"It is universally known" (says Blackstone, when he mentions this subject) "what struggles the Kentish men made to preserve their ancient liberties; and with how much success those struggles were attended."

a thief,"

a thief," is a common saying among the planters in the West Indies; and the reason is obvious, because it is impossible that slaves, who are deprived by law of that property for which they labour, can be honest from principle, whatever they may be from fear of punishment; and this is evidently owing to the unequal division of property between them and their masters. It must follow, that all unequal divisions of property by law, will produce a proportionate degree of dishonesty and crimes; which can only be remedied by the fear of punishment: and it will likewise follow, that where there is no unequal division of property by law, there will be no dishonesty and crimes arising from that cause.

If there be truth in this reasoning, the only remaining question will be, whether it is better to prevent crimes, by removing the cause (when that can be done without real prejudice to society) or by inflicting punishment? By the former; will surely be the answer of every disinterested man. And the means are clear; do no injustice by law with respect to the division of property, and the good effect will appear by lessening crimes and preventing punishments.

It is a mistake to suppose, that such laws serve to strengthen an aristocracy (if by that word the large property in general be understood) because the natural effect of property would produce the strongest aristocracy, consisting of a just and natural proportion of persons and property. Any variation from this rule,

rule, can only increase the one, by diminishing the other; which must weaken, and not strengthen the aristocracy; and which may prove dangerous to the state, by placing too much power in the hands of a few individuals; who would, by this means, ingross that consequence which the natural operation of property would have placed in a greater number of persons.

That property cannot produce its natural and proper effect, except under a free government, is too evident to require any proof. Property can never be free where mankind are enslaved. The happiness and prosperity of every nation must, therefore, depend very much upon the nature of the government.

Having illustrated the operation of property in the formation of national manners, by an allusion to the habits of the French nation; it may, perhaps be proper to distinguish here some national peculiarities, which appear to spring from a different source.

The gaiety or levity of the French character, does not seem to me to be derived from the same cause with their general obsequiousness of manners; but to be dependant upon that freedom from restraint, with which their women have been indulged.

If the persons and affections of the women be at their own disposal, the men, from a natural pro-

propensity, will adopt that mode of conduct, in their manners and behaviour, which they find from experience best calculated to please the women. And this will be the case, without regard to the form of government, or the restraints in other respects laid upon civil liberty.

If the women be held under restraint, and governed and disposed of at the will of their parents and relatives, the manners of the men will, in consequence, take a different turn; and in place of that gaiety which is the most pleasing to the women, a certain degree of gravity, best suited to please those who have the disposal of them, will be adopted by the men, and, in that respect, become the national character.

If the women be kept close prisoners, and no promiscuous intercourse be admitted with the other sex, the men will be grave and reserved; and, except to distinguish their rank, careless and uniform in their mode of dressing; the character of a fop, coxcomb, or petit maitre, will not be known among them.

If the women be allowed every degree of freedom consistent with morality and virtue, and, of consequence, the laws necessary for the well-being of society be respected, the character of the men will be formed of that happy mixture which is best suited to a completely civilized nation.

The truth of these observations does not depend

pend upon speculation, because the inhabitants of every nation form an example. But to place it in a clearer point of view, it may be proper to select some of those nations, whose characters in this respect are strongly marked and generally known.

The French, for instance, have laid fewer restraints upon the conduct of their women than any other nation in Europe, and they, of consequence, have carried, to a greater excess than any other that love of mirth, gaiety, and pleasure, which is natural to the sex. The men, to gain their good graces, which is also natural, have in these respects, become exactly what the women would chuse to have them; and it seems a reasonable conjecture, that their character for levity and frivolity will remain, while the same liberties are allowed to the women; notwithstanding of their republican government, and their change of manners in respect of obsequiousness to superiors.

The Spaniards, on the other hand, have laid their women under great restraints; they are carefully kept from free intercourse with the men; and the fathers or friends must first sanction, by their approbation, the addresses which are to be received in the view of engaging the affections of the women. The manners and deportment of the men are, therefore, calculated more to please those upon whom the women depend, than the women themselves; and as this is not done by frivolity and
gaiety,

gaiety, but by gravity and sedateness, the character of the men falls naturally to take this turn.

In Turkey, the women are made private property, and kept prisoners. The men are grave and reserved in the extreme. No mirth, no music, no dancing, no finery in dressing, but to distinguish rank; few words, and no animated conversation. In the posthumous *Essays on Philosophical Subjects*, by a late enlightened and intelligent philosopher (Dr. Adam Smith) I find the following general account of the introduction of music and dancing among mankind. "After the pleasures which arise from the gratification of the bodily appetites, there seems to be none more natural to man than music and dancing. In the progress of art and improvement, they are, perhaps, the first and earliest pleasures of his own invention; for those which arise from the gratification of the bodily appetites, cannot be said to be his own invention. No nation has yet been discovered so uncivilized, as to be altogether without them. It seems even to be amongst the most barbarous nations, that the use and practice of them is both most frequent and most universal; as among the negroes of Africa, and the savage tribes of America. In civilized nations, the inferior ranks of people have very little leisure, and the superior ranks have many other amusements; neither the one nor the other, therefore, can spend much of their time in music and dancing. Among savage nations, the great body of the
" people

" people have frequently great intervals of leisure, and they have scarce any other amusement; they naturally, therefore, spend a great part of their time in almost the only one they have." In this statement, which is not meant to be given with precision, the author seems to be under a mistake; at least in respect to that species of music and dancing, which accompanies, and is expressive of mirth and gaiety, and which must originate in the general cause of gay and mirthful manners. The negroes in the West Indies, who have very little leisure, are very fond of music and dancing. The Turks, who have a great deal of leisure, never dance at all; but spend their time in sitting cross-legged on mats, and smoking tobacco.

The idea that national character, in these respects, depends upon climate, soil, or any other physical cause, seems too absurd to require refutation. It remains, however, to be proved, that national sedateness, or gaiety of manners, does not depend upon the enjoyment or deprivation of civil liberty; provided no restraints are laid upon the women, tending to deprive them of the disposal of their own persons or favours, and preventing a free intercourse with the men.

If slavery and tyranny were productive of grave and sedate manners, the negroes in the West Indies would be the gravest and the most sedate people in the world. But the very contrary is the case; they are remarkably gay, and very fond of dress, music, and dancing; and in these respects

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they resemble the French more than any other people of Europe; because their women, like the French women, are under very few restraints in their intercourse with the men. But this mirth among themselves is not, as some people have supposed, a proof of their being contented with their political situation as slaves; it only proves that their women are not, like the Turkish women, deprived of, or even restricted in the use of their natural freedom.

In countries where property is not well ascertained, and where the necessaries of life are in such plenty, that a female can rear her offspring without the aid of a husband, there will be, if not restrained, much promiscuous intercourse between the sexes, great gaiety of manners, and licentious amours; because, it would be of little consequence to the state, who was the father of the children, provided his aid was not necessary in rearing them; and that there was no property to leave by descent.

Otaheite, and some others of the naturally fertile islands in the South Sea, afford examples of this kind*.

But in civilized countries, where the aid of the father is necessary to the rearing and educating his offspring, and the nation depends wholly upon property for support, it becomes necessary that the children should be reared by the joint aid of their

* It is said, that at Otaheite a family may be maintained for the whole year upon the produce of three bread-fruit trees.

parents;

parents; and that property, in order to produce its natural and proper effect, should be bestowed on, and descend to those, who from consanguinity, or other just claim, have the best right to it; because that licentious freedom of intercourse between the sexes, which may tend to render the progeny doubtful, would interrupt the natural and proper effect of property; which depends, in a great measure, on the title to it by descent being clearly and justly ascertained.

PART THIRD.
ON
GOVERNMENT AND LEGISLATION.

WE have seen, in the preceding parts of this work, that property is the first cause of intelligence among men; that it produces the knowledge of good and evil; creates difference of rank; and becomes the source of contention; that the knowledge of public property generally first takes place, which has but a very limited effect in the production of civilization; but that the knowledge of private property, with which some degree of laws and government must be coeval, when left to produce its own natural effects, without force or restraint in respect to accumulation or depression, occasions a regular gradation of influence and rank in society, correspondent to men's ideas of equitable and unbiassed justice; the natural consequence of which would be the prevalence of equity and knowledge, the practice of virtue, exemption from vice, individual content, and public liberty and happiness. But when, by the artifice of power, and the perversion of laws to partial purposes, this concatenation of cause and effect is disjointed and broken, the benefits which would have resulted from it are obstructed, or converted into evils of an opposite tendency, proportionably injurious to the community,

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nity, as their consequences depart from the natural and unbiassed effects of property.

Knowledge and civilization, including virtue and justice, are the natural effects of property upon society; but government and legislation, without which it cannot exist, are essential to the attainment and preservation of these advantages. The proper operation of law and government, therefore, is to preserve the natural arrangements which property produces, and to establish public liberty, by protecting the persons of the poor, and the property of the rich. The consideration of this subject, as applicable to a matured state of society, gave rise to the following letters, which have before been published and sanctioned by public approbation.

LETTER I.

IN the infancy of society, mankind are found without property, government, or laws. As they advance toward civilization, they have some kind of dress and decorations, which, as articles of luxury, raise envy, and require protection. This species of property would at first be defended by such individuals only as were possessed of it; and the punishment which they would inflict on those who attempted to deprive them of their wealth, would be such as passion dictated, and as ignorance, unawed by

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by any superior power, thought proper to inflict. The bad effects of such corrections, and the conflicts which they would produce, must soon convince the whole community, that it was necessary to sanction, by their authority, a certain degree of chastisement to be inflicted on those who deprived any person of his property; and from the necessity of protecting *persons* and *property*, government and laws first took their rise.

In a more advanced state of society, when individuals can no longer live independent of each other, and the necessaries of life must be purchased by barter, or with money, the effects of property become visible in the management of public affairs. Perfect political equality can no longer subsist, as it is impossible that wealth can continue to be equally divided; and upon wealth, influence and power must necessarily attend. In this state of society, it affords the means of procuring what then become the necessaries and comforts of life; in return for which, individuals will readily give their time, talents, and personal service.

If this statement be accurate, it appears that great property must be attended with great power; it will likewise be evident, that the possessors of power do not rest satisfied, but constantly wish to increase that power; and this propensity in our nature, if not counterbalanced by an equal effort, would lead those who are possessed of great wealth, and united by a common interest, to subjugate all those who had little or no property. Fortunately
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for mankind, the persons who possess little or no property, when considered collectively, are equal in power to those who have the advantage of property; they make up by numbers what they are deficient in wealth. The operation of this power is uniform and certain. If the property be divided among a few persons, they must have great numbers to oppose their views; if the property be vested in a great number, it diminishes, by that number exactly, the persons who are apt to encroach upon it. Mankind, in all situations, have the same natural propensities; and those without wealth would as certainly encroach upon those who have it, as the wealthy would oppress the indigent, were they not restrained by a force equal to that which they possess. All civilized nations are naturally divided into these two parties; and it is evident, that freedom depends wholly on their being equally balanced: for if *property* prevail, personal freedom and small possessions must be in danger; and if *persons* prevail, great property would not be secure from their encroachments. Therefore real freedom, which consists equally in the security of *persons* and of *property*, can only exist where the two parties are equally balanced. As these two parties, by a law of our nature, are inclined to encroach upon each other, the very essence of real freedom seems to consist in preserving a due balance between them; and experience has shown, that an executive power, properly limited, is best suited to that purpose.

In forming the executive part of government, if the possessors of large property should prevail, it would probably be placed in the hands of a senate, council, or some such body, chosen from their class: If, on the other hand, the *persons* without property should prevail, it would be placed in the hands of magistrates chosen by them, and to continue but a short time in office: but if the executive power should be chosen by the mutual consent of the two parties, it would probably be vested in a single person, under limited powers, who would have an interest in preserving a proper balance between them. If the parties did not agree to some of these expedients, a civil war would probably ensue, the horrors of which would prepare their minds to submit to any form of government that might be dictated by the conqueror, who would probably seize the whole power, and make himself absolute.

In some of these ways have originated the principal forms of government which uniformly prevail in every part of the globe.

There are indeed other circumstances which have occasionally operated in the formation of governments. Certain bodies of men, by taking advantage of the prejudices of the people, have become sufficiently formidable to seize the whole power of the state. Mankind, from ignorance, are naturally prone to superstition and credulity; men of cunning and of erudition have seldom failed to avail themselves of this weakness, and by pretending to act under authority more than human, have subju-
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gated even tyrants to their sway. But this surreptitious method of obtaining power, ought rather to be considered as an usurpation, than a first establishment of government; and does not, properly, fall under immediate consideration.

This short and general view of government will be sufficient to shew, that political equality cannot take place, where property is unequally divided; because wealth naturally brings with it an influence which no human laws (not subversive of freedom) can prevent; and this inseparable effect of wealth becomes an immutable law of our nature, absolutely necessary to the preservation of property; which would otherwise be at the mercy of those whose wants would naturally lead them to covet, and to seize upon the possessions of others.

It will likewise show, that, when the whole power of a state is in the hands of the rich, small property and personal freedom must be in danger; for wealth desires command and power, as much as poverty desires riches.

There are but two just claims to the power of government in any state; the one proceeding from the preservation of property, and the other from the security of personal freedom. All other pretensions are spurious; they can only be obtained by fraud, and supported by force; as liberty and property alone include all the purposes of government.

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How those principles ought to be applied in a free state, under a representative form of government, shall be the subject of my next letter,

I am, &c.

LETTER II.

It seems to be generally allowed, that the representative system is the best form of government in a free state; but there has been great difference in opinion with respect to the weight which *property* should have in the choice of representatives.

In my first letter I endeavoured to shew, that *property* is naturally attended with a certain degree of influence and power, which is absolutely necessary to its existence; that the preservation of *property* and of personal freedom were of equal importance in a free state; that these two powers have a natural tendency to encroach upon each other; and that no real freedom can exist, where either the one or the other is allowed to preponderate.

If these facts be admitted, it seems necessarily to follow, that the representatives of a free people should be chosen, one half by the *property*, and one half by the *persons* independent of the property: otherwise *property* would be wholly in the power of *persons* to whom it did not belong; or *persons* in the power

power of *property*, which would have an interest and inclination to oppress them.

In order to place these observations in a clearer point of view, let us suppose, that in a free state, under a representative form of government, where liberty and property ought to be held sacred, all the lands justly belonged to one man: if, in these circumstances, the people elected the whole of the representatives, what security would this man have that his property would be safe? It would be left in the power of those who would have a strong and an unrestrained temptation to infringe upon it. But if he elected one half of the representatives, it would be their essential duty to preserve his property inviolate. The people would likewise be effectually protected from his enormous power, by their proportion of the representation. And by this equal division of the representative body, a perfectly free government would subsist, even where wealth was so very unequally divided. The same thing must happen, were the lands or great property in the hands of ten men, ten thousand men, or any other number.

On the other hand, if every individual of a nation, except one man, had an equal and a large share of property, and if that man had none, he would be an outcast of their society, void of consequence, and unprotected by the laws, and they might compel him to do whatever they pleased. But if he elected one half of the representatives of the legislative body, it would become their essential

tial duty to protect his personal freedom against the accumulated influence of the whole property. And the same thing must happen were ten men, or ten millions of men, in this situation.

From the arguments which I have used, illustrated by these examples, you will readily perceive, that it is absolutely impossible to make the great *property* of a nation perfectly secure, in a country governed by a representative body, unless that *property* elects one half of the legislative assembly. And you will likewise perceive, that personal freedom cannot be perfectly safe, unless *persons*, independent of property, elect one half of the representatives.

I am aware, that the impossibility of preserving an exact equality in a body of men, subject to human passions and infirmities, may be urged against this scheme; for, if they were left to themselves, they would soon be convulsed by intrigue, or misled by eloquence; bribed, perhaps, by the rich, or overawed by the mob. But these evils, as experience has shown, are susceptible of a remedy, which I mean to explain when I come to treat of the executive part of government.

It may likewise be said, that the terms which I have used, of "great *Property* independent of persons," and of "*Persons* independent of property," do not exactly apply, in the sense in which I have used them, as all persons have some property, and all property belongs to persons. I am ready to allow the justice of this observation, and am sorry that

that I could not find terms perfectly adequate to explain my meaning, not chusing to use those which have been perverted by the prejudices of party. In order, however, to remove all doubt on this subject, I shall in my next letter give such an explanation of those terms, as will, I hope, prevent mistakes, and convey a clear idea of the sense in which I wish to have them understood.

I am, &c.

LETTER III.

I Endeavoured to show, in my last letter, that the representative body in a free state, ought to be chosen, one half by the *property*, and one half by the *persons* independent of property. And I proposed to give some explanation of these terms, to which I shall now proceed.

By the term *property*, or *property* independent of persons, I mean the possessors of the great, visible, and permanent property, which in all states having extended and valuable territory, must consist in a majority of the proprietors of the lands: their power and influence extends to all those who are attracted by their wealth, connected with them by interest, or hired by their pay.

By the term *persons*, or *persons* independent of property, I mean the great body of the people, who
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in general depend more for their subsistence on personal labour and exertions, than upon permanent property: their power consists chiefly in their numbers, and their influence extends to all those who depend more upon them than upon great property; and among their adherents are found such of the great proprietors as prefer popularity to riches.

Besides the objection which I have already stated to the terms which have been long in use, for distinguishing the great parties into which civilized nations are naturally divided, it may further be observed, that the word *aristocracy* properly means a government of the nobles or peers; but is of so indeterminate a signification, that it may or may not include a majority of the great *property*: and this circumstance alone would be a sufficient reason for rejecting it; because on that distinction would very materially depend the nature of the government.

To the word *democracy*, nearly the same kind of objection may be made, that the meaning is not sufficiently determinate to express the idea which persons independent of property is meant to convey. The term *oligarchy* is equally objectionable.

It is easy to distinguish the two extremes of *property*, and of *persons* independent of property; but in the intermediate and middle ranks of society, they approach so near to one another, and are so blended together, that it requires the nicest discrimination, to distinguish to which side they may naturally

naturally belong. A very close investigation of this subject would require a large treatise; but it may be observed in general, that *property*, without the aid of *persons*, would be of little consequence; the importance of *property*, in a political point of view, arising from its effect of producing influence to the possessor. Now, if this be considered as the object which makes it valuable, the possessor will naturally give a preference to the side of *persons*, if by such preference he can increase his influence to a degree superior to what he would possess in the class to which he properly belongs, which is often the case, and brings to that side both wealth and knowledge; and without such aid *persons* might be of little consideration; as they would easily be subjected, if they were wholly destitute of property. The condition of slaves is a sufficient proof of this assertion; where the persons of a thousand men, void of property and influence, are subjected to the will and caprices of less than a tenth part of their number; who are the possessors, and the dependents of the possessors of property. It follows, that property is of equal importance to the one party, that persons are to the other; and take them as you please, they are, and ought to be, of equal consequence in a free state; for, in whatever manner the community is divided into *persons* and *property*, whether by a distinct line between the extremes, or by gradually ascending from poverty to riches, and descending from wealth to indigence, and mixing in the middle ranks, like the shades of black and white in a picture; still the nature of the thing

thing is not in the least altered, the two parties, like black and white, continue to be the same, and have the same just claim to an equal share in the representation.

For these considerations and chiefly because the power and influence remain with the *property*, whoever be the possessor, I have chosen to adopt that term, as being both short and significant; and I have selected the title of *persons* independent of property, because they are the principal consideration, and would be entitled to half the representation in a free state, even if they had no property whatever.

The executive part of government shall be the subject of my next letter.

I am, &c.

LETTER IV.

IF the representative body in a free state consisted of an equal number of deputies from *property*, and from *persons* independent of property, it would be impossible, while a just balance was maintained, for either of them to encroach on the other; but that equality, for the reasons which have already been mentioned, cannot be preserved. The remedy for this defect must be looked for in the executive
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part of government, which may be formed in three different ways; viz. either to remain in the legislature; which, for obvious reasons, would be highly improper, or to be delegated by them to a council or to a single person, for putting the laws effectually in execution.

If the executive power be placed in a council appointed by, and subordinate to the legislature, but without influence on that body, such a power would be of no use in preserving the balance between *persons* and *property* in the representative assembly: on the contrary, it would prove an engine in the hands of the majority for increasing their power: the members of which the council consisted, would be changed with the parties in the legislative body, and public measures must, of course, become fluctuating. At any rate, it would neither have power nor dignity sufficient to prevent individuals from aspiring at too much influence in the state, and would prove a constant source of intrigue and cabal.

These, and many other evils, uncompensated by any equivalent good, would certainly be produced by lodging the executive power in the hands of the council, even if the representatives were equally chosen by the two parties; but if the representatives happened to be partially elected, the mischief would still be greater; the council would be appointed by a faction, and would be subservient to its tyranny.

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But if the executive part of government was permanently placed in the hands of a single person, whose powers were so limited as to exclude every idea of becoming absolute, he would find that his own importance greatly depended on his preserving an equal balance in the legislative body; and it would be absolutely necessary that he should possess a sufficient influence for that purpose, which might be found in the nomination to all public offices. With the executive power in the hands of a single person, the measures of government would be more steady than if it was in a council, liable to sudden and total changes; and the power and dignity of the chief magistrate would tend greatly to prevent individuals from aspiring at an influence which might be dangerous to the state; an evil which, history will attest, has constantly attended those governments where *persons* independent of property have preponderated, and where the executive power was placed in a council.

If the executive power was placed in the hands of a single person, without influence in the representative body, it is evident that he could not preserve the balance between *persons* and *property* among the deputies; one of the parties would predominate, and by its ascendancy in the legislative assembly would seize the whole power, leaving the blame of incompetent measures with the sovereign; who, destitute of power, and without protection, would become an object of contempt and detestation; whilst the majority

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of the legislative assembly, actually exercising the executive power without responsibility, would become the most despotic tyrants.

From all these considerations it seems clearly to follow, that the executive power, in a free government, formed upon the representative system, should be placed in a single person, with such a degree of influence in the representative body, as would enable him to preserve among the deputies an equal balance between *property*, and *persons* independent of property. It would likewise enable him to secure from infringement, such prerogatives as were necessary to preserve entire his consequence in the constitution.

In some other letter I shall examine, whether a government formed upon this theory would answer in practice, and be productive of every advantage to be expected from it in a free state; but in my next I shall consider the effect of influence.

I am, &c.

LETTER V.

IN a former letter I endeavoured to prove, that there were but two classes in any nation that had a natural right to the supreme power of the state; and those were *property*, and *persons* independent

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of property. I likewise endeavoured to show, that their right to supreme power did not in any degree depend on the number of individuals of which each class might happen to consist, but on the preservation of property and of personal freedom to every part of the community.

Although it is not possible that any third class can have a natural right to participate in the supreme power of a state, yet the two classes of which it naturally consists may delegate a certain proportion of their power to a third class, with the laudable intention of maintaining an equal balance between them, and exercising the executive part of government; and as soon as they have done this, that third class must be protected against the encroachments of any one of the other two classes which might happen to have an ascendancy; and it seems to be evident that this cannot be effectually done in any other way than by giving the third class an equal share of power in the legislature with any one of the other two classes; besides it appears, that without such a degree of power the balance between the other two classes could not be preserved; and as each class must act as a balance between the other two, their powers for that purpose must be equal. If the third class consisted of a chief magistrate, who was not intended to preserve a balance in the legislative body, it might be sufficient for him to have a *veto* in the legislature, though this negative on the passing of laws would not secure his authority; because the party having the ascendancy

would be always inclined to encroach upon such a power. But if a chief magistrate be intended to preserve the balance between the two great powers of the state, he must, by some means or other, have his equal share in the legislative assembly. It seems to follow, that in a government under the representative system, the chief magistrate should either elect one third of the deputies, or possess an influence in that body equivalent to such a proportion of the representation. But as the chief magistrate could not chuse any representatives for himself, which would not belong either to *persons* or to *property*, the mode of representation could not, in his case, be adopted.

The appointment of persons to fill the great offices of the state must necessarily belong to the executive power, otherwise it would create another power not necessary, and even dangerous to a free government.

In this right of nomination to such of the public offices as would produce influence in the representative assembly, will be found an excellent expedient for giving to the executive power a degree of influence in the representative body equivalent to what would be its proportion or share of the representation; and, for the reasons already assigned, much more agreeable to the nature of a free constitution. This species of influence in the representative body will naturally produce, from those who are candidates for public offices, a systematic opposition to the operations of government; but such opposition will have a good effect, in being a

proper check upon the conduct of the executive power, and preventing the adoption of inconsiderate measures.

If it be admitted, that the chief magistrate should have power to preserve the balance between *persons* and *property* in the representative assembly, it seems to follow, that his influence should extend to one third of the deputies, in such a manner as to make it their interest to support the executive part of government in all its just prerogatives; to make it their interest, as it is their duty, to consent to impartial and equitable laws; to prefer the advantage of the whole to that of the corps to which, from station in life or other circumstances, they may belong, and not from any private views to impede the public business. To act under such influence is neither blameable nor meritorious; but to do the same things uninfluenced by interest, would be patriotic. If the members of the legislative body should adhere to the chief magistrate when he attempted to make encroachments on *property* or the *persons* of the people, it would show, that what was given as influence had acted as a bribe; the intention would be criminal.

If it were possible to conceive a civilized state, in which the whole people were equally inclined to the preservation of personal freedom and the preservation of property, (though in fact no such thing can exist); but, for the sake of illustration, let such a coincidence of interests be supposed; then, according to the principles which I have endeavoured to

to explain, if the people were to appoint a limited sovereign, he must either choose half of the representatives to the legislative body, or have an influence which would be equivalent to this nomination. If he had not this degree of security, it is probable that his power would be of very short duration.

On the subject of influence, I beg leave further to observe, that if the assembly of representatives, in a large state, consisted of a few deputies, the proportion of influence arising in such a state from the privilege of appointing to all vacant offices would certainly be too great. If the assembly of representatives in a small state consisted of a very numerous body, the influence arising from the nomination to offices in such a state would certainly be too small. But if it be necessary, as I have endeavoured to prove, that the nomination to public offices should be in the executive power, as a means of necessary influence in the representative assembly, it will follow, that the number of deputies should be regulated by the quantum of influence.

And it will likewise follow, that if, from acquired territory, extended trade, or any other circumstance favourable to the country, the influence should be increased, from absolute necessity, beyond its former bounds; the remedy most favourable to real liberty seems to lie in adding more deputies to the representative assembly.

Another observation occurs respecting the force or power requisite for supporting the functions of the executive government, which is, that the least possible degree of it will be required when the two parties are equally balanced in the legislative assembly; but if a bias be given in favour either of *property* or of *persons*, the natural resistance which will arise in the state in opposition to this bias, will require an increase of force or power in the executive government to suppress it; which force must continue to be augmented, (the disposition to resist it naturally augmenting), till the government becomes entirely compulsive, and degenerates into absolute despotism.

I am, &c.

LETTER VI.

IF a government consisting of a legislative body, equally chosen from *property* and from *persons* independent of property, with an executive power in the hands of a single person, who was possessed of sufficient influence in the representative assembly to preserve a balance between the two parties, were placed at so great a distance from any large town, or populous neighbourhood, as to prevent either the legislative or executive powers from being overawed by the mob, which naturally belongs, and is attached

attached to the party of *persons*, and which is extremely ready, and equally unfit, to take the direction of public affairs; such a government, so situated, might answer the purposes of its institution. But if this government were placed in a large city, or populous country, the legislative body might be overawed, and the person to whom the executive power was entrusted, might, if not protected by an army, be liable to insult, and even to personal danger, either on false pretences, or to answer some purpose to the candidates for power and offices, who might not be over scrupulous about the means of obtaining their end. The great and most unexceptionable security against these evils would probably be found in a house of peers, or nobility created by the executive power, and not possessing too great a share of the national property, who should re-consider and sanction the acts of the representative assembly.

I do not mean to enter into any detail respecting the construction or limitations of such a house. But it may be proper, in general, to observe, that the nobility, as such, would, in this case, have a common interest with the person to whom the executive power was entrusted, their titles, or the privileges which gave them a separate existence as peers, being derived from him. This intimate connection with the person possessing the executive power, would operate more powerfully upon the nobility, than their general connection with *property*, to which class, if they had not been separated

separated by this peculiar distinction, they would naturally belong; but being more intimately and strongly attached to their nobility, as a distinct corps*, and by that connection to the executive power, than to *property*, they would rather be disposed to repress the encroachments of *property* upon the executive power, and thereby to favour the security of *persons*: at the same time, the preservation of their own great possessions, would effectually prevent them from carrying this tendency so far as to endanger the general security of *property*.

The great wealth which the nobility possess, and the pre-eminence their rank and titles confer, would uniformly be employed to increase the respect and veneration paid to the person possessing the executive power, and could not fail of powerfully producing this effect; which, far from being the useless phantom that popular writers have insinuated, would operate as the most solid, and best security in support of the executive authority; for the maintenance of which an armed force might otherwise be required; and there can be no question, which of these means must prove most consonant to the existence of national freedom. The sovereign executive power must be supported either by general respect, or by an armed force, or by both; and as the one is diminished, the other must be increased.

* See Maxims, page 80.

From a house of peers formed upon the principles which have been suggested, little danger is to be apprehended, considering it in a legislative capacity; many obvious advantages will result from it, and it seems highly necessary to complete the best form of government upon the representative system. The British constitution established at the Revolution, is a full proof of its having answered in practice.

But if a house of peers were to include more than half the great property of the nation, as was the case in France before the revolution in that country, the free constitution of government would, of consequence, be deranged.

Some politicians have imagined that the house of peers was a sufficient representative of *property*; and that the other house should be elected by a majority of all the men in the nation, each having an equal vote; which would make it wholly a representation of *persons* independent of *property*. This supposition will appear to be a mistake, when it is considered that the peers have a separate interest from the *property*, which will unite them to the executive power, in preference to it. And the house of representatives being wholly composed of *persons* independent of *property*, this party would become all-powerful, and might in consequence annihilate every other branch of the government.

But if, in place of a house of peers, there was a house of great property, without titles, or any other

other interest but such as was common to the body to which they belonged; it would then become necessary that the house of representatives should be elected by every man having an equal vote, or in some other mode which would secure a majority to the side of *persons* independent of property.

In a country where property was not very unequally divided, such a form might answer extremely well*; but in a country where it was otherwise, the two houses would have views so very opposite, that it would be difficult to preserve the balance and keep them in temper.

In a free state, some forms of government are, undoubtedly, preferable to others; and that mixed form which has been traced in these letters seems to me greatly to deserve the preference. But forms will not avail, if the only principles upon which a free government can be established are neglected. Those principles consist in allowing *property* to chuse one half of the representatives to the legislative body, and *persons* independent of property to chuse the other. In whatever degree this rule is departed from, in that very degree will one side or the other be oppressed; that is to say, the laws will have a bias, favourable to the general interest of the prevailing party. From the laws you may easily tell which of the parties predominated in making them; and from the state of parties

* Some of the American Governments are illustrations of this.

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in the legislative body, what must be the general complexion of the laws.

Why was the government established in England at the time of the Revolution more favourable to liberty than any other on the face of the earth? Not because the form was the best, although our ancestors deserve, even for that, very great credit; but because it was founded, from the accidental state of parties, nearly on those principles on which real freedom can only exist.

In remote times, the power was divided between the kings and the barons, who were not the same with the modern peers, but the same with that part of the community which I have distinguished by the name of *property*. This form of government did not produce general liberty; *persons* independent of property were greatly oppressed, till the kings, in order to lessen the power of the barons, or, in other words, of *property*, called in the aid of the people, that is, of *persons* independent of property, and gave some representatives from them a seat in parliament. Experience afterwards taught the kings how to bring those two parties in the government pretty near an equilibrium; but they were not aware, that a government so constructed must actually produce general freedom. This blunder with respect to their intentions, which proved fortunate for the nation, brought the kings into much trouble: they still thought that they might exercise as much power and authority as in the

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the days when the whole government was in their own hands, or only participated by the barons; even the example of those reigns where the representatives of the people had a part, but not their full proportion, in the legislature, served to mislead them. At the time of the Revolution the parties were pretty nearly equal, and would not admit of a king, but under such restrictions as would effectually preserve the constitution.

While that equilibrium is preserved in the legislative body, and that body does its duty to its constituents, freedom, by which I mean full liberty to *persons* and perfect security to property, must remain. When *persons* and *property* make the laws, *persons* and *property* can never be in danger; but they cannot be both safe when the laws are made by any other power, or, singly, by any one of themselves.

The whole power of a state vested in *persons* independent of property must produce the worst species of tyranny, because it would be administered by the greatest number of men. The whole power in *property* would only be preferable as being exercised by a smaller number. And by the same rule, the despotism of a single person is preferable to either.

I hope that I have proved to your satisfaction, that the only principles upon which real freedom can be founded in a country where property is unequally divided, are few, clear, and simple; and that

that they consist in placing and preserving the legislative power equally in the hands of *property* and of *persons*.

Let us bring this reasoning to the test of experience. The recent affairs in France, and the history of ancient governments, will amply afford the means.

I am, &c.

LETTER VII.

HAVING explained pretty fully, in the preceding letters, the principles upon which the real freedom of a nation can alone be established, I shall endeavour to prove, by an application of those principles both to modern and ancient governments, that they are founded in truth, and supported by experience.

But in order to account for the actions of individuals, when they seem to be contrary to the interest of the party or class to which they naturally belong, and for the actions of a whole corps, when they seem to be in opposition to the general good of the community, it will be necessary to attend to the three following maxims, which, being founded in nature, act upon us like instinct.

1. In the *first* place, we prefer our own interest to that of others.

2. We prefer the interest of our corps, or the class with which we act, to that of the whole community.

3. And we prefer the interest of our country or community, to that of other nations or communities.

If we reverse the two first maxims, and prefer the interest of the community to that of the corps or individual, we shall then see in what real patriotism consists. But real patriotism is a dictate of reason, not of nature, and requires an effort of which few men are capable.

To expect such an effort, either from individuals or particular corps when contrary to their particular interest, is to expect something contrary to nature.

The kingdom of France had long been under an absolute government; neither *property*, nor *persons* independent of property, could be said to participate in the supreme power of the state. The internal happiness of a country in this situation would very much depend upon the Monarch's maintaining an equal balance between *property*, and *persons* independent of property; and in order to do this he must establish equal laws, which would not allow the rich to oppress the poor, nor the poor to encroach upon the property of the rich: so that, even in a despotic monarchy, this balance of the two parties becomes absolutely necessary to good government.

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I do not mean to enter into a minute detail of the circumstances which preceded or brought about the French revolution; it is sufficient for my purpose to observe, that the Kings of France had greatly deviated from those principles upon which all good government, even under absolute power, must ever depend.

Property was kept in a disagreeable subjection to monarchy, but was allowed to oppress persons divested of property, who were thereby reduced to a state of misery: far the greatest part of the nation were discontented and ready for a change, when, circumstances being favourable, the Revolution took place.

In a country, perhaps the most powerful and enlightened of any in the universe; with the ancient government first declared bankrupt, and then totally annihilated; let us observe what steps were taken for the declared purpose of attempting to form a new constitution upon the best general principles of freedom that could be discovered.

But it will be necessary, in the first place, to consider the state of those parties which had, whether well or ill founded, some pretensions to participate in the administration of the supreme power.

The nobles were so numerous, that they included in their body a majority of the great property. The importance of their titles was indeed diminished by their numbers, but still it gave them an interest strongly connected with that of the

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crown, which disqualified them from being a fair and simple representation of *property*.

The clergy were likewise a very numerous body; who, by pretensions to interest in the next world, had gained in this so great an ascendancy as to be considered to have an equal right to power with either *persons* or *property*. And upon this occasion, the assembly of the clergy, in a memorial presented to the King, declared their exclusive right to tax themselves.

That class of the people who constitute a majority of *persons* independent of property were studiously depressed; the peasantry, by the feudal institutions that prevailed, were in some parts considered as property, being sold with the lands, and consequently exposed to be treated with great inhumanity.

The King was at this time in some degree favourable to the pretensions of the *tiers état*, or *persons* independent of property; because he was afraid that the nobility, including *property*, would ingross too much of the power. Mr. Neckar was his minister, and the popularity of that gentleman probably balanced the tendency which his fortune gave him to *property*, or his situation to loyalty.

In general, those who had property without titles being excluded from a common interest with a majority of that class in which their fortunes would naturally have placed them, inclined to the side of *persons* independent of property, with whom they were brought to have a nearer connection.

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In this state of parties, an assembly of the notables was called, to consider of the most proper means of convoking the states-general.

The assembly of the notables consisted of one hundred and fifty individuals, divided into six sections or bodies, of twenty-five persons in each, which deliberated separately. They were in general composed of the princes of the blood and principal nobility, and were, in consequence, in an interest, divided between the Crown and *property*. Where the King had most influence, as in the section of which Monsieur was the president, the decisions were favourable to the views of the Crown, and to the side of *persons*, the sovereign being then jealous of the power of the nobility; but a great majority of the notables were in the interest of the order to which they naturally belonged, which was that of the nobility, including *property*, and were for supporting high prerogative. The notables agreed in the principles that ought to regulate the forms of electing the *tiers état*, which were, that the electors, including every man of a certain age, should be distributed into *communautés*, and these to select a certain number of citizens to represent them in what was called the secondary *bailliage*, these again to depute to the primary ones, and these last to chuse the representative to the states-general, from the order of the *tiers état*.

This was evidently a very popular mode of election, as the whole depended on the *communauté*; it

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gave indeed some appearance of including property, but upon no fixed principle. The orders of nobility and clergy were each to elect their own representatives.

The notables did not determine the number of which the states-general should consist, nor the proportion to be sent by the *tiers état*; but the King, by a proclamation, fixed the whole at one thousand, of which the *tiers état* were to send a number equal to the deputies of the other two orders. This was a popular step; but the King and his ministers expected that their own influence would be sufficient to oblige the orders to deliberate in separate houses, and, by maintaining a balance between them, to prevent either from assuming too much power. The event, however, shewed that this conclusion was ill founded.

According to the principles of government which I have laid down, no decision favourable to real freedom could be expected from a body constituted like that of the notables; because the power was placed in other hands than the representatives of *persons* and of *property* equally balanced. If the maxims in the beginning of this letter be just, the King, *property*, and privileged orders, would naturally have other views than the general good of the whole community.

The national assembly, consisting of all the orders, met and deliberated in one house. But it must be observed, that a great number of the repre-

representatives of the clergy, consisting of the inferior orders, and some few of the nobility, joined the party of the *tiers état*, in preference to that of the nobles and the generality of the dignified clergy, which gave to *persons* independent of property a great superiority. The national assembly thus biased, passed many laws salutary to the just claims of the order of *persons*; but, as might have been expected, not equally attentive to the security of *property*, or to the necessary prerogatives of the Crown. Anarchy followed; depredations on the possessions of the great were committed with impunity; and the mob became both judges and executioners. The nobles forsook the assembly; titles were abolished; the church-lands were confiscated; and soon after the King attempted to make his escape. The assembly formed a new constitution, by which the elections of representatives were made extremely popular, effectually securing the power to *persons* independent of property: They made some declarations in favour of *property*; but it is evident, that the care of large possessions was in very bad hands.

Such laws, and such a constitution, it was natural to expect from such an assembly; but, if the principles which I have laid down be just, they could never be productive of real freedom: on the contrary, they must naturally produce the worst kind of despotism, being administered by the greatest number of men*.

* See p. 78.

While the French nation continues to suppose, that real liberty consists in the whole power being lodged in the hands of *persons* independent of property, and while they have the command of the public revenue and military force, such a government, with all the evils which must attend it, will remain, till dear bought experience teaches them how much they have been mistaken in their principles of government: and when they shall have discovered their error, it is not improbable that they may suppose liberty to lie in an opposite extreme.

It may be proper to inquire how far other nations are concerned in the government, which the French people have chosen to adopt. If an individual chuses to injure himself in a manner no way prejudicial to others, he will only become an object of pity or of contempt; but if his actions have a different tendency, he must be resisted. It is the same with governments. Louis XIV. wanted to conquer all Europe for his own glory, but was very properly resisted. The National Convention have declared against all crowned heads, and insisted on all Europe receiving the same abominable government which they have chosen for themselves; and in this they ought also to be resisted. The principles upon which the government of France are formed, are demonstrably false in theory, and evidently destructive in practice. But they are flattering to the lower orders of society, whom it is difficult to

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convince by reason, or to restrain, but by the fatal effects of experience.

It would be quite unnecessary to recite the horrid scenes which have taken place in France since the period to which we have just been alluding, as they are well known to every body. They will, however, serve as so many additional proofs, that real freedom does not consist in placing the whole power of government in the hands of *persons* independent of property; and I may venture to predict, that France will not enjoy internal tranquillity while her legislative body is so constructed. Neither would she enjoy real freedom, were the power to be transferred to the hands of *property*, of the nobles, of the King, of the clergy, or of any union of these powers, except that of *property* independent of persons, and of *persons* independent of property, equally balanced by some suitable means.

As I have endeavoured to show that the French representation is partial, and incompetent to the purposes of real freedom, you may wish to know by what other means they might have regulated their elections agreeably to the principles of government which I have laid down. This subject shall occupy the next letter.

I am, &c.

LETTER VIII.

THE great object of every free government, is to secure to the whole community, personal freedom, and perfect safety from every species of oppression, on the one hand; and on the other, absolute security to property, whether the quantity be great or small, provided the possessor has a just title to it.

The inhabitants of every nation, as I have already observed, are naturally divided into two classes, which I have chosen to distinguish by the names of *property* independent of persons, and of *persons* independent of property, but which are generally known by the names of *aristocratic* and *democratic* parties.

It is evident, that the line that separates those two classes is not clear and distinct, because there is a regular gradation from the greatest indigence to the greatest wealth. We may, therefore, divide the community into any number of classes that we please, according to their property; each class having, as nearly as possible, one common interest. Now the object to be obtained by each class is, perfect security of its just rights and privileges; and justice requires that this should be done without the least regard to the number of individuals, of which each class may happen to be

be composed; because the classes which contain but a small number, are equally intitled to security of person and property, with those which contain a great many. Besides, it should be considered, that the government and laws which secure ten thousand men in their just rights, afford the same security to ten millions in a similar situation; or, what is the same thing, belonging to the same class. But if this numerous class, only because it is numerous, demands the privilege of sending a greater number of representatives to the national assembly than perhaps all the others put together, what must be the security of the other classes, if the majority sent by this numerous class think proper to encroach upon their just rights and privileges? To say that any one class of mankind, only because they are numerous, have a right to govern and dictate to the other classes, only because they are fewer in numbers, would be an assertion contrary to truth, to justice, and to liberty. But it would be equally untrue, unjust, and destructive of freedom, to say, that any one class, because the individuals of which it was composed had more wealth than the other classes, should, for that reason, pretend to any authority over them. Neither wealth nor numbers can give any just title to superiority. All have an equal title to power and to protection. But it is demonstrable, that they cannot share equally in the power, and have equal protection, in a representative government, unless they send an equal number of deputies to the national assembly.

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If this reasoning be just, and I think it is incontrovertible, each class into which the community was divided, ought to chuse a certain, but equal number of delegates, every person in each class having a vote for the delegate of that class to which he properly belonged; a majority of these delegates should chuse the representative; and the number of representatives should be regulated by the number of districts into which the nation may be divided. The individuals belonging to each class might be ascertained by any tax which increased according to the wealth and opulence of the subject.

The representatives should not be chosen for too great a length of time, but at certain periods be again in the power of their constituents; otherwise they would become a corps, and the second maxim in the last letter*, which applies to such a body, would be applicable to them.

This plan is simple and comprehensive; as every individual would have a vote in his proper station, and in that respect there would be perfect equality.

If France had adopted such a scheme of equal representation as this, it is probable that the unfortunate Monarch would have still been alive, and his subjects in possession of the blessings of real freedom.

It is certainly true, that if only a part of each

* See p. 80.

class,

class, having a common interest with the whole class to which they respectively belong, were to elect the representatives, the effect with respect to the representation would be the same as if they were elected by the whole. But the advantages resulting from the privilege of election, would by this mode, be very unequally distributed among the inhabitants; as a few would engross that consequence, in which all have an equal right to partake. And it is this circumstance which has made the representative part of the British government answer so well in practice, although it may appear in some measure inconsistent in theory.

The great error into which the French politicians seem to have fallen, takes its rise from their supposing that the number of deputies to be sent to the representative assembly should depend on the number of persons of which the class that sends them consists; and, of consequence, when the nation is divided into the two great classes, of which every civilized nation must consist (that is *property* independent of persons, and *persons* independent of property), that class which consists of the greatest numbers, in consequence, sends the greatest number of deputies to the national assembly. The effect which this system has produced, as well as my reasoning against it, has clearly demonstrated the destructive tendency and the error of such a practice.

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The different classes of mankind, from the lowest to the highest, and from the highest to the lowest, naturally incline to encroach upon each other: this is a vice, taking its rise from the excess of the opposite virtue; for it is certainly commendable, to endeavour to raise our own fortunes, our power, and our importance, while it can be done without encroaching on the rights of others; but strongly prompted by what we suppose our interest, or the interest of the class to which we belong, we are prone to overstep those bounds by which, in strict justice, we ought to be limited.

These considerations would make it extremely improper to put the fortunes of the rich in the power of the comparatively poor, or of that of their representatives, without taking some precautions equivalent to such a power for their security. It would be equally improper to put the persons of the poor, their labour, or small property, in the power of the rich. They have equally to dread the least superiority in their opponents.

If equal power and mutual safety be the object of both classes, and at the same time the true principles of a free government; how can that object be obtained? Not surely by one of the parties sending a greater number of representatives to that assembly, which is to make the laws on which they are both to depend for absolute security: From what has been said, such a practice must appear too absurd to require refutation. They can only be safe by sending an equal number

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ON GOVERNMENT AND LEGISLATION. 93

ber of deputies to such an assembly; and I have already attempted to show how that may be done, with equity and justice to all parties.

Those principles which I have applied to the French government, as a test of their distance or approach to that point on which perfect freedom must ever depend, may with equal propriety be applied to any other government, ancient or modern; and will infallibly show how far or how near they were at any time from enjoying real liberty.

As the example of France has clearly established, that perfect freedom does not consist in placing the supreme power of the nation in the hands of *persons* independent of property, so the example of Poland will demonstrate, that neither does it consist in placing the supreme power in the hands of *property*.

Although Poland may be called a monarchy, because it has a King, who is elected by the nobility, yet, as he has no power in the legislature, the government cannot properly be called monarchical.

The truth is, that the whole power of the state is placed in the hands of those who are called nobility, but who really are that class of the society which I have distinguished by the name of *property*: their power and consequence is wholly drawn from that source; they have titles, but they set no particular

ticular value upon them, neither does a higher title give a superior rank; they are all alike in this respect, and **prefer** being called gentlemen of Poland, to any other appellation.

The Polish nobility have not only the power of electing their King, but of laying him under whatever restraints they think proper; they have a power of life and death over their tenants and vassals; they are the only persons (the burghers of some particular towns **excepted**,) who can purchase lands; they have many other privileges and exemptions equally incompatible with real freedom; and they are a kind of despotic princes upon their own estates; some of which are so very large, that they can raise eight or ten thousand troops upon them, and commonly keep a body both of horse and foot in constant pay, who are ready to execute their orders, and defend their persons; their debates at the diet, and in the senate, are often determined by the sword, and their private disputes decided in the same manner, as the idea of their own importance makes them contemn the law, and scorn the decision of a judge.

It may reasonably be doubted, whether even the nobility of Poland, with all their power and privileges, can be said to enjoy the smallest degree of rational freedom; but if they do not, how very far from it are those poor and miserable wretches whose destiny has placed them under a government so inimical to human happiness. The peasants, who make a very great proportion of the inhabitants of Poland,

Poland, are looked upon as a part of their master's property; they are obliged to cultivate his lands, and, like other slaves, to submit to his caprice and cruelty, and their wives and daughters to his brutality; they are bought and sold with the lands, and in many respects worse treated than the beasts; but in them the human character is so debased by habit and ignorance, that they submit to their master's tyranny as an evil which they have no right to resist.

This sketch of the effects of the power of a state being wholly in the hands of *property*, will be sufficient to convince you, that freedom is not to be found under such a government, and that it is equally distant from it, with those countries who have placed the supreme power in the hands of *persons* independent of property.

The state of France at present, and the state of Poland for ages, will serve, I apprehend, as experimental proofs of the justness of the principles which I have laid down for the establishment of real freedom.

I am, &c.

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SUPPLEMENTARY LETTER.

AS the scheme suggested in the foregoing letter, for producing an equal representation of the two great and contending divisions of civilized society, namely *property* and *persons*, in the legislative assembly, has not been generally understood; owing to the conciseness with which my plan, at that time, obliged me to treat of this subject; I have thought it necessary to add this supplementary letter in explanation; to place in a clearer point of view the mode of obtaining as equal a representation as seems necessary for every purpose of good government.

At the same time I must declare, that the political errors committed by the French nation in the choice of a representative and legislative body, gave rise to these ideas in my mind, and not the differences of opinion on such subjects in this country; the government of which, if not perfect, is certainly more so than any other in Europe.

It has already been shown, that the security of property and the security of civil liberty were of equal importance to mankind in a civilized state; that they both proceed from the general effect of property; and that permanent governments were established for their defence. It follows, that in a free state, they have a right to form the government,

vernment, not singly, but jointly, for their mutual safety. Alter this rule, and, one of them would immediately subvert the other; and this superiority once acquired, the love of power would overcome the love of justice, and tyranny, or despotism, would assume the reins of government.

If it be admitted, that a nation has a right, in particular situations, to chuse a government for itself; and if it be likewise admitted, that the representative is the best form of government; it will follow, upon the principles we have established, that the two great political parties of *persons* and *property*, comprehending the whole society, and having very opposite political views and interests, would jointly have an equal title; as mutual checks upon each other, to chuse the form of government; and to elect the representatives to the legislative assembly.

If a community were exactly on a footing with respect to property, they would be of one opinion with respect to politics; the distinctions of *persons* and *property* would be unknown; as they would have in all respects the same political interests. In such a community, and only in such a community, it would be fair and equitable that every individual should have an equal vote in the choice of the deputies who were to constitute the legislative assembly.

If a community consisted, on the one hand, of persons absolutely without any property; and, on

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the other, of persons possessed of a certain and equal share of property; each of these parties, in order to secure themselves from the encroachments of the other, whatever their respective numbers may be, must necessarily send an equal number of deputies to the representative assembly; and in this case, every individual of each of the parties ought to have an equal vote with any other individual of the same party; because they would have exactly the same political interest. Let it be supposed, that the party without property consisted of one thousand men, and that the party with property consisted of one hundred men. If universal suffrage was admitted in such a community, where would be the security of the property? it would be wholly in the hands of those who were without property themselves. The wolves, in this case, would have the care of the sheep. Let this supposition be reversed, and the majority, as to numbers, be placed upon the side of property; and we shall immediately find, that personal freedom would then lie at the mercy of unrestrained power.

That civilized communities are not formed exactly in this manner is certain, because an exclusive right to private possessions naturally produces inequality of fortune; which occasions a regular gradation of rank in society, from the greatest degree of wealth to the extreme of indigence. But notwithstanding this inequality of rank, the community is still composed of the two great political parties *persons* and *property*; the same reasons sub-

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sist for their having an equal share of power; and the same bad consequences must follow, if either of the parties be allowed to preponderate. The only means by which this equality between them can be produced and preserved is, by each of the parties sending an equal number of deputies or representatives to the legislative assembly.

But before we proceed to that investigation, it may be proper to take some notice of the most powerful argument used in favour of universal suffrage; which is, that the majority have it always in their power to compel the minority to submit to their decisions: but, in a civilized society, this will be found to be a mistake.

It is certainly true, that in a state of perfect equality with respect to property, a majority of numbers would include a superiority of force; but in a civilized state, where mankind depend as much upon property as upon personal exertions, it will be found, that the coercive power of the state depends equally upon *persons* and upon *property*.

Let us suppose, for example, that a nation consisted of ten thousand men, perfectly equal in all respects; and that these ten thousand men were divided into two parties of five thousand men each. It is evident that, in such a case, the parties would be of equal strength; but if a single man left one of the sides, and joined the other, that side would have some degree of superiority.

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Let us again suppose a civilized nation to consist of ten thousand men, equal in all other respects, except in property; and let us suppose, that two thousand of that number were possessed of such a superiority of wealth, as to enable them to hire, or make it the private interest of three thousand men of the opposite party to join them; in this case it is evident, that the two parties would be of equal strength; because they would contain equal numbers upon an equal footing in all respects. But if the two thousand men possessed of the wealth, could hire more than three thousand men of the opposite party, it is evident that the additional property would immediately give them a superiority; and it is likewise evident, that if they could not hire so many as three thousand of the opposite party, they would be inferior to them in strength. Hence it is demonstrated that *persons* and *property* are of equal power in a civilized nation; and of consequence, that the idea of a majority of numbers being able, in such a state, to compel a still greater majority of wealth to adopt their measures, is not founded in fact; nor, from the following considerations, agreeable to experience.

In cases of popular insurrections, *property* may be taken by surprise, and numbers may prevail. But as soon as the force hired by wealth is brought into action, the popular side, notwithstanding the majority of numbers, is obliged to give way; unless the superiority of *persons* exceeds in power the superiority of *property*: which would not be the case,

if they were totally destitute of wealth, although they had a very great majority of numbers. And it is by this rule, that a rich government may easily keep a poor nation in subjection: but a wealthy people will not be so easily overawed, even if the government be rich; because their private wealth forms a counterbalance to the riches of the state, and may, in cases of emergency, be brought into action.

It becomes difficult to point out a practicable way by which this equality of representation, in respect to *property* and *persons*, may be effected. It has already been demonstrated, that unless the individuals composing a community, or a part of a community, be on a footing in respect to *property*, they are not on a footing in respect to political interest; and that when their property is exactly equal, their political interest must be the same; which establishes *property* to be the proper standard of distinction by which society is to be divided, and arranged into classes, in the view of choosing representatives to the legislative assembly, or delegates by whom such representatives may be chosen.

In order to obtain as fair and equal a representation as possible, it seems necessary to divide the whole community into such a number of classes as may bring the individuals of whom each class is constituted, so nearly on a footing with each other with respect to property, that there can be no material difference in their political opinions; and for

this purpose the annual income of the individuals composing the lowest class may serve as a proper basis. The gradations are then to be made by doubling the highest income of the preceding, to constitute the highest income of the succeeding class; which will be found the only practicable plan for producing the intended effect.

The first or lowest class of every civilized society, seems naturally to be limited to those who have not accumulated any property, and can only gain their living by their labour; including the indigent, who are partly maintained upon charity. The wages of a labouring man, taken upon an average, will point out with sufficient exactness what may be supposed the greatest annual income of the individuals of this class of the society; who will be found altogether to form in numbers about one half of the whole community*.

If the gradation from the lowest to the highest rank be uniform, the second class, consisting of those whose greatest annual income would be double the greatest annual income of the first class, and including what was intermediate between them, would in numbers be about equal to one half of the first class, or a fourth part of the society.

* This inference results from the most approved calculations. The proportion ascribed to the other classes is infallible, when property produces its natural unrestrained effects, which render its progress regular and uniform.

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The third class, composed of those whose greatest annual income would be double the greatest annual income of the second class, with what was intermediate between them, would in like manner diminish in numbers to about the proportion of one half the preceding or second class, or about one eighth part of the whole community. And so on with the other classes; always limiting the greatest annual income of the individuals of each class, to the double of the greatest annual income of the individuals of the class immediately preceding; till the whole community has in this manner been divided into ten classes.

If the gradation be regular, the number in each class will diminish in exact proportion as the property is increased; so that by doubling the property, the numbers are reduced one half: but the amount of the aggregate property of each class will be exactly alike.

In order to elucidate this subject by an example, let us suppose that a civilized nation contained 3,000,000 of men come of age, and entitled to vote at the election of representatives to the legislative assembly: and that they were, for this purpose, to be divided into classes, in such a manner that the political interests of the individuals of each class should be so nearly alike, that they might with great propriety be admitted to an equal vote in that class to which they respectively belonged. And that the classes themselves having an equal claim

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claim to protection, would of consequence be entitled to an equal share of political importance.

The first or lowest class may be supposed to consist of 1,500,000 voters; that is to say, that one half of the whole number of voters would be found to belong to this class; and we shall suppose £.16 their greatest annual income.

The double of this sum, or £.32 *per annum*, would be the greatest annual income of the individuals of the second class; which would consist of half the number of voters, or 750,000 men.

Double the greatest annual income of the individuals of the second class, or £.64 *per annum*, would be the greatest annual income of the individuals of the third class; which would consist of 375,000 voters, or half the number of which the second class consisted. And so on with the other classes, doubling the annual income, and reducing the number of voters in the same proportion; as may appear more clearly on the following statement in figures; observing, that the first class will include the indigent, and the tenth, or last class, will include the individuals having the greatest annual incomes in the nation.

Class

Class of Voters.	Number of Voters.	Annual Income.
1st. - -	1,500,000	- - £. 16
2d. - -	750,000	- - 32
3d. - -	375,000	- - 64
4th. - -	187,500	- - 128
5th. - -	93,750	- - 256
6th. - -	46,875	- - 512
7th. - -	23,437	- - 1,024
8th. - -	11,718	- - 2,048
9th. - -	5,859	- - 4,096
10th. - -	2,929	- - 8,192
	1,932	
Total -	3,000,000	

The remainder, which would consist of individuals having an income above the sum of £. 8,192 to be included in the highest class.

According to this scheme, the two middle classes would consist of the individuals having from £.128 to £.512 *per annum*; and it seems evident, that a representation chosen by these classes would be a juster representation of the whole community, than a representation chosen by any two of the other classes.

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If such a nation, as has been supposed, were to be divided into the two great political parties of *persons* and *property*, those having above £.256 *per annum*, which is the middle point, would naturally attach themselves to the party of *property*; and those having under that sum *per annum*, would, by the same rule, belong to the party of *persons*. But they would be moderate in their political opinions, in proportion as they approached or receded from this medium of annual income.

It is not, however, pretended, that the political opinions of every individual, and far less their actions, are exactly regulated by their annual income; because some private interest, an erroneous judgment, or the prejudice of education, may cause some of them to swerve from this rule; but it must be obvious to every man of observation, that political opinions in general are regulated by the quantum of *property*; and that the next consideration to self interest, is the interest of the class to which the individual belongs. This being a law of our nature, the deviation of a comparatively few individuals from the general rule, will not invalidate the rule itself: the principle may, therefore, be relied upon in all political calculations.

The operation of this division of the society in bringing the individuals composing these classes more to a parity of opinion in their respective classes, may be illustrated by the following scheme of division.

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As there is the greatest difference with respect to property between the highest and the lowest ranks of every civilized society, there is a proportionate difference, as has already been explained, in their political interests and opinions. The gradation, however, from the highest to the lowest being regular, they naturally divide at the middle point; and of this division the highest part would be most allied to *property*, and the lowest most allied to *persons*. The individuals composing each of these parts, taken separately, will by this division become twice as near agreeing with each other in political sentiments, as they were when they formed but one body. Still, however, there would be a wide difference in the political sentiments of the individuals composing each of these divisions; because of the disparity in respect to property yet remaining between the highest and the lowest of each division. To remedy which, let these divisions be again divided, upon the same principles and in the same manner; so that out of the *two* divisions should now be formed *four*; and it will be evident, that the individuals composing these quadruple divisions, from the same cause, will become twice as near agreeing in political sentiments, as when they formed only two divisions, and four times as near as when they formed but one body. Let the same process be repeated once more, and the approximation of political sentiments in the respective divisions, being now eight in number, will become eight times nearer in agreement, than when they consisted but of one body. The process of division, it is evident, might

might be carried on until the individuals composing the classes, by the affinity of their circumstances, became very nearly of one mind upon political questions. But from what has been said of the operation of increasing this affinity at every stage of division, it will appear, that the gradation of ten classes in the way proposed, by the standard of property and the rule of geometrical progression (which these concurring processes demonstrate to be the only successful mode of equitable political division) will be found sufficient for every practical purpose.

It is, however, readily admitted that it is only in theory that the inhabitants of a civilized nation could be divided into classes by the standard of their political sentiments. But it has already been explained that these sentiments depend upon their quantum of property; and of consequence, that a division by that standard would have precisely the same effect as if it had been by their political sentiments; their property might easily be ascertained, with sufficient exactness, by their annual income; and this might likewise be ascertained with sufficient exactness by any tax that served to point out their rank, or degree of opulence; because it would be of little importance, whether a few individuals were placed in a class immediately above, or immediately under what they ought to be, as the individuals of such classes would agree so nearly in political sentiments. To cause people to declare their real circumstances in life, or even to make any

any particular inquiry on that subject, would be highly improper; but there would be no occasion whatever for any such exactness, or to give the smallest disturbance or alarm to any individual on this account. A tax, such, for example, as the window tax in this country, with a few modifications, would answer every purpose of ascertaining with sufficient exactness the class to which every individual belonged.

The lowest class, for instance, should consist of all those who were not subject to the payment of this tax; the second class should be limited, and ascertained by the payment of the tax for a certain number of windows; the third class should be limited by a certain additional number, and so on with all the other classes.

It would only remain to divide such a nation into a certain number of districts, according to their population, taking care that each district contained a necessary proportion of the individuals belonging to each class of voters, in order to elect the representatives to the legislative assembly, or delegates, by whom these representatives were to be chosen. Every individual of each class would have an equal vote in the class to which he belonged, and a majority of the classes of each district would choose the representative, or representatives, for that district.

This mode of election is not only clear and simple, but seems to preclude every idea of bribery and

and corruption, as it would render it either impracticable, or of very little avail, with a majority of the classes,

If the French nation had followed such a plan, in place of chusing their representatives by universal suffrage, which places a majority of voters in the two lowest classes, they would have ascertained more accurately the true political sentiments of every rank of the whole community, than by the method which they thought proper to adopt; and which they discovered by experience, in 1795, would not answer; for they found themselves obliged (by a breach of their constitution) to relinquish this mode of election, to prevent a return of the system of terror, and violation of property. They were misled, from the beginning, by authors of transcendent abilities as writers; who were men of more genius than judgment; and who made liberty consist in impossibilities, like the golden age of the poets.

In the foregoing scheme, the gradation of rank, from the highest to the lowest, has been supposed perfectly regular; but as this can only be the case where property has been allowed to produce a proper effect, there may be many nations in which this gradation of rank would be broken and interrupted; and in which some of the classes would, of consequence, consist of too great a proportion of individuals, and some of them of too small, which would amount to a certain proof that *property* in these

these countries, was laid under some improper restraints.

The irregularity of rank, or of numbers and property, in the classes, ought not, however, to affect their votes or political consequence; because every class ought to have an equal vote with any other class, whatever be the number of individuals, or quantity of aggregate property, it may contain.

The greatest evil that this disproportion in numbers or property could produce, would be the granting for a time, too great or too small a share of political importance to the individuals of the disproportioned classes; but a legislative assembly, chosen by them in the manner that has been pointed out, would evidently have an interest in giving a proper direction to property, which would very soon produce a regular gradation of rank; and the nation would assume the order, as to numbers and property, which has been supposed in the scheme for the illustration of this subject.

The practice of excluding any class of the society from the privilege of voting at the election for representatives to the legislative assembly, because they have not a certain income as a qualification, has evidently been adopted with a view to prevent a greater evil; that of their having a vote of equal importance with those who were possessed of much more property than themselves, and, of consequence, of giving to the lower orders

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of the community more political consideration than they were entitled to from their property. This palliative is, however, founded upon injustice, and is at best a corrective of one evil, by producing another: it could only have taken place, in free states, from a want of knowledge of the exact proportion of political importance to which a man of little, or, perhaps, no accumulated property, had a just and equitable claim.

This I have endeavoured to point out in such a manner as to produce every good, and no bad effect in the legislative body; without giving the poorest individual the smallest reason to complain that he had not his proper share of political importance, and that he was not properly represented in the legislative assembly.

In a nation where property has produced its natural and proper effect, and, of consequence, where the gradations of rank are perfectly regular; the division of the community into classes, in the manner already described, may afford some useful hints respecting taxation and other matters of importance to governments.

However much the individuals of the highest and lowest classes may differ from each other in point of annual income, the aggregate amount of the income of each class will be the same. This proceeds from the rule of their constitution, which, to form a higher class, doubles the income of the individual in the preceding, and diminishes the numbers in the succeeding class to one half; thereby

thereby rendering the aggregate income of each alike. For example, two men at ten shillings each will produce the same amount with four men at five shillings each. The case is precisely the same, when applied to 1,500,000 men in the first instance, and 750,000 (the half of that number) in the second; making the first and second classes of the scheme proposed; and so on through all the rest: so that by finding the amount of the income of one class, we find the amount of the income of each of the ten classes. Hence, the combined amount of the income of each of the classes being the same, their proportion in political importance, their share in contributing to form the legislature, and the degree of protection which each receives from the government, ought also to be the same; and further it will be found, that their contributions to the public expenditure of the state ought in like manner to be the same.

Upon the equality of all these particulars, as applied to the classes, not even excepting the last, will depend the harmony and stability of the government, and the satisfaction and happiness of the community. Any privilege, or any burden, partially applied, so as to affect one class more than another, will produce irregularity and discontent; and whatever operates equally on all the classes, will have an opposite effect. Even a burden applied in this manner, with an equal operation on all the classes, will cease to be an inconvenience:

convenience: the whole society, in proportion to their incomes or property, sharing it alike, hardly feel it as a grievance. This is the true cause wherefore the introduction of paper into general circulation, and afterwards its total depreciation, is of so little prejudice to society.

The only mode of taxing the lowest class of the society is, by laying the tax indirectly upon the necessaries of life. The individuals of which this class is composed, having no superfluous money, any demand from them in specie would be felt as an intolerable grievance. For this reason, such a proportion of taxation ought in this way to be laid upon the necessaries of life, as will make up the share which the lowest class ought to pay; and without bearing this just proportion of the general burden, even the lowest class themselves would be greatly incommoded*.

* The best way of taxing the necessaries of life, is to tax the source of their production, which is the land. The land-tax is to all intents and purposes a tax upon the necessaries of life, which falls ultimately upon the great body of the people; because it must operate by raising the value of the articles the land produces, which are the necessaries of life. The great advantage of this tax is, that it operates insensibly upon the persons who actually pay it. The mode of its application, however, deserves attention. When laid immediately upon the land-proprietors, it operates for some time as a partial tax against them; because, during the currency of existing leases, it must be paid from the reduction of their income. When such leases expire, they have the opportunity of laying the burden on the new tenants, by a rise of rent; and the tenant indemnifies himself by raising the price of what his land produces, which throws the burden upon the people, or the public at large.

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For example, if the necessaries of life were to be entirely exempted from taxation, and every other article highly taxed (which is the only way to exempt the lower class from taxation) the labouring part of the people, whose wages are regulated by the price of provisions, would be absolutely precluded from every comfort beyond the single article of their food, which would render their life comparatively wretched and miserable.

Of the taxation upon the necessaries of life, it is true, each of the classes would pay a certain proportion, as well as the lowest; but that proportion would be regulated by their respective numbers; every individual being supposed to consume an equal quantity of the necessaries of life. Hence the lowest class will contribute of this species of taxation, twice as much as the second class, four times as much as the third, eight times as much as the fourth, sixteen times as much as the fifth, thirty-two times as much as the sixth, and so on; which differences must be made up by other taxes laid, either directly or indirectly, in adequate proportions, upon the other classes. This is enough to say here upon taxation; which, from this general view of the subject, opens an ample field for discussion, and for the attainment of useful knowledge.

Another subject may be illustrated by this system of classification. There seems to have arisen among politicians some doubt respecting the precise meaning of the term *public opinion*,

as distinguished from *popular opinion*. This doubt may be removed, and the distinction placed in a clear and perspicuous point of view, by the division of a nation into classes, in the manner already explained.

No man, I believe, considers the opinion of the two lowest classes of society, when at variance with the opinion of all the other classes, as public opinion; although those classes contain a majority of the individuals of whom the whole community consists; but the sentiments of such a majority would certainly constitute a popular opinion.

If public opinion do not consist in the sentiments of a majority of the people, it must consist in the sense of a majority of the different ranks or classes of which every civilized society is compounded.

In the foregoing scheme it has been shewn how a nation may be divided into classes of equal political importance; and it is evident, that the sentiments of a majority of these classes must constitute *public opinion*.

If, for example, the six lowest classes were on any subject of one way of thinking, their sentiments would form the public opinion on that subject; notwithstanding that the four higher classes might be of a different way of thinking: the same thing would hold, if the six higher classes were of one opinion against the four lower; although the four lower classes, in respect

to the individuals which compose them, outnumber the six higher classes fifteen fold: and by the same rule, if any six or more of the classes agree in sentiments, such agreement establishes the *public opinion*. In a nation, therefore, which was divided into classes upon this plan, it would not be difficult to investigate with precision, whether any particular question had really the sanction of public opinion. A jury chosen indiscriminately from each class would establish the respective opinions of the ten classes; and the concurrence of a majority of them would fix the *public opinion*.

It is, however, only in civilized nations that public opinion differs from popular opinion. Among savages there is no such distinction; they are in all respects the same thing. Among them every political question ought for that reason to be decided by universal suffrage, or equal votes. But as public opinion in a civilized nation can only be collected from a majority of the classes or ranks of the community, it is evident, that all political questions should be decided by a majority of them, or of their representatives.

Too much praise cannot be bestowed upon that admirable institution, the trial by jury; provided it be constituted upon just principles; otherwise it may become an engine of oppression, and prove destructive of that freedom and justice it was intended to support.

The English jury, like the English constitution, was not formed from the principles on which it acts; but brought to a great degree of perfection by long experience and gradual improvement. The trial by jury is emphatically styled, in the English laws, *the trial by our country*; which certainly means that the verdict of a jury is supposed to convey the sentiment or opinion of our country, or in other words, the *public opinion*. It has been shown above, that the public opinion would be most effectually collected from the sense of a majority of the different political classes of which every civilized society is constituted. In like manner, the intention of a jury, to ascertain the judgment of the country, or the public opinion, for the purposes of justice, would likewise be most effectually accomplished by the same process.

The juries in England, however, have been found by experience to answer excellently all the ends of impartial justice; although they be not chosen from the different classes in the manner suggested. But it must be observed, that they act upon the same principle. In general, the *grand jury*, for determining the necessity or the propriety of a trial, and fixing whether it shall take place or not, is constituted from that division of the society which is distinguished by the appellation of *property*; and the *petty jury*, which pronounces the verdict of guilt or innocence, from that division which is styled *persons*. Both juries are for the most part chosen from the individuals respectively of the classes of *property* and *persons* which

which compose the middle orders of the community; that is to say, the grand jury is generally chosen from the lower ranks of the division of *property*, and the petty jury from the higher ranks of the division of *persons*; which are the two orders in the classification of the community that would immediately join or be connected to form the centre links of the general chain. It has already been observed, that the middle classes possess more moderation and less prejudice than any of the more opposite, and consequently more discordant classes; and of course that the general community would be better represented by them than by any two of the other classes.

The grand jury, which is formed from the division of property, and decides upon the expediency of a trial, is an important part of the English institution. There are powerful reasons against delegating this authority to an individual; which are not diminished by his being an officer under the executive government. Where the whole trial rests upon one jury, it ought certainly to consist of an equal representation of the parties of *property* and *persons*; if a disproportion either of the one or the other should prevail in the jury, especially where unanimity is not required, the sentence in many cases would be partial and unjust. For this reason it ought not to be in the power, even of the judge himself, to influence this matter, otherwise the purposes of justice may be perverted. The selection of particular people to discharge the duty of jurors on all occasions, is a mockery of this institution.

tion. Such I imagine was the mode pursued in France, in those sanguinary trials which murdered the innocent with the guilty, at the nod of a tyrant, or the mandate of a faction.

Before I conclude this letter, I have one general remark to make on the classification of civilized society; which is, that although the process of dividing and regulating these classes have not actually taken place, yet these distinctions do not the less exist in all communities of this description: like the parts of speech in language, which are employed although unknown, and which it is the province of grammar to distinguish and arrange: and considerable advantage may certainly be derived from the general application of these principles to existing society; although devoid of that precision which the formation of classes would supply.

I am, &c.

LETTER IX.

AMONG the ancient states of Greece, Athens has been greatly celebrated for its love of freedom, or rather, after the days of Solon, for its popular government; which did not deserve the name of liberty.

Athens was originally governed by kings; but that office was abolished after the death of Codrus,

the last of their sovereigns, and the supreme power was placed in the hands of a chief magistrate called an Archon, whose office was decennial; but the number of archons was afterwards increased to nine, who were chosen annually. The Athenians appointed one of those archons, named Draco, to form a code of laws for the government of the state; but he made them so severe, punishing the most trifling faults with death, that they soon came into disuse, and himself into disgrace. As the Athenian history, at the beginning of the period of which we have been treating, is not recorded by cotemporary authors, the exact state of political parties is not so perfectly known, as to enable us to determine what share of the power was in the hands of *property*, or in what degree *persons* had influence. But by applying the principles of government which have been laid down, to the laws which were in force till Solon's time, and which were abrogated by him, we may form a tolerably good judgment of what party prevailed in the legislature. According to Plutarch, people were obliged to give themselves up as slaves, and even to sell their children, in order to pay their debts; neither could any man devise his effects by will, the laws obliging him to leave the whole to the next heir. It is evident that such laws were not made by persons independent of property; and whatever power the ancient democracy might have in Athens prior to the days of Solon, they had not the power of making the laws.

Solon

Solon was by birth a noble; he was created archon, and, like Draco, appointed to form a constitution, and a code of laws for the government of the state: by them, he continued the archons as chief magistrates; they were a kind of judges who took cognizance of the conduct of inferior magistrates; their persons were not to be insulted, and they had the power of punishing with death. He not only continued, but greatly encreased the power of the famous court of Areopagus. The number of which it consisted is not exactly known; but the judges of it were obliged to have served as archons, before they could be elected of the Areopagi: they took cognizance of all capital causes. He formed a senate, which consisted of four hundred persons: the whole community were divided, according to their property, into four classes, and each class of citizens sent one hundred of their body to compose the senate. You will observe, that Solon did not allow each class to send deputies according to the numbers of which the class consisted, but the same number of deputies was sent from each class. The senate had cognizance of all affairs before they could be referred to the whole community at large; and they had the charge of the fleet, with a considerable share of the executive government. Solon decreed, that no person belonging to the lowest class should enjoy any public office whatever; and having taken such precautions, he concluded, that all laws might be referred to the people as a dernier resort. But this circumstance, contrary to expectation, for the nobles readily agreed

agreed to it, placed by far the greatest share of the supreme power in the hands of *persons* independent of property. The constitution was so framed, however, that private property and the public offices were pretty well secured to the higher orders.

We may naturally conclude, from the manner in which Solon formed the senate, that he had a very proper idea of the just claim that *property*, and *persons* independent of it, had to the whole power of the state; and he seems to have intended that it should be equally divided between them; for he constructed the senate by *property*, and not by titles, or any other pretension to power. It seems perfectly clear, that Solon intended that the laws should be wholly framed by the senate, and highly probable that the concurrence of the people was only meant by him to prevent them from being oppressed by laws enacted without their consent.

Be that as it may, the placing the dernier resort in the people, gave them the whole power of the government; and we have only to consider, whether this produced real freedom, and protected every man in his just rights. That the very contrary was the case, is evident from history. The state was perpetually divided into factions headed by demagogues, who were seldom scrupulous about the means of obtaining their end, provided they could force themselves into power; neither virtue nor talents could save those who attempted to restrain the ambition of the ruling faction; accusations

tions were frequent, and the innocent were often condemned; it was dangerous to be eminent, and contemptible to be otherwise; and even while their armies were successful abroad, the nation was convulsed by factions at home. Such a government was, however, favourable to military operations; those who composed the legislature, composed also the army, and, belonging generally to the class of *persons*, who had the supreme direction of affairs, the difference to them of being divested of all power, and reduced to the state of slaves, or even of subjects of another state, made them fight with an extraordinary degree of enthusiasm. The same circumstances made them chuse for their commanders, men of the greatest skill and abilities: but gratitude not being a virtue of the multitude, their successful generals were often very badly requited for their services. The history of the Athenians abounds with proofs of these observations. But if we infer from their success in war, that they were a happy people at home, we should draw a very improper conclusion from their victories, as the very contrary, from well authenticated records, appears to have been the case. Even that degree of internal happiness which they did enjoy, may be wholly imputed to *property* having still some weight and authority in the state; for as they infringed upon the laws which Solon had established for its security, they proportionally went to ruin.

The Lacedemonian government, and the laws of Lycurgus, might enable a small state to defend it-
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self, and even to become very formidable among its warlike and powerful neighbours; and they may serve to show to what hardships freemen will voluntarily submit, rather than allow themselves to be subjugated by any foreign power.

Lycurgus, in order that his countrymen should be in constant readiness, either for attack or defence, wanted to make every man a soldier; and for this purpose he thought it necessary to introduce perfect equality: but knowing that no such thing could exist where property was unequally divided, he, very properly, began by making an equal division of all possessions, and by enacting that they should not again be bought or sold; at the same time rendering the accumulation of money an impossibility in the state.

But such measures in a government under different circumstances, would not only be absurd, but impracticable. Hence must appear the futility of the present attempt of the French to adopt political equality in a nation where the extremes of wealth, and of its opposite, penury, must perpetually exist.

The Macedonian government was monarchical; but rose by conquest, particularly under Alexander the Great, to a degree of power, and an extent of dominion, unequalled at that period by any other nation.

It may not be improper to enquire, whether those great military achievements were accomplished
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under a despotic government, or whether the Macedonians had any well-founded claim to a constitution, and a certain degree of freedom.

That the kings of Macedon were not perfectly arbitrary, will appear from hence, that they had not the power of punishing with death, without first having obtained the consent of the people, or of the army; and that this institution must have vested a very material part of the supreme power in the hands of *persons* independent of property; and although there was not any particular assembly of men of great property and consideration, yet people of this description had a constitutional right, which they often exercised, of giving their advice, and expostulating with their monarchs; on matters relating to government. So that both *property* and *persons*, in some measure, appear to have shared in power along with the kings of Macedon.

The Carthaginians, under a free government, rose by commerce to immense power and opulence. We are enabled to discover, by the fragments of their history, which have been handed down to us by Greek and Roman authors, that the supreme power of the state was, for many centuries, pretty equally divided between *property*, and *persons* independent of property; and that a third power, probably the *suffetes*, was enabled to maintain the balance between them.

The form of their government has been mentioned by several authors, but they do not explain
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in what manner the different bodies of which it consisted were elected.

The two chief magistrates were named *suffetes*; they were annually chosen, and had a power resembling, as some have said, that of kings; others have compared their power to that of the Roman consuls: it was their duty to assemble the senate, and in that body they presided. The senate was composed of experienced and reputable persons, but of what number is not known; if the *suffetes* agreed with the senate, and the senate were unanimous among themselves, their authority was sufficient to make the laws; but if the *suffetes* differed from them, or if they differed in opinion among themselves, the whole matter was referred to the people at large, who were, in such cases, the dernier resort.

Experience seems to have proved, by the great prosperity of the Carthaginians, that their form of government had answered extremely well, during a long period of peace and tranquillity; but when their government came to be agitated by war, and the violence of factions the dernier resort being in the people, that is the class of *persons*, gave them almost the whole power; which, according to the testimony of the best authors, proved the ruin of the state.

The nature of the Roman government is so generally known, that it seems unnecessary to be very particular on that subject. It may not, however,
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be improper to observe, that it began with limited monarchy. The legislative power was at that time in the hands of the king and of the senate; but the election of kings and magistrates, the making of peace and war, and the judging of criminals, belonged to the people at large; and while the suffrages were taken by single vote, the supreme power, in those respects, was placed in the hands of *persons* independent of property. But Servius, who was one of their kings, divided the people into six classes, according to their property, and each class into a certain number of centuries. The first class, consisting of the nobility and people of the largest property, was divided into a greater number of centuries than all the other classes put together; and as the votes were given by centuries, that method of voting put the whole power into the hands of *property* independent of persons. They likewise filled all the great offices: the senate was elected from their body; and they were patricians or nobles by birth. Those institutions made the senate, which might be looked upon as a representation of the nobles, too formidable for either king or people: the successor of Servius was banished, and the office of King abolished for ever. The people, who had lost all their consequence in the legislature, were greatly oppressed, and many laws were made for the purpose of keeping them in that condition, particularly those which related to debtors. But that natural right which *persons* independent of property have, to an equal share with *property*,

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in the supreme power of a state, is not to be extinguished by any laws which can be devised: it is unjust power only that can suspend the exercise of this right; and freedom is invaded in the same proportion that force is so employed. The Roman people were therefore constantly struggling to regain that share of the government, of which they had been insidiously deprived, under the specious pretence, of easing them from too great a share of the public burdens.

While the senate and patricians included in their body a majority of the great property, and were likewise possessed of the whole executive power of the state, it is no wonder that they should have been able to maintain their superiority over the plebeians, who then consisted only of *persons* independent of property; but when the Romans had made very extensive conquests, and many individuals among the plebeians had become so rich, that a majority of the great property came to be included in their body, the case was very much altered, and the plebeians, as a corps, became more powerful than the patricians, including the senate. The change was gradual, because the senate lost power in proportion as the plebeians gained property. If the parties could have been kept in balance, when *property*, and *persons* independent of property, had each an equal share of the power of the state, the Romans would have continued to enjoy all the advantages of a free government. But this was not the case: for *persons* independe-

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of property, availing themselves of the aid given to them by *property*, in order to reduce the power of the senate, seized the whole legislative authority. It is evident, however, that although *property* and *persons* might agree in humbling the senate and patricians, yet they must have had very different views in many other respects: *property*, for example, would never agree to an agrarian law; and although *persons* independent of property had influence enough in the legislative body to get such a law enacted, yet they had not sufficient power to get that law put in execution contrary to the inclination of *property* and the senate united. When the senate and patricians were no longer a majority of the great *property*, they had no longer, according to the principles which have been laid down, any natural right to a share in the legislature. They might indeed have any proportion of it delegated to them by *property*, and *persons* independent of property; but, as a corps, they could have no better title to govern other men than any other corps which happened to make a part of the community. *Property* and *persons* would therefore naturally unite in dispossessing such a corps of its legislative authority; but when this was done, they would as naturally disagree in other respects, and consequently produce violent convulsions in the state, which, for want of a proper knowledge of the true principles upon which a free government can alone be established, they could not restore to proper order, and must in the end have recourse to military force, which, in place of acting as arbitra-

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tors, would seize the whole power, and make their general absolute. Such is the natural progress, and such were the events which actually took place among the Romans, as their history will testify*.

I must further observe, That the senate of Rome, or the senate and the whole body of patricians, did not necessarily constitute that class of the community which I have distinguished by the name of *property*: while their body included a superiority of the lands, or great *property*, they had a natural right to one half of the supreme legislative power; but if they had not such a superiority of *property*, they had no right whatever to any share of the legislative authority: their birth, or titles, included no natural right to make laws for the whole nation. Neither did the appellation of *plebeian* correspond with *persons* independent of property; because that title might likewise include a majority of the great property, as there can be but little doubt that it did toward the end of the Roman republic. *Patrician* and *plebeian* are for these reasons, equally unfit with *aristocracy* and *democracy*, to express the sense which is meant to be conveyed by the terms *property*, and *persons* independent of property.

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* See the Historical Review subjoined.

LETTER X.

In the foregoing letters I have attempted to unfold the principles upon which true freedom may be erected, in as concise a manner as seemed to be consistent with perspicuity: it remains only to recapitulate the substance of what has been said, that the subject may be presented under a distinct point of view; and to add such farther illustrations as may appear to arise generally from the subject.

In the first letter, I have endeavoured to give some general, though imperfect idea, of the origin and use of government in all nations; and have attempted to show, that the end of all dominion is to secure to mankind the freedom of their persons, and the security of their property; that in all civilized countries the inhabitants are naturally divided into two great classes or parties, which are continually endeavouring to encroach upon each other; and that all just power must take its rise from a combination of *persons* and *property*.

In the second letter, it is taken for granted, that the representative form of government is best suited to freedom; and consequently, that the deputies sent to the legislative assembly must, in order to preserve that blessing, consist of one half chosen by *property* and the other by *persons*.

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Having, in the third letter, given some definition of the terms which were found necessary to explain the subject, I have proceeded, in the fourth, to state, that the executive power appears to be the best means to balance the two contending parties in the legislative assembly, in which alone true freedom can consist: and it seems farther to appear, that the executive power should be placed in the hands of a single person.

The fifth letter demonstrates, that the executive power must be possessed of influence in the legislative assembly, in order to maintain the balance between the two parties of which it should consist; and hence the necessity of the ministers of the sovereign power having seats among the deputies, or that the servants who act in the name of the executive authority should be chosen from that body.

From the sixth letter may be drawn the most forcible reasons for the creation of peers, which in fact, in a great measure, renders armed force unnecessary in a well-poised government. And the most unquestionable evidence is produced, that the British government owes its excellence to its coincidence with the principles which I have endeavoured to establish.

The transactions in France since the revolution in that country, are brought forward in the seventh letter, to show how much the French nation have mistaken the true basis of freedom; and some natural reflections arise out of that subject.

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The eighth letter contains the sketch of a plan of national representation for the French people, upon the principles which this work inculcates. But the apprehension of misconstruction, at the critical period when it was written, having prevented so full a discussion as this subject required, to render it clearly intelligible; and evidence having appeared of its being misunderstood by very intelligent readers; a supplementary letter is added, to explain more fully the proposed mode of representation; which also points out other advantages to be derived from a classification of the community by the standard of property.

In the ninth letter, I have given some slight sketches of what history has transmitted respecting a few of the ancient governments which were supposed to enjoy a considerable degree of liberty. But although popular governments, by raising the lower class above their natural level in the general scale of society, may tend to make them fight a foreign foe with a degree of enthusiasm proportioned to their consequence in the state; yet such governments (as the examples will show) did not enjoy that domestic tranquillity and happiness which equitable laws, and a consciousness of the absolute security of property, and of personal freedom, must ever produce.

If the governments which now generally exist in the world be brought to the test of the principles which have been inculcated in these letters, they will demonstrate the deviations from freedom, and will

will show exactly the degree of liberty which each of the states of Europe possess, that are generally denominated absolute monarchies, although they have some fundamental laws which restrain the will of the sovereign, and oblige him to respect the great property: but those customs or laws are not equally favourable to personal freedom. It has been common to observe, that such states differ materially from those despotic governments where the sovereign claims the property of the lands, as is the case in many of the Asiatic and African nations: and this difference affords a new proof, that *property must be considered as containing half the power of every state*; because when this power is united to the sovereign authority, according to the principles laid down in these letters, the whole body of the people must become completely enslaved.

In Turkey, the only security to property, or restraint on the sovereign, is derived from the laws of their religion, contained in the Koran; and this circumstance has probably tended more to propagate and preserve the Mahomedan faith, than either the sword, or the luxurious paradise which it promises.

In all inquiries into the nature of free governments, it has been remarked, that the security of *persons* and of *property* was the end proposed; but I have not observed, that former disquisitions upon this subject have remarked, in terms sufficiently explicit, that these two bodies of men are at continual variance; one of them tending immediately

to the destruction of *property*, and the other to the enslaving of *persons*. It is this circumstance which makes the dominion of either party a complete despotism over the other; and from hence arises a maxim in government, that *real freedom consists in the supreme power being equally divided between persons and property*.

In accounting for the prevalence of monarchy, or the dominion of a single person, men have had recourse to divine right; or they have supposed, that as one God must rule the universe, one man, to resemble him, must rule a nation. Such ideas are ill founded; the true reason why the dominion of a single person has prevailed in most countries in the world, appears to be, that the two great parties of *persons* and *property*, finding that they could not bear the dominion of each other, committed the power to a single person, as the least evil of the three.

Mankind have been imposed upon in a variety of ways respecting government by those who meant to subjugate them; and impostures of this kind become frequent, when states are in possession of some degree of freedom. Among these may be reckoned, that constant cry which we hear in the French nation, that the laws should reign; that freedom is the reign of the laws. If it be meant, that this must necessarily produce freedom, it is a most gross deception; because it supposes, that men must be free, if they are ruled by law. The most abominable tyranny has been exercised and
functioned

functioned by laws, and by customs which have obtained the force of laws. It is not in the execution of such laws as happen to exist, but in the framing and enacting of necessary and good laws, that liberty chiefly consists; and (as I have before observed) from the nature of the laws of any country, a true judgment may be formed of the degree of freedom enjoyed by its inhabitants. The legislature of every country is a constantly operating power, and, according to its bias, the laws are formed to oppress *persons* or *property*, or both; these oppressions may be so speedily performed, that in some cases a single law may be sufficient to destroy all the security of *property*, or annihilate every vestige of personal freedom. For these reasons, no nation can possibly continue to enjoy liberty, but by placing the legislative authority, one half in *property*, and the other half in *persons*, and by preserving such a balance between those parties as completely precludes either from preponderating.

POSTSCRIPT.

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P O S T S C R I P T.

ON THE CAUSE AND PREVENTION OF CRIMES:

THE celebrated Doctor Adam Smith, in his elaborate work on the Wealth of Nations, has clearly pointed out the destructive effect of monopolizing and restrictive laws upon commercial property, by cramping its operations, and thwarting its natural tendency to increase the wealth and prosperity of a country. Of this rational system M. Turgot is now supposed to have been the original discoverer, and our learned and intelligent countryman its successful elucidator. But in whatever view his work may be regarded, it has proved a valuable acquisition to mankind, by demonstrating the multiplied errors with which human policy had obstructed the very ends it intended to promote. Nearly from the same causes, and in the same manner, have injudicious laws and institutions operated in obstructing the general influence of property upon society, which naturally would have produced to man the most solid and permanent advantages.

It would appear that neither M. Turgot nor Doctor Smith had been aware, that the subject of which they treated was but a branch of a more general, and much more extensive and important subject, *the influence of property upon society*, from which,

CAUSE AND PREVENTION OF CRIMES. 139

which, in the first instance, all human knowledge is derived; upon which depends the condition of government and legislation, and the progress of civilization; with the prevalence of virtue or vice among mankind.

The dependance of knowledge, government, and civilization, upon the operation of property, may be understood from what has already been said upon these subjects; but it may be more difficult to comprehend how public and private virtue should be influenced by the same cause, although it has before been observed, that they necessarily must be attendant upon real civilization*.

No inference can be clearer to me, than that property would establish general justice and virtue among men, if it were permitted to produce its natural effects upon society, without any force or restraint from partial laws and customs; so that, on the one hand, it should not be accumulated and confined to a few persons, but suffered to diffuse itself, without impediment, in all directions, by passing through the channels of natural descent to equal kindred; and, on the other, that no restrictions should be laid to prevent honest industry from acquiring and possessing its just attainments. In this case, the disparity of circumstances among mankind would no longer be so prominent and striking; envy could not act for want of an object;

* See note, page 11.

industry

industry would everywhere appear to be the uniform source of prosperity, and the only road to happiness; men would not feel that they were unjustly dealt with, and every idea of retaliating injustice would be annihilated; whereas, in other circumstances, I am convinced, that this imprefion first instigates the discontented to dishonesty.

The laws, which operate powerfully in amassing and retaining immense property into few hands, have a counteraction in starving thousands, whom the circulation of that property, through the various channels of equal kindred, would have supported and maintained. In the most productive soils, where the sun exerts his more ardent and fertilizing powers, reservoirs of water are formed, to be distributed in numerous channels for the nourishment of the various plants with which the industry of man has stocked the surface of the earth; withhold this refreshing element; pen it up in the reservoirs, and suffer it not to flow into the channels that were prepared for it, the plants must wither and decay, and the soil become barren and unproductive. Not dissimilar are the effects of this class of laws upon the inferior orders of society. The extent of their pernicious influence is not at first perceived. But when we reflect, on one hand, how the progeny, which descends from one man, is multiplied, by children, and grand children, and great grand children, so that in the course of a few successions the equal descendants of this man may amount to thousands; and, on the other hand, that the original

ginal property, in place of going, as nature points out, equally to all his children, to be by them improved and circulated again equally among their descendants, becomes the exclusive possession of one individual, while thousands (who soon multiply to tens and hundreds of thousands) stand in the same degree of relationship to the original possessor of the property. By this means the natural distribution of property is disarranged and broken; a few are elevated by wealth and power, out of all proportion beyond what the uninfluenced effects of property would have produced; while, for every one so elevated, thousands are depressed below the stations they would have held, had that property been permitted to flow in its natural channels, to have put into exertion, in the various hands through which it passed, the productive powers of industry.

Besides these principal laws, there are many others, which partial considerations, perhaps partial influence, and the flinted comprehension of man in the contemplation of future consequences, may have occasioned, which have powerful effects in disarranging the natural progress of property, and defeating the operations of industry.

It has before been observed, that slaves, who are not permitted to possess any property, cannot possibly be honest from principle*. From the same cause, wherever laws or institutions obviously cramp or restrain property in its natural progress

* See page 43, and 44.

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and effects, a tendency to dishonesty and vice will manifest itself among the inferior orders of the people, proportioned to the prevalence of such laws. The poor are not philosophers; they do not discover such effects by a chain of reasoning, but they are quick in the discernment of injustice, when it operates against themselves; they have a general sense of being aggrieved, and the sentiment of retaliating injustice rises in their minds, and generates dishonesty, and all the variety of crimes which are its natural attendants.

It is a strong presumption, that the laws which disarrange the natural progress of property, by partial restraints, have the effect of fomenting or exciting the commission of crimes, when the absence of such laws exempts society from these direful consequences. In those parts of England, and Wales, where the institution of gavelkind prevails, I understand its good effects are to be seen in the general improved state of the face of the country, and in the comparative comfort, happiness and virtue of its inhabitants*. In the united provinces, the rule of inheritance seems to be, the equal division of the possessions of the parent among the children; and the general tendency of the laws appears favourable to the natural progress of property †. The dependence of all classes of

* See Williams's History of Monmouthshire.

† "No country can vie with Holland in the number of those inhabitants, whose lot, if not riches, is at least a comfortable sufficiency."

GUTHRIE'S Geogr. Grammar, p. 476.

people

people is upon industry, and in consequence they are exempted from poverty and vice. Upon leaving the territory of the united states, and entering into the dutchy of Cleves, a passing traveller remarks the beggarly habits and appearance of the children of the peasantry, compared with those of the country so immediately adjoining, which she had just left*. In the city of Hamburgh, the laws prescribe the equal division of the parent's estate among all the children. At Hamburgh, I had occasion to remark, that it was the custom of merchants to send boys, almost children, from all parts of the city, through streets, and passages, and alleys, with bags of money carried openly upon their shoulders, without any risque, or any apprehension of risque, from theft or robbery. This surely indicated great correctness of morals among the people? When an extra tax was to be levied upon the Hamburghers, (of which two instances occurred within my knowledge) the mode adopted was, to assess the income of the inhabitants at a certain rate or percentage; and it was left to individuals to pay what was due, without any other obligation but that of honour, and without any one person knowing what another contributed; yet the general product never failed to verify the previous calculation. I may add, that the commission of crimes of any kind was rare; and that in the course of two years, only one capital trial had taken place, which was of a woman for child-murder. Hamburgh is computed to contain about 100,000 inhabi-

* Mrs. Radcliffe's Journey through Holland, &c.

tants.

tants*. It may be proper, however, to observe, that the period to which I allude, is at the distance of upwards of twenty years back; and that I have been since told, the same correct morals do not now exist, or are not so prevalent; which was imputed by my informant to the resort of emigrants, and other foreigners, in great numbers, to Hamburg, who had brought their vices along with them. If this cause had not been assigned, I should have imputed the change to some innovations affecting the general state of property.

When property, by the influence of partial laws, is prevented from taking its natural course, which tends to benefit society, it deviates, or rather it is impelled into another channel, and produces an opposite effect. In the one case virtue is generated, in the other vice, for the correction of which the government resorts to penal laws; but penal laws have no effect in diminishing the original cause of this evil, which, on the contrary, is by its nature progressive; the effects which it produces are in like manner progressive, occasioning crimes to increase in number and enormity; further penalties and severer laws of restraint are called for, and the executive power is obliged to use more energy and force. Thus a train of evils multiply, without remedying the disease of the state, which becomes gradually worse and worse, and tends more and more to the final destruction or dissolution of the political union. From hence

* Guthrie's Geographical Grammar.

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has arisen the general remark, repeated almost by all authors in all ages, of the progress of nations to decline, which is supposed indeterminately to result from the effects of luxury and corruption inseparable from an advanced state of society; but an attention to the general effect of property upon mankind, to the beneficial influence of its free agency, to the pernicious consequences of its restraint, may suggest the means of arresting this evil in its progress, and of turning the current of national impulse from ruin to prosperity.

An intelligent and benevolent magistrate has lately published a very judicious work upon the Police of the City of London, and has suggested many necessary amendments in the corrective measures of restraint, with the view of preventing crimes. So far as this performance goes, it is highly meritorious and commendable; but when the author asks, in his introduction, "*from what source these numerous inconveniences and pressures spring? and where a remedy is to be found for so many accumulated evils?*"—he is not aware that a direct answer may be given to his question, upon which the most perfect reliance may be placed. Free property from the restraints that interrupt its natural progress; suffer it to spread and diffuse itself as justice directs; exempt it from the influence of partial laws, and you will soon find that crimes will abate, and punishments cease to be necessary; that men will rely upon property and industry for their support, and that virtue will become a lesson self-taught and generally practised.

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I am sorry to make a remark that may have any tendency to damp the most heavenly propensity that can influence the human mind, the desire of cultivating virtue in the rising generation, with a view to counteract the general prevalence of vice; but I much fear, that without the aid of the legislature, in the situation alluded to, such benevolent intentions must prove ineffectual. If, by the restraints which partial laws impose upon property, the natural gradation that is favourable to industry, and of course to virtue, be broken and interrupted, and thereby a disposition to immoral conduct be produced among the inferior orders of society, by the habit which is confirmed in them, of relying upon other means than property and industry for subsistence, it will be in vain to expect that precept or education can establish a barrier of sufficient strength to stem the current of depravity and example, while the sources from whence it flows continue undiminished and unaltered.

But should this subject be hereafter so clearly elucidated as to attract the attention of the legislature, and to induce the gradual amendment of those laws, which obstruct the natural progress of property, then might we hope for a general melioration of the soil, which would fit it for the culture of virtue; then would instruction produce its proper effect, and the example of the parent establish and confirm the lessons of the preceptor.

AN
 HISTORICAL REVIEW
 OF THE
 MONARCHY *and* REPUBLIC
 OF
 R O M E

Upon the PRINCIPLES derived from
 The EFFECTS of PROPERTY
 On SOCIETY and GOVERNMENT:

By ROBERT PATTON, Esq.

P R E F A C E.

THE following Historical Review of the Roman Monarchy and Republic will only be understood by those who are acquainted with the Roman History; to many readers of which I fear it may prove infipid, if not-dull. What has been considered as the most entertaining, and with the great majority of readers, perhaps, the most interesting part of the Roman History, is the military exploits and achievements of that warlike people. A work intended to withdraw the attention from those wonder-exciting narrations, and to fix it on the less regarded occurrences of the civil government, which have hitherto been thrown into the back-ground of the picture, stands little chance of attracting approbation. The few, however, who think deeper on these subjects, and who can discern the scope and intention of this inquiry, may approve of an attempt to correct prejudices that have proved destructive to the general interests of mankind.

My design at first being merely to apply the principles derived from the effects of property on society and government, to the occurrences of the Roman Monarchy and Republic, established facts only claimed my attention; and the author whom I principally consulted and followed was Vertot, in his History

tory of the Revolutions of Rome; because in that work I found the civil occurrences selected to my hand, and the circumstances mentioned generally supported by references to other authors. The historian of the progress and termination of the Roman republic disappointed my expectations in the earlier part of the history. He only enters upon his avowed subject at that period when both orders of the state, the plebeians as well as the patricians, were admitted to the higher offices of magistracy and command; and when, in its progress, the power of government was pretty equally divided between the classes of *property* and *persons*; which was undoubtedly the era of the greatest perfection of the republic. But facts are sufficiently established in the prior part of the history to shew, that this state of equipoise in respect to the discordant parts of the community, and of consequent good government, proceeded from the forcible retrenchment of that authority which the senate and the patricians, or the class of *property*, had usurped, and most grossly abused; and that, therefore, this perfection of the republic, so much approved of and admired, was accidental and transitory; and not the result of wisdom, but of contention.

Most writers on the subject of the Romans enthusiastically admire their character and government, which they exhibit in shining, but false, colours; mistaking military conquest and renown for good government, and representing the virtues of

of a few distinguished individuals as the general character of the people. If these were mere matters of curiosity or speculation, there would be no occasion to contest them; but unhappily they have gained such an ascendancy, and made such an impression on the world, as to influence the conduct of governments and nations. The perfection of the Roman republic as a civil institution is a datum established past question or doubt, and on all occasions referred to as incontrovertible. It is announced as a model for all republics; and it has suggested that form of government to imitating states, who have been tempted to reject much better establishments for the mad experiment of becoming *great* and *virtuous* like the Romans! Such, I imagine, was the origin of the republic of England; such appears to be the cause of the present insanity in France. Let the authors, who have contributed to impose these opinions upon the world, contemplate and lament the direful consequences of their misrepresentations.

Such reflections as these gave a new turn to my undertaking. I now found, that besides illustrating the luminous discovery of my friend, a prospect opened of correcting errors in public opinion, which had been productive of the most tremendous mischiefs to society and mankind. My zeal and my industry were stimulated, and my efforts extended. I was, however, anxious to compress my observations to a limited compass; and I am somewhat apprehensive that my work may be deficient

cient from this cause. Many persons have adopted the idea of the unrivalled excellence of the Roman character and government, who have but a very confined knowledge of the Roman history; to whom a more detailed and circumstantial account would have rendered the subject more intelligible. Of the competence of my endeavours to the attainment of their objects, it is not for me but the public to judge; but to the merit of good intentions I may with confidence lay claim.

The important tendency of my work, the multifarious matter it contained, and the frequent recurrences of the same subjects, have induced me to compile an Index, which may be useful to those who wish to reconsider its contents; and which may possibly operate against myself, by facilitating the detection of errors. As I found quotations from different authors necessary to establish particular circumstances or facts, more fully than by my own representation of them, and sometimes for their further illustration, and as particular passages occasionally called for detached remark or observation, I have had occasion to add a variety of notes. There are likewise general references to authors without quotation; as well as to particular parts of the work itself. To prevent an inconvenience which I have often experienced in reading, where notes and references promiscuously occur, I have adopted a twofold mode of indicating them, to distinguish the different species of reference made at the foot of the page. Where there is either

either quotation, or remark I have made use of letters, which imply that there is something intended to be read; but where the reference is only to mention the part or page of an author to which recourse may be had, and for which it is unnecessary to interrupt the present attention of the reader, I have made use of the asterisk, obelus, and other marks usually employed for reference in books.

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INTRODUCTION.

CHARLES PATTON, ESQUIRE.

I HAVE been urgent with you to give a second edition of your work to the public, as well from the very extraordinary circumstances attending your first publication, which so much narrowed its circulation, as from the additional important matter, which I knew you to possess. It is true, that your situation at present, and for some years back, has so completely occupied your time, that you could not possibly find leisure to digest your thoughts into the form you might wish for meeting the public eye. But your discoveries appear to me of such importance to mankind, where error has so powerfully prevailed, that I think it highly proper no time should be lost, in giving to the world, at least a sketch of what you may hereafter digest into a more regular form.

I will frankly acknowledge, another motive with me for urging your present publication is, that you may assert your right to the discoveries you have made, which tend so much to enlighten the political world, and dispel the obscurities of history,

tory, ere they shall be claimed, through adoption, by others. My apprehensions upon this subject have been alarmed by a passage I met with in an *Account of the Life and Writings of Doctor Adam Smith*, lately published by a very eminent writer, and (as I understand) a very amiable man; but to whose doctrine on the subject of discoveries in political economy, as I interpret his meaning, I must enter my formal protest. His words are—
 “But in questions of so complicated nature as
 “occur in political economy, the credit of such
 “opinions belongs of right to the author who
 “first established their solidity, and followed them
 “out to their remote consequences, not to him
 “who, by a fortunate accident, first stumbled on
 “the truth.” The discoverer of truth, on whatever subject, ought certainly to enjoy the credit of his discovery; and the person who *establishes the solidity* of this truth, and *follows it out to its remote consequences*, is entitled to the credit of having done so, but surely not to the credit of having made the original discovery?—Were the general position of the learned biographer admitted, some academical gentleman, experienced in the art of system-making, might, by foisting your discoveries into his work, assume to himself the credit of your opinions.

It is not for me to be the encothiaft of your performance; but I cannot help repeating, that I consider your discovery as of the highest importance to mankind. No wonder that the pursuit
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of civil liberty has so often ended in tyranny and oppression, since the requisites of which it is constituted were misunderstood and unknown. The definition which you have given of it, warns us to avoid the overbearing oppression of the class of *property* on the one hand, and the more intolerable tyranny of the many-headed monster democracy, or the class of *persons*, on the other, and conducts through the middle way to the sacred temple where the goddess herself resides, with the sceptre and the balance in her hand, dividing between the representatives of *property* and *persons* the powers of legislation; so that by equal laws the possessions of property may be insured to the one, and the enjoyment of personal freedom to the other, under the sacred auspices of royalty—with the power to restrain, but without the ability to tyrannize. Such is the only constitution of government in the world, where true liberty and the security of property are uniformly maintained; obviously depending upon the state of representation in the legislative assembly, where *property* and *persons* are adequately represented, and royalty preserves the balance between them.

The principles upon which this equality of representation depends, your work, in my apprehension, has clearly explained; and, in particular, the astonishing effects produced by the grand division of the whole into the two general and opposing interests of *property* and *persons*, upon which all the opera-

operations of civil government must depend, and ought to be regulated; because they divide and involve the whole society, and form the only natural distinction among men. By the prevalence of the one or the other, the errors of government are produced; by an exact equipoise between them, the perfection of freedom is established; and upon the stability of this establishment, the excellence of the constitution of government depends.

By the application of these principles, a subject of much difficulty has been simplified and elucidated; and they will be found applicable to every civilized government in the world, because all are compounded of the same materials, and must be divided into the classes of *property* and *persons*. It struck me, upon the perusal of your work, that the Roman republic, where the opposing classes were left, without restraint, to battle against one another, afforded a striking illustration of your ideas; and the same opinion expressed by a friend, as eminent for penetration and discernment, as for literature*, determined me to make the attempt, which I have now accomplished; and to offer my *Historical Review* as an appendage to your *Investigation of the Effects of Property on Society and Government*.

* Doctor John Hunter, Professor of Humanity at St. Andrew's.

When

When I entered upon this undertaking, I did not expect it to occupy so many sheets as it has filled; but in its progress I found additional motives for extending my remarks. The magic of military success has so captivated the historians of the Roman republic, that they have altogether lost sight of the state of the civil government, the defects and errors of which give way to the rapture and admiration of heroical exploits. It is unfortunate, that peaceable men are such passionate admirers of victories and conquests, which has occasioned learning to do almost as much mischief as war itself, by the encomiums it has bestowed upon conquerors. The civil government of Rome has been cried up as a model of perfection, because it produced a warlike people, who by their conquests became sovereigns of the world. If the excellence of civil government consist in aggression against other states, and success in offensive war, Rome was certainly a model of perfection; but if domestic tranquillity, the preservation of personal liberty, and the security of property, constitute its excellence, the Roman republic was one of the worst governments the world ever produced: foreign war was absolutely necessary to its existence, without which it must, in a very short time, have destroyed itself; for it necessarily and unavoidably produced a perpetual scene of contest and warfare between the classes of *property* and *persons*, because there was no regulating power in the constitution to balance or con-

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troul them; and the only remedy for internal discord was foreign hostility. The great eulogium of this government is its production of celebrated characters*. Perpetual warfare must always have this effect; and perhaps civil war should be more productive of distinguished characters than any other; for the whole community being engaged, whatever abilities it contains must come forward. But for this reason would these learned gentlemen prefer a state of civil war to a settled and well regulated government, whose object was not foreign conquest and dominion, but domestic tranquillity?

As every history of Rome, even that which professes to treat of the progress and termination of the republic, is engrossed by the military enterprises of that warlike people, which attract the whole attention both of the historian and his reader, a work seemed wanting, that would make her civil government the sole object of investigation, abstracted from the glare of military successes, so that its real defects and deformity might appear, and mankind be no longer deluded into the imitation of a discordant system of government, incompatible with domestic tranquil-

* " Yet under all these defects, as we have repeated occasion to observe, they enjoyed the most envied distinction of nations, continual prosperity, and an almost uninterrupted succession of statesmen and warriors unequalled in the history of mankind." Ferguson's Hist. Vol. I. page 72.

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lity, and hostile to the independence of every other state. The want of such a work has led me to prosecute my remarks farther than I at first intended; and if by this feeble attempt an abler pen shall be induced to discuss the subject more completely, I may have rendered a real service to the world.

I remain, &c.

ROBERT PATTON.

Edinburgh, 15th August 1796.

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BOOK

BOOK FIRST.

FROM THE BUILDING OF ROME TO THE CREATION OF THE TRIBUNES OF THE PEOPLE.

UNDER Romulus the Romans were at first a band of banditti, without distinction in respect to property or rank. They chose Romulus for their leader or chief, to direct their warlike, or rather their predatory enterprises; and when they came to take up their residence on the afterfite of Rome, it was rather as a horde, than as a nation.

As robbers are the common enemies of all, the safety of Romulus's band consisted in rendering themselves formidable by their numbers, which made them assimilate as many as would join them, and adopt as brethren those whom occasionally they might subdue. By these means, from a horde of banditti, they came to assume the form of a people, and to assert the rights of a nation. The independence which they had acquired by this increase of their numbers, dictated the policy they continued long afterwards to practise, of converting subjected enemies into fellow-citizens; which has been admired as one of the greatest efforts of political wisdom!

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The power first exercised by Romulus was merely that of a chief, who had been chosen from among his equals; and it was therefore very moderate, and under great restraint. The division, which he made of his people into tribes and *curia*, appears to me to have been a military arrangement, which the increased number of his followers rendered necessary, and in which they acquiesced; and the adoption afterwards of a senate, to deliberate upon, and to dictate public measures, was probably an accommodating step, on his part, to associate in the government the most distinguished and the most esteemed of his followers. This conjecture seems to be supported by the following considerations: First, by the mode in which the senate was formed; the king himself naming only one, who was indeed the first or principal, and acted as a sort of vice-president; and the rest (ninety-nine in number) being chosen by the tribes and the *Curia*: and, secondly, by the weight which they had in the national deliberations; the vote of each senator being equal to that of the king, whose peculiar privileges or prerogatives consisted in assembling the senate, and proposing the subjects for its deliberation.

Hitherto the Romans had consisted but of one order of people. In respect to property they were equal; and therefore the whole society might be considered as consisting only of the class of *persons*, who had nothing to fear but from their chief, whom, therefore, they watched with jealousy, and kept under
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very confined restrictions. In these circumstances and the community consisting of so small a number, the perfect equality of voices in the general assembly of the people was altogether proper and consistent; for whilst there was no difference among them in respect to property, their political interests must be the same; and therefore the ratification of laws, and the confirmation of all general measures respecting the society, was with great propriety referred to them. But when, by the introduction of subordination, inequality of power and rank took place among them, inequality in respect to property or personal possessions must soon follow; and the division of the society into two political orders, which was the consequence of the establishment of a senate, must have an evident tendency to accelerate its resolution into the classes of *property* and *persons*.

The choice of the senators was made from the seniors of the society, and for life; and their peculiar privileges conferred a dignity upon them, which extended itself to their families, and raised a new order in the state, under the designation of *patricians*, from whence, in future, almost all the senators were exclusively chosen. This appropriation of dignity and power to certain individuals and their families, which divided the society into the two orders of *patricians* and *plebeians*, was foreseen to be productive of jealousy and disagreement in the community; to remedy which the singular institution of *patron* and *client*, which connected in-
M 2 individuals

dividuals of both orders, by ties of mutual support and protection, is said to have been adopted; and the effects of this institution, which was hardly ever violated by the Romans, must have been very considerable, although insufficient to counteract the natural contention for ascendancy, which must arise in every civilized society, when, by disparity of fortune, it is divided into the classes of *property* and *persons*.

As far as we can judge from the early history of Rome, the political distinction of senators and people subsisted for some time before the natural one of *property* and *persons* took place; in other words, the society was divided into the senate and the people, before such a disparity in respect to property had arisen among them, as to divide them into the classes of *property* and *persons*; and, in this situation, the interests of the people at large would be uniformly pursued. It is not even improbable that the senate acted from motives of attention to the general interest, when they conspired the death of their king; who, in consequence of his military successes, might be aiming at unlimited power, or despotism, which it was the interest of all to prevent; but of which the *many* might be made the dupes, whilst the *few* possessed the wisdom to discern, and the courage to defeat it.

After the death of Romulus, whom the senate permitted the people to worship as a god, in compensation for having prevented them from idolizing him as a king, either from the general apprehension

hension of the regal appointment, or from the desire of dividing the dignity and the power of royalty among themselves, the election of a successor to him was avoided; and the senators, in succession, took upon themselves to govern the state as substitutes for the king, each for the space of five days. But in the course of one year the people became tired of this transitory succession of sovereigns, which rendered still more invidious the distinction that had taken place between them and their exalted fellow-citizens. They insisted on the appointment of a new king, and claimed their privilege to elect him, which the senate did not, at this time, think proper to contest.

It may appear doubtful, whether in this first difference between the senate and the people, the former were actuated in their conduct as the possessors of property, by which they were probably already in some degree distinguished from the other citizens, or if it was merely their political situation, the *esprit du corps*, and the love of power, that influenced them. I am rather disposed to think that the difference in respect to property between the *patricians* and the *plebians* was not yet sufficient to create a powerful motive of action.

In respect to property, we are told that the territory which the Romans at first possessed was unequally divided into three parts: the first, for the support of the religious establishment; the second, for the regal, and other public expences; and the third, which was by far the largest, for the main-

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tenance of the people, being divided into thirty equal portions for the thirty *curiæ*, which brought the proportion of two arpents to each individual; and this continued to be considered as the allotment for a citizen for many years afterwards. But when, by the junction of the Sabines with the Romans, so early as the seventh year of the city, the Sabine territory came to be added to that of Rome, some disparity in respect to property must have taken place among the citizens of Rome, because such probably existed among the Sabines, who were incorporated with them.

Yet the simplicity in the manners of those times, the exemption from superfluous wants, and the tenor of equality in which the Romans had originally lived, would for some time, and particularly during the life-time of the first inhabitants, repress the assumptions which property naturally suggests and introduces. But whenever its influence was fairly known and felt, it would not fail to be coveted, and it would naturally resort where public authority was placed; rendering the individuals who had been selected for senators, and whose families were ennobled as *patricians*, its possessors, in opposition to the *plebeians*, who thus would constitute the class of *persons*; and thereby the artificial and the natural division of the society would be nearly the same.

Under the government of the kings, however, exemption from want was almost the condition of all

all orders of the society; because the poorer citizens were provided for by the division of the conquered lands, the one half being sold to indemnify the state for the expences of the war, and the other, which became a part of the public domain, being granted, as might be requisite, either gratuitously, or on payment of a small quit-rent, for the support of the poorer citizens (*a*): which necessarily lessened the dependence of the poor upon the rich, and the more obvious effects of the ascendancy of wealth. By this interposition of the royal influence, the extremes both of poverty and riches were avoided; and the whole community being brought nearer to the same level, their political wants became more uniform, and, of course, they were less liable to disunion and dissention.

So far from *property* preponderating during the regal government of Rome, notwithstanding that the senators and the *patricians* must soon have become the most wealthy, the constitutional powers of the general assembly of the people, where the class of *persons*, by the majority of its suffrages, must prevail, placed the whole authority of the government with them. In these assemblies the laws, which might previously be digested in the senate,

(*a*) "On vendoit ordinairement une moitié de ces terres conquises pour indemniser l'état des frais de la guerre, et l'autre moitié se réunissoit au domaine public que l'on donnoit ensuite, ou gratuitement, ou sous un cens modique, & à rent au plus pauvres citoyens pour les aider à subsister: tel étoit l'ancien usage de Rome sous ses rois, c'est-à-dire pendant plus de deux cens ans." Vertot Hist. liv. 1.

were ultimately adopted or rejected; criminal justice was administered, in the last resort, by appeal from the decisions of every other court; the important subjects of peace or war were decided upon; and every public office, and even the royal appointment itself, was filled as the voices of the people should determine. Accordingly, the public edicts issued by the state, and all laws and ordinances recorded, were in name of the *Roman people*, without even mentioning the king who reigned. As a supreme civil magistrate, the authority of the king appears to have been very limited indeed; but he was constitutionally the general and commander in chief in time of war, where a more absolute authority is indispensable; and it might be in this capacity that he influenced the distribution of the conquered lands, so as to prevent the poor citizens from becoming indigent (b).

In the reign of Tullus Hostilius, third king of Rome, Horatius was condemned by his judges (the *duumvirs*) to suffer death for the murder of his sister, and must have fallen on the very day of his triumph, which was so beneficial to his country! had not Tullus suggested an appeal to the people as the only means of saving him; which at once

(b) This conjecture is supported by the conduct of Manius Valerius, when he was dictator, who divided the lands, which were ceded by the Equi to the Romans, whilst he was in the field, among the poorest of the citizens; which was probably copied from what had been the practice of the kings.

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establishe the impotence of the king, and the judicial supremacy of the assemblies of the people. When, after having been vanquished, the Albans, like the Sabines, were adopted as citizens of Rome, the principal Alban families are said to have been admitted into the order of senators and *patricians*, which establishes the distinctions of property to have subsisted among them, and implies (I think) that the Roman senators and *patricians* were in like manner distinguished at that time as the possessors of property.

Ancus Martius, the fourth king, who was grandson to Numa Pompilius, and like him wished to distinguish his reign by peaceable and religious institutions for the better regulation of the community, was prevented from following the bent of his own inclinations by the aggression of the Latines; against whom, when he sent a solemn annunciation of war, history records, that it was in name of the Senate and People of Rome, but without any mention of the king, who, thereby, was certainly not considered as the head, and hardly as an essential part, of the civil government. Upon such an occasion he was probably regarded only as the general and commander in chief of the army.

The progress of the society in dividing itself into the natural classes of *property* and *persons* was gradual; exactly keeping pace with the disparity of wealth among individuals. Whilst the difference in

in this respect was inconsiderable, there could be no great difference in the pursuits of the inhabitants. But as they increased in number, and the society grew in importance, these differences gradually augmented; and upon the death of Ancus Martius, in the 138th year of the city, there is a decided proof of the influence of property among the inhabitants of Rome. Tarquin the Elder was at first a stranger in Rome, distinguished only by his wealth, which gave him importance. By the favour of Ancus he was afterwards known to be a man of abilities and of virtue, and therefore respected. But these considerations would never have acquired to him the possession of the crown, to which he could have so little pretension, had it not been for the liberal distribution of his riches among those who could influence the suffrages of the people at the election of a new king (*a*). History imputes his success to this cause; and in so doing the influence of property upon the inhabitants of Rome, at that time, appears to have been very considerable, and its attainments very superior; so that at this era such a disparity subsisted among the inhabitants as must have divided the society into the two classes of *property* and *persons*, whose interests would soon take an opposite direction. Tarquin is also said to have further rewarded his friends by the

(*a*) " Tarquin premier ou l'ancien, quoiqu' étranger, parvint à la couronne après la mort d'Ancus, et il acheta par des secours gratuits qu'il avoit donné auparavant aux principaux du peuple." Vertot, l. 1. Dion. Hallic. l. 3.

creation

creation of a hundred additional members to the senate, chosen from among them, whom, after having enriched, he thus advanced to the first order of the state; which probably was composed of the wealthiest individuals. But limited as the king's authority was in Rome, I cannot suppose this enlargement of the senate to be an act of prerogative in him; I rather imagine that it was accomplished by the same ascendency which had carried his election.

Hitherto we have endeavoured to establish, rather by inference than by proof, that property had gradually introduced among the Romans a great difference in the circumstances of individuals, which thereby divided the society into the classes of *property* and *persons*; and that, by the political division of the citizens into senators with their families, under the appellation of *patricians*, distinguished from the rest of the people, who were called *plebeians*, the former must generally have been the possessors of property in the greatest degree, and the latter must have included among them the poorest and the most destitute of the citizens. The first therefore would be composed of the class of *property*, though not exclusively; and the other of the class of *persons*; although even at this time a part of the class of *property* might be included among the *plebeians*. This coincidence of the class of *property* with the *patricians*, and of *persons* with the *plebeians*, was rather accidental than necessary; but,

but, as it happened, it tended afterwards to aggravate the differences which subsisted between them.

In the reign of Servius Tullius, who succeeded the elder Tarquin, history comes to record circumstances which confirm our conjectures on these subjects. The society was now divided; their interests took opposite directions; and it became apparent, by the constitution which subsisted, that in the assemblies of the people, *persons* must carry every point against *property*, whilst the decision was made by equal suffrages. The wisdom of Servius suggested a remedy, which was founded on just principles, but carried by him to the opposite extreme: he made property the rule for voting in the general assemblies of the people; but with a bias altogether in its favour, which was afterwards productive of the grossest abuses of tyranny and of oppression. These consequences, however, ought principally to be imputed to another important event which took place, and enabled the class of *property* to engross the whole powers of the state; and, if the senators and the *patricians* had not before the exclusive right to this designation, their measures soon pre-eminently entitled them to it.

In explaining the refined conduct of Servius, the page of history records, that, in the early times of Rome, the circumstances of the inhabitants were nearly equal, and that therefore an equal tax was assessed upon them for defraying the expences of the state; but that great difference in point of wealth and poverty having now taken place among them, the equality of this tax became a grievance

grievance to the poor. These circumstances Servius represented to the people, and proposed a remedy for the defect; which was, to assess the inhabitants in proportion to their wealth. But for this purpose it was necessary to ascertain the circumstances of every individual in the state, whereby their assessment should be regulated; and with this intent commissioners should be named. The people, or the class of *persons*, saw no farther into this scheme than he intended; and as they only perceived their own benefit and advantage, they gave the king full powers to execute his own plan in the way that he should think best. The class of *property* were more intelligent, and better informed; they clearly saw the object of the institution, and agreed without a murmur to the additional assessment.—The king instituted the *census*, which was an enrolment of all the Roman citizens, containing the age, abilities, profession, name of their tribe, and *curia*, the number of their children, and slaves belonging to each. There were at this time 80,000 citizens fit to bear arms. These he divided into six classes, according to their property or wealth, and each class was subdivided into centuries, except the last or lowest, which consisted but of one century. The first class, in which the senators, *patricians*, and the richest inhabitants, were enrolled, contained as many centuries as all the other classes together: they paid assessments in this proportion; but they also voted at the assemblies of the people, convoked by centuries, in like manner in this proportion; so that, as the first class always voted first, if they were unani-

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mous, it was unnecessary to proceed further; and the concurrence of the second class, composed of the next wealthy order, made the matter quite certain; they seldom had occasion to proceed so far as the third. The rest were altogether cyphers. The people were now convened by centuries when magistrates were to be elected, when laws were to be made or ratified, war declared, peace established, or crimes against the state or the privileges of the different orders investigated. The assemblies by *curiæ* were limited to the election of the flamens, priests of Jupiter, Mars, and Romulus, of the *curion*, and some other inferior officers, and for investing the magistrates with *imperium*, or military authority. Such was the constitution established by Servius, which gave *property* the complete ascendancy in the state.

To make this arrangement more characteristic of the king, who was the general of the state, he rendered it at the same time a military institution, assigning officers to command the centuries, and appropriating particular arms and duties to the different orders and classes. And having in this manner completed, as he fancied, his scheme of improvement for the government, the finances, and the defence of his country, it is said he had thoughts of resigning the royal appointment, imagining it had now become unnecessary; when, in fact, stability and efficiency in the first magistrate was the requisite which could alone correct and regulate any plan for the preservation of liberty among

among the Romans, now composed of the contending classes of *property* and *persons*.

Whatever were the intentions of Servius, they were frustrated by the impatient ambition of his successor, Tarquin the Proud, who, having accomplished his assassination, waded through murder and violence to the throne, disregarding the legal forms of election and approbation by the people and the senate, and relying for support upon military force, by which means he was enabled effectually to usurp the government, and to overturn the constitution of his country, by converting a very restricted monarchy into a tyrannical despotism.

It is needless to enter into the detail of a tyrannous usurpation. The violation of public rights was followed by private wrongs, and uncontrolled power ran riot into excesses; till at last the perpetration of a detestable act of violence, by the son of the tyrant, which was followed by a striking scene of horror, arrested the faculties of the astonished spectators, and filled their souls with indignation and revenge. The story alluded to is the tragical death of Lucretia. When the passions of all were by this event inflamed, the senators had the address to transfer the guilt of the tyrant to the office which he filled, or, more properly, usurped; and because Tarquin had obtruded himself unconstitutionally, and by military violence, into the place of royalty, which he had converted into tyranny and despotism, they determined to proscribe

scribe the monarchy itself, from the salutary influence of which, under constitutional restraint, the state had experienced such singular benefit and advantage. The multitude, or the class of *persons*, equally susceptible of passion, and inaccessible to reason, went hastily into the snare, and thereby deprived themselves of the only effectual protection which they had against the domineering encroachments of *property*.

The first Brutus has been immortalized as the restorer of liberty to his country. But when he carried his detestation of Tarquin so far as to induce his countrymen to interdict and proscribe royalty itself, he, in fact, banished fair and equal liberty for ever from the Roman state, and introduced, in its stead, either the overbearing controul of one division of the society above another, or the perpetual and unextinguishable contentions that must exist between them; because a power independent of either was absolutely necessary to keep them within proper restraint, a controuling power restricted by law, which a limited monarchy could alone supply. By the solemn and terrific oath exacted by Brutus from his countrymen—"that no king should ever be suffered to govern Rome" (*b*) he effectually prevented the establishment of such a power, and thereby for ever deprived his country of the advantage of rational liberty.

(*b*) "On dévouat aux Dieux des enfers, et on condamna aux plus cruels supplices ceux qui entreprendroient de rétablir la monarchie." Vertot, l. 1.

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The defects of the regal government, as it had been before administered in Rome, were the want of a sufficient degree of civil authority, and of a permanent establishment by hereditary succession, which impeded the good effects of the institution, and by making it an object for ambition, exposed it to the violence and the abuses of usurpation. But even defective as the Roman monarchy had been, by its influence the classes of *property* and *persons* were so far restrained in their separate pursuits, that the government existed for upwards of two hundred and forty years, without having produced any violent convulsion or strikingly oppressive measures, and this whilst the people, and consequently the class of *persons*, had a decided ascendancy in the legislature; which is imputable alone to the influence of the crown, and by no means to the moderation of the class of *persons*. We shall see whether the power which the senate substituted in its place produced an equally salutary effect.

When we regard the conduct of Brutus as proceeding from the desire of freeing his country from the despotism of Tarquin, it appears to be meritorious; but if we consider it as springing from the united influence of the *esprit du corps*, operating on him as a leading member of the senate, together with the natural disposition of *property* to tyrannize over *persons*, and disposing him, with the whole body of senators and *patricians*, to assume into their own hands the government and the legislation of the state, that they might lord it with oppressive violence

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lence over their fellow-citizens, the boasted patriotism of Brutus will assume a very different complexion. Such, however, if we are to judge of causes from effects, must be deemed the real motive which produced this revolution in the government of Rome, and which may indeed have tended to augment its military fame, but which certainly was the immediate occasion of the internal dispeace, oppression, and injustice, that prevailed in every stage of the Roman republic.

When it was determined to depose and banish Tarquin, and to proscribe royalty itself, the Roman senate deliberated upon the form of government which ought to supply its place, and adopted the plan which was probably suggested to them by Brutus; who appears to have long had in contemplation the accomplishment of a revolution in the government of his country, if we may credit the account that is given of his feigned insanity, and his impatience to expound the meaning of the Delphic Oracle, rendered propitious to him by the concealed bribe of the golden rod in the staff of cornel wood. The plan adopted was, to invest all the functions of royalty in two magistrates, to be annually chosen from the members of the senate, under the name of Consuls. This was, in fact, to invest that body with the whole executive government, and all the peculiar privileges and prerogatives of royalty, and, in particular with the chief military command, to which there is a greater necessity

cessity for attaching absolute power, than to the most important civil appointments.

The arrangements of the senate could not fail to be approved of by the assemblies of the people, who were now, according to Servius's institution, convoked by centuries for the enactment of laws: upon which occasion the first class alone, consisting of the most wealthy, and of course of the class of *property*, contained within itself a majority of centuries; and if to it the second were added, which was the succeeding order in the scale of *property*, and would probably at this time be included among the *patrician* families; any further opposition from the other centuries became nugatory and fruitless. Such was the scheme of government which the Romans derived from the patriotism of Brutus, who was so bent upon its establishment, that he did not hesitate to confirm it with the blood of his own children, when they were found to have been concerned in a conspiracy against it: and the immediate consequence of this establishment was, that the whole legislative, juridical, and executive powers of the state became exclusively vested in the senate and the *patricians*, who formed the class of *property*, among whom he knew himself to be considered as a leading and distinguished individual. These considerations are not the less natural, that they detract a little from the heroism of Brutus!

At first, however, it was highly necessary for the senate to affect great moderation in their measures,

the better to impose upon the *plebeians* or the class of *persons*, and to reconcile them to the new form of government; especially during the life-time of Tarquin, who did not cease to assert his pretensions. Partly, perhaps, to this cause may be imputed the assent of the senate to restore the private property of the Tarquins to the ambassadors sent to claim it, until it was discovered that they had fomented a conspiracy for the restoration of their master, which forfeited this favour; and the senate afterwards decreed, that the property of the Tarquins should be given up to the plunder of the inhabitants—the policy of which measure is obvious.

The failure of this conspiracy made Tarquin have recourse to arms; and in the first battle that was fought, Junius Brutus fell, killing at the same time his opponent Aruns Tarquin. They were mutually fired with mortal resentment, and from the unguarded ardor of each to destroy his enemy, they perished together. This catastrophe crowned Brutus's patriotism, and stamped him for ever after (with what right will admit of some doubt) the hero and the martyr of liberty!

By the death of Brutus, Valerius was left sole consul; which situation excited the suspicions of the Romans, lest he should affect arbitrary power; and the circumstance of his building a house on the upper part of the Palatine Hill (a defensive situation) augmented their suspicions. To restore himself to their esteem and affection, he changed the situation

situation of his house; and enacted laws which had the appearance of concession on the part of the senate to the people; particularly he instituted an appeal to the assembly of the people from the judgments of the consuls, or the ordinances of the senate (c). This law was afterwards productive of very important consequences in the state; but, at the present time, when *property* had the complete ascendancy in the assemblies of the people convoked by centuries, the measures of the senate would there meet with no real opposition; and the people

(c) This appeal seems only to be the restoration of a power which the people possessed under the kings. In the instance of Horatius it is said, that the king, Hostilius, admits of an appeal to the people from the sentence pronounced against him by the *duumvirs*, who were the judges appointed by law, or by the king's authority, for trying him. And in the account given by Vertot (upon the authority of Dionysius of Halicarnassus) of the privileges of the people under the first kings, his words are, speaking of this order of the state—"C'étoit lui qui autorisoit les loix qui avoient été digérées par le roi et le sénat; et il donnoit lui-même dans ses assemblées les ordres, qu'il vouloit exécuter. Tout ce qui concernoit la guerre & la paix, la création des magistrats, l'élection même du souverain dépendoit de ses suffrages. Le sénat s'étoit seulement réservé le pouvoir d'approuver ou de rejeter ses projets, qui sans ce temperament et le concours de ses lumières eussent été souvent trop précipitez et trop tumultueux."—From the whole of this passage I should understand, that the concurrence of the senate and the assembly of the people was reciprocally necessary to the establishment of laws, in which ever of the assemblies they might originate, as is the case with the assemblies of lords and commons in England. Did Valerius's law vest in the people a power to adopt and establish laws independent of, and without the concurrence of the senate?

were more gratified than advantaged. He also made it lawful to put any person to death who should attempt to assume arbitrary power, provided proof could be brought of such intention. The immediate object of this law was to free his own character from suspicion; and a secondary effect, which it would undoubtedly produce, was, to strengthen the public prejudice against monarchical government.

The conduct of Valerius was esteemed so favourable to the people, that it obtained him the name of *Publicola*. But the great end he had in view was, at this critical time, to attach them to the new government, which was perfectly understood by the senate, who seconded his popular measures, by giving much attention to the distresses of the people. Whilst the war with Tarquin was in a doubtful state, and particularly during the formidable siege of Rome, corn was purchased by the senate, and sold to them at a low price; and the inferior people at this time were entirely exempted from paying any tax or impost, with this flattering declaration—"that the poor contributed sufficiently to the public good, when they reared children to defend the state." The senators and the rich laid a double burden on themselves to defray the expences of the war, which was literally their own, and prosecuted for their sole and separate advantage; and the short-sighted group, who constitute the class of *persons*, were delighted with this shew of compassion and moderation

tion in their superiors, and readily gave up to them every remaining attachment they had to the monarchical form of government, and entered completely into their views of opposing the pretensions of the Tarquins; but they were not suffered long to remain ignorant of the real motives which had actuated the senate; and they soon found what they were to expect, when *property* became the uncontroled arbiter of their destiny.

No sooner was the siege of Rome raised, and the appearance of stability given to the new system (which happened in the second year of the republic) than the class of *property*, possessing all the powers of government, gave way to its natural propensities. All the civil, military, and sacerdotal appointments of the state, were appropriated to the order of *patricians* composing the class of *property*; who thereby monopolized both the influence and pecuniary advantages attached to office. A line of interdiction was drawn between the *patricians* and *plebeians*, to establish a perpetual separation of the two orders. The poor were reduced to the necessity of borrowing, and the rich were privileged to lend upon their own terms of unlimited usury (*c*); and, in general, such laws

(c) "The laws in Rome permitted lending money at 20, 30, nay, at cent. per cent. not only for a year, but even for a month. This shameful abuse was afterwards reformed; but it is surprising to see how strenuously the greater part of the patricians opposed this reformation, which was so just and reasonable."

only were enacted, as were both suggested and approved of by the class of *property*. A creditor was permitted to seize upon the person of his debtor, to make him his slave, to punish him at his own discretion, and to exact from his labour, by stripes and the most ignominious treatment, a disgraceful compensation for the payment of a debt which his reduced circumstances did not enable him to cancel (*d*). Can the name of liberty be applied to a government, where so gross an abuse of its first principles was sanctioned by law? How erroneous is the definition of liberty, which makes it simply the government of law, since no tyranny can be worse than the tyranny of bad laws! the essence of liberty must consist in the purity of the source from whence the laws are derived, which ought equally and mutually to preserve property and personal freedom; but by this infamous law, the most sacred rights of the class of *persons* were sacrificed to the avaricious views of *property*, which it invested with the power of making a fellow-citizen a slave; a situation in-

(*d*) " Les lois de ces tems-la permettoient au creancier, " faute de payment, d'arrêter son debiteur, et de le retirer " dans sa maison, ou il étoit traité comme un esclave. On " exigeoit souvent le principal & les intérêts à coups de " fouet & à force de tourmens; on lui enlevoit sa terre " par des usures accumulées et sous prétexte de l'observa- " tion des loix, et d'une justice exacte le peuple éprouvoit " tous les jours une injustice extrême."

Vertot, Hist. liv. i.

compatible

compatible with the dignity of any member of a free-state! This is not the place to say what proportion the variety of slaves bore to men really free, among the inhabitants of the Roman republic; but I am irresistibly drawn to remark, that under the auspices of a limited monarchy, a modern government has been formed, within whose immediate territory no slavery can exist; to breathe its air alone restores all mankind to natural freedom. Would that I could extend the observation to its colonies and distant possessions!—but if the security of property, and the preservation of personal liberty, form together the excellence of a free state, how much does the government of Great Britain eclipse the boasted Roman republic.

It is true, that no government ever presented such powerful motives for cultivating and improving the military art, by unremitting experience, as that of the Roman republic; which induced perpetual hostility and aggression against the neighbouring states, thereby opening the way to victory and conquest, gratifying the ambition of its rulers, and dazzling its inhabitants with the splendor of success. And the recital of those events, in the alluring page of history, has, in like manner, blinded posterity, who have thought, because the Romans, by rapacity and war, became *great*, that therefore they were *happy*. The consuls delighted in the command of armies, because in that situation their power was absolute; because, there,

there, they gratified their love of fame and ambition, excited by the immediate prospect of a triumph, and the after acquisition of pre-eminence in the state; and, finally, because in this situation their avarice too might be satiated; and, to complete the system, the short enjoyment of office gave a spur to all these animating motives. The senate, from among whom the consuls were chosen, felt, individually, the force of all these incitements, and when (which soon became the case) the arbitrary measures, by which *property* oppressed *persons*, had excited the voice of discontent and the spirit of resistance among the *plebeians*, the tumult was suppressed by the din of war, and the people called forth to wreak their vengeance on a foreign enemy. Such was the unceasing policy of the senate of Rome, which made war their perpetual occupation; and, although it flattered the self-importance of the people, considered as a part of that government which tyrannized over the neighbouring states, it did not fail, under the uncontrouled assumptions of *property*, to aggravate the distresses and the sufferings of the class of *persons*.

At that time the Roman soldiers received no pay; and when enrolled in the army, to execute the ambitious or the political pursuits of their rulers, they were obliged to serve at their own charge and expence, which was often the immediate cause of their being embarrassed with debt, of which the rich took advantage, and obliged them,

them, in the first instance, to part with their original patrimony, and afterwards, if this was not sufficient, to part with their personal liberty. It may be proper here to remark, that agriculture was the only art carried on by the Romans; nor had they any means of support, but what either the fields of their enemies or the culture of their own fields produced; nor had they now, as in the time of the kings, any prospect, from the success of the war, that a portion of the conquered lands would be allotted to the poorer citizens; all went to glut the insatiable avarice of the senators and the *patricians*, who formed the class of *property*, and who, being already possessed of the whole legislative, executive, and juridical powers of the state, had no difficulty in framing pretences, and establishing rights, for accumulating to themselves both the property of unprotected individuals, and of the community itself (e). Such acquisitions

(e) " Mais depuis l'extinction de la royauté, les nobles
 " et les patriciens qui se regardoient comme les seuls sou-
 " verains de la république, s'approprièrent sous differens
 " pretextes la meilleure partie de ces terres conquises qui
 " étoient dans leur bienfaisance: et ils étendoient insensiblement leur domaine aux dépens de celui du public: ou
 " bien sous des noms empruntez, ils se faisoient adjuger à
 " vil prix les différentes portions qui étoient destinées pour
 " la subsistance des plus pauvres citoyens. Ils les confon-
 " doient ensuite dans leurs propres terres, et quelques années
 " de possession avec un grand credit, couvroient ces usurpa-
 " tions. L'état y perdoit une partie de son domaine, et le
 " soldat, après avoir repandu son sang pour étendre les fron-
 " tieres de la republique, se trouvoit privé de la portion de
 " terre

acquisitions soon became sanctioned by possession, and tended still more widely to separate the classes of property and persons, and to divide the inhabitants of the state into the opposite interests of over-grown wealth and indigent poverty.

These causes and effects advanced progressively and rapidly from bad to worse, as the ascendancy of property prevailed, and were still further aggravated by the concurrence of political distinction, which, operating powerfully upon the senators and patricians, under the influence of the *esprit de corps*, elevated them to such a degree of haughtiness, that the former came to assume the dignity, and more than the insolence, of kings; and the latter considered themselves like the lofty branches of royalty, as towering above the humble and noxious weeds of plebeian growth. The refinements of luxury were at that time unknown, and temperance in living was the virtue of the age; but pride had other means of gratifying itself, and avarice inducements sufficiently powerful of attraction. The love of power and the desire of influence are alluring in all ages. Wealth then displayed itself in the extent of landed possessions, in the number of slaves, and the multitude of retainers and dependants. In the 250th year of the city, which was the sixth or seventh of the republic, Appius Claudius, one of the principal

“ terre qui lui devoit servir en même temps de solde & de récompense.” Vertot, Hist. l. 1. r

inhabitants

inhabitants of the Sabine town, Regillum, came to Rome with his family and followers, whom Valleius Paterculus reckons to have amounted to the number of five thousand—a pattern of the munificence of those days!—he was received and admitted a member of the senate, to which his opulence established his claim; and he distinguished himself afterwards as a violent stickler for all the rights, or, more properly, usurpations of the senate; and for the laws enacted by the ascendancy of property, which, in respect to him, might appear constitutional, who had only been a member of the state since it had become a complete aristocracy, but which had no existence during the ancient monarchical government of Rome.

Respecting the character of those republican senators and patricians, history has been understood as at variance with itself. From its general tenor we are certainly to understand, that the uncontrouled ascendancy of property, in a very short time, produced the natural effect of establishing unjust laws and customs for its own exaltation, and the oppression and depression of the class of persons. But, at the same time, instances are mentioned in history of moderation and the love of justice in individuals, and even of poverty existing among some few of the senators and patricians (g).

(g) Menenius Agrippa died so poor, that he did not leave enough to bury him.

which

which are mentioned in the language of encomium and admiration, as occurrences that were singular and rare; from which, however, a very false conclusion has been drawn by the modern admirers of those ancient times, who speak proverbially of the virtues of the ancient Romans, as if such instances had been quoted for examples, which were, in fact, exceptions, to the habits and the manners of the times. T. Largius, the first dictator of Rome, draws the following picture of its inhabitants, at the distance only of fifteen years after the establishment of the republic: I see with grief (said he) Rome, as if divided into two nations, and forming two different cities, the first of which consists of nothing but riches and pride, and the second of misery and rebellion. This may be high colouring; but it is sufficiently descriptive of the general features, which the classes of *property* and *persons* then bore, proceeding necessarily and equally from the same cause, the uncontrouled ascendancy of *property*.

Notwithstanding the restraint which the senate and the *patricians* laid upon themselves, to cajole the *plebeians*, lest at first they should have been disposed to join Tarquin, or to restore monarchy; their abuses of the unlimited power they had assumed made so rapid a progress, when these apprehensions had ceased, that within the space of fifteen years from the proscription of royalty, their new government had become so intolerable to the oppressed and degraded *plebeians*, that they threatened.

threatened open revolt, and refused to be enlisted as soldiers, to oppose a new conspiracy of the neighbouring states, in the interest of Tarquin, which menaced Rome, under the consulship of T. Largius and Q. Clelius. In this dilemma the senate were obliged to have recourse to a form of government borrowed from the monarchial; but under a different name, lest it should have informed the people of what was really wanting for their permanent security, and have dissipated the prejudices so artfully created and fomented by the *patricians* against the government of a king. They appointed a dictator, who was to have absolute power, without responsibility, over every part and person of the state, but for the space only of six months, to be named by one of the consuls from the body of the senate. Q. Clelius named his colleague T. Largius, who was the first dictator in Rome. With this experimental institution the people were satisfied, which fully answered the proposed purpose; the people became submissive; the levies were made; and the enemy was completely defeated.

At the expiration of the dictatorship, things returned to their former situation. The harsh laws in support of usury were carried into execution with aggravated severity, and general discontent was prevalent among the class of *persons*; when the sufferings of an individual, who exhibited in the forum the marks he bore of the cruel treatment of his creditor, and who was at the same time recognized

nized to have been a brave and deserving soldier, kindled a general flame of resentment against the *patricians*. The tumult was increased by the accession of all the oppressed debtors. The consuls, Appius Claudius and Servilius, who came to suppress the disturbance, were no longer regarded by the multitude, but were glad to escape with personal safety, particularly Claudius, who was a rigid supporter of the laws which oppressed the people; and even Servilius, of an opposite character, was obliged to quit his consular robe, and use both entreaties and promises to appease the commotion. He published, by a herald, an interdiction against arresting any person for debt, until the senate should have re-considered this subject, and come to some determination upon it; and the multitude at last dispersed.

Before the senate could come to any resolution on this business, the territory of Rome was invaded by an army of Volscians. The populace refused to enlist, till by the entreaties and promises of Servilius, who was appointed to take the field, and by the appointment of Claudius to govern the city, they chose rather to follow the standards of the former, than to remain under the government of the latter. Servilius overcame the Volscians, and gave the plunder of their camp to his soldiers, without reserving, as was customary, any part to the public treasury. But when he returned to the city, he was unable to perform the promises he had made to the people on the subject of their debts. The senate

senate refused their assent to any abatement on this head, and the creditors were authorized, as formerly, to drag their debtors to prison, and to treat them with accustomed severity. The people came to the determination of resistance; consulted together, and took common measures: debtors had recourse to them, and were protected from their creditors. During these tumultuous proceedings, the territories of the state were at once attacked by the Volscians, the Sabines, and the Equi. The people refused to enlist. A. Verginius, and T. Vetulus, having succeeded Claudius and Servilius in the consulship, attempted compulsory measures, but were resisted by the people, and exposed to insult the majesty of their office. The senate assembled on the occasion, and it was at this meeting that T. Largius described the situation of the state in the terms before alluded to*. Recourse was had to the appointment of a dictator, and Manius Valerius, at the age of seventy years, and of a popular family, was nominated. He promised the people redress of their grievances; declared their persons, children (*f*), lands, and effects, to be free; and the people joyfully offered their services against the enemy. Ten legions were levied, of which the command of three was given to each of the consuls, and the remaining four were led by the dictator himself. The Volscians and the Sabines were defeated. The Equi demanded peace; and it was

* See page 190. (*f*) The children of debtors were also liable to be seized by a creditor.

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granted

granted to them at the expence of a part of their territory, which the dictator divided among the pooreft of the citizens.

The fenate, apprehenfive of the claims of the people, in confequence of the promifes which had been made to them by the dictator, enjoined him and the two confuls to retain their armies in the field, under the pretence that the war was not yet finished; and the confuls obeyed the injunction; but the dictator, whose authority was independent of the fenate, declared the foldiers of his army to be abfolved from their military oath, and difmiffed them; and as a proof of his regard, he raifed four hundred from among them to the rank of knights (*j*). He then required the fenate to fulfil his promife to the people upon the fubject of debts. But when this queftion came to be agitated, the influence of the rich and the interefted carried the point againft the dictator, who was reduced to call an affembly of the people, whom he thanked and praifed for having fo well difcharged their duty. It was incumbent upon him, he acknowledged alfo, to fulfil the promifes he had made to them; but a

(*j*) "At what particular time the equites firft began to be reckoned a diftinct order, is uncertain. It feems to have been before the expulſion of the kings. After this, all thoſe who ſerved on horſeback were not properly called *equites*, or knights, but ſuch only as were choſen into the equeſtrian order, uſually by the cenſor, and preſented by him with a horſe at the public expence, and with a gold ring."

Adams's Roman Antiquities, p. 26.

faction,

faction, more powerful even than a dictator, prevented him. I am regarded, ſaid he, as the enemy of the fenate; I am cenſured for having given up to you the ſpoils of the enemy, and, particularly, for abſolving you from your military oath. At an earlier time of life, I might have repelled ſuch injuries; but the efforts of a man above ſeventy years of age are deſpiſed, and I am reduced to the neceſſity of reſigning my ufeleſs dignity. If, nevertheleſs, any of you ſtill complain of my breach of promiſe, I am willing to ſubmit to my puniſhment, and to yield my remnant of life to whoever ſhall have the deſire of taking it. He was highly applauded, and attended by the people to his houſe from the forum.

In the foregoing detail, the perfeverance of the fenate in vindicating the cruelties and oppreſſions produced by theſe partial laws, claims our particular attention. Upon repeated occaſions, the people had been prevailed upon to enliſt, under ſpecific promiſes from the ſupreme magiſtrate of the ſtate, and, in the laſt inſtance, by the interpoſition of a dictator, whose power was underſtood to ſuperſede every other authority of government. The fenate, however, diſregards even this pledge, and loſes ſight of the difficulties which had ſo recently occurred, and which were ſo likely to recur with aggravation, rather than abate of the ſeverity of theſe unjuſt laws, framed by the claſs of *property* for its own emolument, at the expence of the freedom, the blood, and the ſufferings, of the claſs of *perſons*. It is aſtoniſhing that the ſhort ſpace of

fifteen years should have reconciled even the wealthy to measures at once so rigorous, and so different from the circumstances of the regal government. We find, indeed, that the great supporters of these laws were Appius Claudius, who never knew any other constitution of government in Rome, and the young senators, of whom nearly the same thing may be said, and whose view of the Roman constitution was, that the class of *persons* were not to be regarded by them as fellow-citizens, but as dependents, who were liable, by this law, to become their slaves. Under the influence of this exalted idea of their own authority, it was considered by them as a virtue to support such legitimate pretensions, and resistance in the people was regarded as rebellion! Such were the blessed fruits of Brutus's system of liberty, and the advantages which the Roman people derived from their execration of kings!

The domination of *property* had now reached its acmé, and a crisis was at hand. The armies, which were kept under the consuls in the field, saw, through the shallow pretences of the senate, the real motives of their detention; and becoming indignant and desperate by this treatment, were ready to perpetrate any violence that might be suggested; yet, even under these circumstances, they considered themselves as bound by their military oath; a proof how far an engagement of this nature was then binding upon the Romans, and an evidence of the policy of Brutus and the senate, when

when they exacted, with unusual solemnity, and extraordinary imprecations, an oath from the Roman people to proscribe royalty, with the authority and the prerogatives of which they elevated and decorated themselves! Different measures, and some of them sanguinary, were proposed among the soldiers, which were over-ruled; at last they fixed in the determination of removing themselves entirely from under the authority of the consuls and the senate, and in this view they proceeded in a body to a hill on the banks of the river Anio, about three miles distant from Rome, which, from this event, was afterwards called Mons Sacer. In this measure they are supposed to have been advised and conducted by Sicinius Bellutus, who took the lead in the conferences held between them and the deputies from the senate.

The *patricians* were, on this occasion, supported by their clients, and some of the more opulent *plebeians*, in preparing to defend the city; but they attempted in vain to prevent the debtors, and the most abject and discontented of the populace, from joining the disaffected armies. A message was at first sent by the senate to offer pardon, and an amnesty for past offences, which they spurned and treated with contempt. Matters then put on a more serious aspect in the city. The time for electing new consuls arrived, and no senator could be found who aspired to the dignity of that important office. The senate, at last, compelled Posthumius Cominius and Spurius Cassius Viscellinus

to accept of the appointment, as persons who were esteemed both by the *patricians* and *plebeians*, particularly Cassius, who had conducted himself with much address between the two parties.

Upon this occasion disputes ran very high in the senate. The two consuls, supported by the late dictator Valerius, and the more elderly senators, considered the people as aggrieved, and entitled to some redress. Appius Claudius, on the other hand, with all the young senators, and many of the most wealthy, talked in a high tone of the established authority of the senate, the preservation of the constitution, and the support of the laws, and pointed out the danger of any relaxation in favour of the rebellious *plebeians*, which would only lead to new pretensions and more unreasonable demands; and, at last (they observed with indignation) they might carry their presumption so far, as even to aspire at allying themselves with *patrician* families, and participating in the public offices of the state!—rather than which matters ought to be carried to the last extremity. Both sides stated, reciprocally, their apprehensions, that the measures of their opponents would lead, in the end, to despotic rule and arbitrary power—as if tyranny and oppression could only exist in the government of a single person!—At last uproar and violence took place of debate; and the consuls, after conferring together, put off the decision of this important question till another meeting, and adjourned the senate.

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The interim was employed by the consuls to influence the different members of the senate to adopt more moderate measures. They threatened to deprive the younger senators of their suffrages, by fixing a certain time of life for admission into the senate, which would exclude them; and the rich they intimidated with the apprehension of a reference of the subject of debts to the assembly of the people, before whom (they said) it would have been brought during the government of the kings, and who had a right to decide upon it. These threatenings produced the desired effect. At the next meeting, all but Claudius concurred in the measure of appointing ten deputies to confer with the revolted; and to settle the terms upon which they might rejoin their fellow citizens.

The result of this conference fixed the destiny of Rome. The most popular of the senators were chosen for the deputies; the principal of whom were T. Largius, Manius Valerius, and Menenius Agrippa. Sicinius Bellutus, and another *plebeian*, of the name of Lucius Junius, took the lead on the part of the revolted. The real state of this contest was, that the oppressions of the class of *property*, whose ascendancy and power were without controul, had driven the class of *persons* (which ought to have an equal sway in every free government) to a state of depression and desperation, and, afterwards, of resistance. The only effectual remedy in such a situation, and to which the people, when left to themselves, generally and naturally

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resort,

refort, is to create a power superior to and independent of both classes, which might arbitrate between them, and regulate that equipoise in the legislature which can alone constitute fair and equal liberty; and to the propensity of constituting such a power may be imputed the prevalence of the monarchical form of government throughout the world. It is true, that such an institution, when not restrained by proper limitations, not unfrequently deviates into despotism; but with the experience which the Romans had recently acquired, both of the depravity of monarchy, and of the oppressions of an uncontrolled aristocracy, they might have framed laws of restraint which would have rendered this regenerated government among them the palladium of liberty. Against such a determination, however, there were powerful and over-ruling obstacles, the chief of which was, the formidable and tremendous oath imposed by the first Brutus and the senate, for abolishing royalty, which they, and the *patricians* ever since, had studied to strengthen by every prejudice they could artfully excite against it; and this aversion was not more sincere on the part of the *patricians* themselves, than it was in the demagogues, who now advised and directed the measures of the people.

It was not in the constitution of a regulated power, superior to and independent of the contending divisions of the state, that they were to look for
that

that attainment of influence which their direction of the multitude promised. The appointment of a monarchy, under legal restraints, would have blasted their expectations, which were to be derived from future tumults and dissensions. Accordingly, although in the speeches that are attributed to Junius, a reference be made to the ancient monarchy, and it be expressly said—"that the Romans never enjoyed so much liberty and happiness as under that institution of government"—*(h)* the artful demagogue chooses to make a merit of the people's having abandoned it, and keeps as far as possible from the proposal of renewing it. His coadjutor and he had preconcerted their plan, which was, to apply for officers who should be chosen from among the *plebeians* themselves (the class of *persons*) to attend to their particular interests, to assert their rights, and defend their privileges, under the designation of the *tribunes of the people*. To this the senate assented, and by this assent they gave to the class of *persons* leaders to conduct their enterprises, and to carry on hostilities with effect against themselves and the class of *property*. But with respect to fair and equal liberty, the prospect of its establishment was lost; for it was equally incompatible with the predominance and ascendancy of either class; so that, in fact, this Junius, who affected to call himself *Brutus*, was

(h) "Notre état a été fondé par des rois, et jamais le peuple Romain n'a été plus libre, ni plus heureux que sous leur gouvernement." Vertot liv. 1. Dion. Hallic. liv. 6.

not so little entitled, as some historians would alledge to the distinction of this splendid appellation (i). It is true that he did not mean to vest all the powers and authority of the state in the senate and the *patricians*, which was the prime object of the original Brutus; but he was equally earnest to prevent the establishment of royalty, which never was so completely and effectually abolished from Rome, as by the appointment of the *tribunes of the people*.

At the same time that this important point was conceded by the senate, the abolition of debts was also confirmed; and the envoys who had been sent to Rome for fresh instructions on the unexpected proposal of appointing these new officers, returned with the *senatus consultum*, which ratified all the demands that had been made to them on the part of the people. Bellutus and Brutus were impatient to carry into execution the powers with which they were now invested; and considering the state as completely represented in their camp, where the deputies from the senate could appear for that body and the *patricians*, they proceeded on the spot to the election of the tribunes, with every ceremonial of religion and form which could give validity to the transaction; and the suffrages being taken by *curiæ*, Bellutus and Brutus were them-

(i) "Il étoit soutenu dans ses vûes par un autre plebeïen appelé Lucius Junius, comme l'ancien libérateur de Rome, quoique d'une famille bien différente: il affectoit même le surnom de Brutus, par une vanité ridicule de se comparer à cet illustre patricien." Vertot, Hist. liv. 1.

selves

selves chosen, with the addition of three others. Being now enabled to legislate, they proceeded to have the persons of these new magistrates declared sacred and inviolable; and to this law the whole inhabitants of Rome were bound by the most solemn oath. These efficacious and important ceremonies being over, the revolvers moved in procession to the city, preceded by the deputies of the senate and their own newly appointed tribunes.

BOOK

BOOK SECOND.

FROM THE CREATION OF THE TRIBUNES OF
THE PEOPLE TO THE CAPTURE AND COLO-
NIZATION OF ANTIUM.

THE tide of power, which, on the side of *property*, had risen to so great a height as to break down and overflow the rights and privileges of *persons*, had now received a check; and the system being incapable of stability, it soon began to move in a retrograde progression. At the very institution of the tribunitial office, its tendency to encroachment manifested itself. The demand of the democratic Brutus was at first only for two tribunes (*k*); and the avowed intention of the office was to prevent aggression on the part of the senate against the people, either collectively or individually; but before they left their encampment the number of tribunes was increased from *two* to *five*; and as soon as they began to act, they adopted offensive measures against the established power and influence, and even the property of the *patricians*. It is true that the encroachments of

(*k*) "Accordez nous, lui repondit Brutus, deux officiers que ne puissent être tirez que de l'ordre des plebeïens." Vertot Hist. liv. 1.

property

property had been so great and so oppressive, as sufficiently to warrant the claims of the class of *persons* to redress upon many heads. But when the opposing classes became themselves the judges and the avengers of their own cause, there could be no bounds to their pretensions and demands: which grew with their successes, and augmented with the arrogance that never fails to accompany the attainment of influence and power.

There is a wide difference in the conduct and disposition of the two classes of *property* and *persons*, into which every civilized society is divided. Property, which is the source and the first cause of intelligence among mankind, is always accompanied with knowledge and information in some degree; and the class which it distinguishes is capable of rational and uniform conduct, and of consistent and efficacious measures; but the class of *persons* is composed of the multitude, the majority of whom is void of information, and incapable of reason; they have irritable passions without any government of them; which, when agitated, increase by contagion, and rise, like the elements in a storm, to violence and outrage; their kindness, their hatred, their confidence, their distrust, are all in the extreme; and, not having the capacity of judging for themselves, they look for advice and direction where their confidence is placed; and he who has the address to attract their approbation in the highest degree, becomes the master of that authority which their influence confers.—Hence their proneness to
repose

repose implicit trust in an individual; and hence the motives for studying and practising the arts of popularity.

By the appointment of tribunes to the people, the class of *persons* were furnished with official advisers and conductors, who effectually prevented them from looking elsewhere for protection and support. These demagogues took care to flatter their wishes, to aggravate their complaints, and to increase their discontents; their own importance depending very much upon these circumstances, and the degree of favour in which they stood with their constituents, with whose interest, in general, their particular interest was combined; and when their object was to gratify their separate ambition, which was not unfrequently the case, they had the address to cover it with the appearance of zeal for the cause of the people, who are readily imposed upon by those whom they believe to be their friends.

At the commencement of the institution, the tribunes of the people had no other power but that of interesting themselves in defence of their constituents; they had not the quality of senators; they had no particular tribunal, nor any jurisdiction over their fellow-citizens, nor could they convoke an assembly of the people; they were no way distinguished from the other citizens in their dress, and had only one attendant, under the name of *viator*, who accompanied them. Seated on a bench, without the senate-house; they

they could only enter, when called by the consul, to give their advice where the interests of the people were concerned; and the extent of their prerogative was, by their *veto*, to interdict a decree of the senate, which had a reference to the people; and the whole of their powers was limited to the boundary of one mile beyond the walls of the city. They were prohibited from leaving the city, and their doors must always be open, and themselves accessible to the people. Such were at first the purposes and the form of the tribunitial office, which soon extended its importance and authority.

In the course of the same year in which they were elected, which was the 260th of the city, and the sixteenth of the republic, the tribunes applied for the appointment of officers, as assistants to them; who were to be subordinate to and dependant upon them, under the name of *plebeian* ediles; to which the senate assented. These officers were afterwards distinguished from the curule ediles, chosen from among the *patricians*; and although at first they were intended to act in aid of the tribunes, they afterwards had particular charges allotted to them respecting public works, and the police of the city.

The people, or the class of *persons*, having carried these two important appointments, there was a lull of seeming content among the different orders of the state, which arrests the attention of history, as an extraordinary occurrence, although it did not

not last to the end of the succeeding year. It was interrupted by the effects of a scarcity of provisions, which took place from a very obvious cause. The secession to Mount Sacer had made the people neglect to cultivate their lands, which, not having been sown, did not produce corn; but the tribunes of the people took advantage of this public calamity to traduce the rich, or the class of *property*, who, they said, withheld their stores of grain from the market, on purpose to wreak their vengeance on the poor, and to indemnify themselves for the losses they had sustained by the abolition of debts.

These calumnies needed but to be suggested to gain the belief of the credulous multitude, especially when they were asserted by those whom they believed to be their friends, against those whom they considered as their enemies. The senate attempted to refute them by their conduct. They took public measures to supply the market with grain, by sending envoys from their own body to purchase it in Sicily, and transmit it to Rome. And the consuls, anxious to vindicate themselves before the people, and to establish the falsehood and the malignity of the tribunes in these aspersions, convoked an assembly of the people, whom they intended to harangue on these subjects; but on this occasion the tribunes disputed the right of speech with them, and insisted on a preference in addressing themselves to the people; so that neither yielding, they both spoke together, and nothing

thing could be heard or understood from either side. In vain the consuls asserted, that the duty of the tribunes was confined to the opposition of measures which were detrimental to the interest of the people; and that they had no right to address the assembly. The tribunes, on the contrary, asserted, that the consuls had only a right to preside in the senate, and not in the assemblies of the people, which was a duty appropriated to them, who were the proper magistrates of the people.

In this dilemma, the address of the plebeian Brutus derived to the tribunes, at the head of the class of *persons*, an advantage over the consuls at the head of the class of *property*; for the two parties may now be regarded as armies contending against each other, under the direction of their respective generals. The tribuneship of Brutus had expired, and he was now one of the plebeian ediles. He asked permission of the consuls to offer his advice, in the view of reconciling the differences between them and the tribunes; which request, implying an acknowledgment of their supremacy, they readily granted. He then addressed himself to the consul, Geganius, who had been one of the deputies from the senate to Mons Sacer, and referring to the freedom of speech, which had then been permitted in behalf of the *plebeians*, he demanded wherefore the tribunes of the people were now prevented from speaking. They are prevented, replied Geganius, because we, the consuls, having convened the meeting, have of course the

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right

right to address the people first; and he added, unwarily, that if the tribunes had assembled the people, so far from hindering them from speaking, he would not even have attended the meeting. The alert *plebeian* immediately exclaimed, that the victory was gained, and urged the tribunes to yield, on the present occasion, to the claims of the consuls; but he explained the motives of this advice, by recommending to them to convoke an assembly of the people by their own authority the next morning.

The night was spent by Brutus, in concerting measures with the tribune Icilius and his colleagues, for establishing by law the privilege to the tribunes of assembling the people, and presiding in these assemblies. They settled their plan, and advertised their friends to assemble early in the morning, taking care themselves to be in possession of the Temple of Vulcan, from whence it was usual to harangue the people. Icilius then delivered his studied speech, to show how necessary it was to the interests of the people, that the tribunes should be authorized by law to assemble and address them, to render their protection more effectual by their advice. The proposal was relished and applauded, and he was desired to draw up such a law. The law had been previously prepared, and the people adopted it by their suffrages.

This procedure was arraigned by the consuls, as unconstitutional and inefficient, the assembly not
 † having

having been convened by the legal authority, nor preceded by the auspices. But the tribunes declared, in a high tone, that the regard which should be paid to this law of the people, would determine the degree of respect or disregard which they would in future pay to the decrees of the senate. After much altercation and contest, the point was at last given up by the senate. And this triumph of the tribunes made another step in the progress of the class of *persons* to reduce the ascendancy of the class of *property*.

This contest was succeeded by another calm of very short duration. The deputies, who had been sent to purchase grain, returned from Sicily with a large supply; a great part of which was sent as a present from Gelon, the sovereign, or, as he was styled, the tyrant (1) of Syracuse, to the Roman people. The senate were doubtful in what manner the corn, thus obtained, ought to be distributed to the people, and called in the tribunes to advise with them upon the subject; when the violence with which Coriolanus delivered his opinion alarmed and inflamed these popular magistrates, who, quitting the senate, and communicating their apprehensions to the people, threw the whole city into a combustion. The remarkable events which followed this occurrence are dilated in the page of history,

(1) I hazard a conjecture, that this phraseology, which confounded *monarchy* with *tyranny*, was a part of the art used to prejudice the Romans against the regal form of government.

and make the story and the character of Coriolanus well known; but the circumstances which are more immediately connected with our subject, being less attractive of general attention, may have escaped observation.

The gallantry of Coriolanus, and his talents and consummate experience and knowledge as a general, are well known, in which he seems to have excelled all his cotemporaries. The loftiness of his mind too is acknowledged, and not dispraised; but it has not been remarked, that it was founded on prejudice and injustice. What is said of the young senators in general, * will apply particularly to Coriolanus. He had no knowledge or experience of what were the privileges of the Roman people, under the government of their kings, when monarchy was limited and restrained, and the senate and the *patricians*, as well as the *plebeians*, formed a subordinate part of the constitution. He drew his lofty ideas from the usurped power which the senate and the *patricians* had assumed upon the suppression of the monarchy, which was the great bulwark and security of the rights of the people! the whole functions of which they exercised, and possessed themselves, at the same time, of the legislative authority of the state, with which they crushed the people, depriving them of their resources, and reducing them from a state of dependance to slavery, and at last

* See page 196.

to resistance. The haven of safety for all orders of the state, a limited monarchy, was shut up against them by the original founders of the republic, and afterwards guarded with anxious jealousy by succeeding senators and *patricians*, in which the newly appointed, and equally interested, tribunes, most cordially joined, and the people had no option left but to retaliate injuries.

Under the impression that senators were sovereigns, and the people their subjects or slaves, Coriolanus inveighed against the degree of influence they had lately acquired; and, in the presence of their tribunes, he advised the senate to avail themselves of the present occasion, and by the pressure of want, to oblige the people to give up their newly-appointed magistrates, and to abrogate all the disgraceful engagements into which they had entered with rebels. The young senators, who considered sovereignty as their birth-right, applauded Coriolanus, and manifested at once a zeal to second the proposal, and an aptitude to carry it into execution, which filled the minds of the tribunes with alarm, indignation, and revenge, and they hastened to communicate the same passions to their constituents.

Once more the classes of *property* and *persons* were at issue; and the tribunes, who now contended for the very existence of their office, and for the fruits of all their consequent successes, flushed too with the confidence which these suc-

cesses had inspired, determined to glut their vengeance by the destruction of the individual who had dared to call their authority into question. An assembly of the people was appointed for the following day, and the culprit summoned to attend, who treated the summons with contempt. The consuls and the *patricians*, however, made a point to attend, lest any violent measures should have been carried by surprize; and Menucius, the first consul, addressed the people in favour of Coriolanus, detailing his public services and merits, and softening his supposed offence, as having proceeded from the ardour of speech, without serious intention; and the people seemed disposed to pardon him; when the artful Brutus led Coriolanus himself to speak on the same subject, who manfully avowed the detestation in which he held the tribunes, and the measures which they pursued. The original Sicinius, who, in quality of tribune, conducted the trial, giving way to his rage on this intemperance of Coriolanus, pronounced his condemnation precipitantly, without waiting for the votes of the people, and sentenced him to be thrown from the Tarpeian Rock; for which purpose he ordered the ediles to seize him. Coriolanus, seconded by the whole body of the *patricians*, resisted the violence. The people stood aghast, and would not interfere, and the tribune now found he had gone too far. The crafty Brutus counselled him, on this emergency, to yield to the seeming disposition of the people, and to appoint a future day for the formal trial of

Coriolanus;

Coriolanus; taking care that upon *that* occasion the assembly should give their votes individually by tribes, and not, as usual, by centuries. This advice the tribune followed, assuming merit to himself in departing from the present proceedings. He appointed a formal trial to take place in twenty-seven days, and then dismissed the assembly.

After some contention, it was agreed between the consuls and the tribunes, that the accusation of Coriolanus should be brought before the senate, and sanctioned in a constitutional manner by a *senatus consultum*, before it was carried to the assembly of the people; upon which occasion the tribunes were heard by the senate, as the accusers of Coriolanus; and Decius, who spoke for the rest, gave the senate to understand, that if their decision should prove adverse to the intended trial, they would appeal from it, in terms of the Valerian law, to the judgment of the people. After the *pros* and *cons* were heard, and the tribunes had agreed to limit their accusation to the crime of tyranny alone, without touching upon what had formerly passed in the senate, a decree was adopted to sanction the trial; and even Coriolanus himself consented to make his defence against a crime, of which he thought his conduct could afford no pretence for his conviction.

The tribunes had their plan preconcerted. Early in the morning of the day of trial, the forum was filled with *plebeians* from all quarters, whom the tribunes separated into tribes before the

patricians made their appearance. The consuls perceiving this, required that the votes should be taken, as was customary, by centuries. The tribunes were peremptory in their refusal, insisting, that in a cause where all the citizens were equally concerned, their votes ought to be equally given, without regard to rank or riches; and in an affirmative style they declared, that they would not permit the trial to be conducted in any other manner. The dispute on this subject was vehement and long; but in the end the senate acquiesced, and submitted to the will of the tribunes, who, by this triumph, established the assembly of the people by tribes, which was afterwards modified and restricted to the trial of lesser offences punishable by fines; all capital offences, after this singular instance, being tried, as formerly, by the *comitia centuriata*, which were conducted under the authority of the consuls, and preceded by the auspices (*m*); but the tribunes, who convened and presided at the *comitia tributa*, contrived afterwards to have them converted into legislative assemblies for passing popular laws. Legislation, however, was not confined to them; the assemblies by centuries continued likewise to legislate; each species of assembly assuming and exercising the prerogative of making laws, which were binding upon the whole society; so that in this

(*m*) "Let all causes relating to the life, liberty, or rights of a Roman citizen, be tried only in comitia by centuries."—6th Law, tab. 9, of the ten tables.

way,

way, the class of *property* and the class of *persons* were each of them provided with its respective legislature; for in the assembly by centuries *property* had the ascendancy, and in the assembly by tribes, the multitude of voices, and of course the class of *persons*, determined every thing (*n*). As to the original subject of dispute, in this Review of the Roman Republic, it ceases to be interesting. The condemnation of Coriolanus to perpetual banishment from Rome, and its consequences, are amply detailed in all the Roman histories.

When the Romans were but a handful of men, and exactly upon a level in respect to property, it has before been observed*, that the adoption of general measures was very properly vested in assemblies of the people; because, under these circumstances, their determinations must be just, and

(*n*) The following passage from Dr. Ferguson's History of the Progress and Termination of the Roman Republic, illustrates this statement. It refers to the time of Caius Gracchus, who, by the agency of the assembly of tribes, had instituted popular laws. The words are—"By the impulse of Gracchus and his associates, the aristocratical party came to have a majority, even in the college of tribunes. Questions of legislation were now likely to be determined in the assembly of the centuries; and this circumstance alone, while the senate was able to retain it, was equal to an entire revolution of the government. The centuries, under the leading of an active consul, were likely to annul former resolutions with the same decision and rapidity with which they had been passed." Vol. I. page 326.

* See page 163.

they

they were easily attainable; but when the nation came to be composed of innumerable multitudes, as various in their circumstances, as there are differences and variety in the shades of colours; when afterwards aggregated nations, and even the whole known world, came to be included under its government, to subject the enactment of general laws to the voice of a multitude or a mob (which the assemblies of the people then formed) was an absurdity of such monstrous magnitude, that we read of it with wonder and astonishment—we, who have been so fortunate as to know the advantages of the representative system, which extracts from ignorance, knowledge; and from the uncertainty and fluctuation of irresolute numbers, the steadiness and consistency of wisdom! and which, at the same time (if properly modified) effectually and equally preserves the possessions and acquirements of property, and the sacred rights of personal freedom.

It appears to me, that the Romans continued to adhere to their early institutions from habit more than from policy; and that the advantage or the detriment they derived from them is to be imputed wholly to accident. When, at their first association under Romulus, they were a band of freebooters, and found their security and their prosperity to depend upon the increase of their numbers, they assimilated into brotherhood the enemies whom they subdued. In like manner, they followed the same practice when they became
a powerful

a powerful nation; and this operation of habit was admired as a masterly exertion of political wisdom. When, at the same early period, their numbers being few, and their individual situation and circumstances perfectly alike, the regulations for the government of their society were fixed and determined by general assemblies of the community: in like manner, after they had become a great and a powerful nation, and had increased in number like the leaves in the forest, or the sands upon the sea-shore; and when in respect to property, they had experienced all the variety which wealth and civilization can produce; they continued to enact laws by general assemblies of the people, which, in practice, was doubtless the consummation of folly!

The only circumstance in which, as a nation, they swerved from the original plan of government they had adopted as a horde, was in the abolition of monarchy; the part of their constitution, which was best calculated to have applied to their after-state of increased population and extended dominion. This unfortunate change appears to have been produced by the want of civil power and stability in the regal appointment, which brought the aristocracy (a part of the government which did not at first exist) too much upon a footing with it, and enabled the senate, after one fruitless attempt, at last, by taking advantage of the mal-administration of an usurper, to bring the office into disrepute, and to assume

sume to themselves all its prerogatives and distinctions.

I return from these digressive observations, which have led me so far beyond the era of Coriolanus. The successes of the tribunes in carrying all their measures with the people, in opposition to the consuls, the senate, and the *patricians*, raised their reputation, and increased their influence to such a degree, even among the *patricians* themselves, that they were enabled to dictate at the assembly by centuries for the election of consuls. By their means, C. Julius and P. Pinarius Rufus were chosen consuls; men void of military knowledge or capacity, and of no estimation in the senate—the circumstances, in fact, which constituted their recommendation to the tribunes! but this measure produced its own punishment, and gave a temporary check to the arrogance of those plebeian magistrates.

When Coriolanus, at the head of the Volscian army, attacked the Roman territory, the consuls dared not to appear in opposition to him. Spurius Nautius and Sextus Furius, their successors in office, were equally intimidated; and the whole Roman force remained cooped up within the walls of the city, at once the spectators and enunciators of the superiority of their enemy. The tribunes were effectually silenced—the people in despair—the senate irresolute—and the consuls without authority, because disqualified to command. Rome rested her hopes upon supplication,

and was at last relieved from threatened vengeance and disgrace by the triumph of natural affection over the relenting heart of the Volscian general. But by yielding to the entreaties of his mother, Coriolanus gave up himself to the vengeance of his Volscian enemies, and perished for the favour he had shewn to his suppliant country.

To me it appears, that the measures pursued by the consul Spurius Cassius Viscellinus, in the twenty-fourth year of the republic, were induced by the influence and power he had observed the tribunes to attain through the means of popularity. By acting still more decidedly in favour of the people, and serving them more essentially, his intention was to supplant this influence of their magistrates, and to centre in himself that authority which they had experienced; and by means of it, his vanity might lead him to the hopes of attaining arbitrary power. The measures which he pursued admitted of this construction, and shewed him wanting in discernment to foresee the obvious consequences they must produce. He began by benefitting the Hernici and the Latins. To the first, when subdued and at the mercy of the Roman state, he left a third part of their territory, and constituted them allies and citizens of Rome; a dignity aspired at by all the neighbouring states! to the Latins he destined another third of the Hernician lands; and the remaining third he divided among

among the poorer Roman citizens. He was aware that this equality of division would not be relished at Rome, and therefore he laid claim to some lands, which he alledged to be the property of the public, and allotted them to be likewise divided among the poorer citizens. To crown his popularity, and to rivet (as he probably thought) the attachment of the people to him, he brought forward, for the first time, the famous agrarian law, which was the source of so much after-contention in Rome.

The pretences for this law were founded upon the unjustifiable means by which the possession of the conquered lands had been acquired by the rich, to the detriment of the public and of the poorer citizens, to whom the object of the law was again to restore them. The measures to which this had a reference, were those that soon followed the establishment of the republican form of government, when the class of *property* had the complete ascendancy in the legislature, and also possessed the whole juridical and executive powers of the state*; and it must be acknowledged, that abuses on this head had been flagrant and notorious; but upon such a subject, at an after-period, to establish a general law, when the rights of possession had been acknowledged and acted upon, and property had passed by succession, alienation, and fair purchase, from one person to another, was at once to unhinge the security of all property.

* See page 187.

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When this proposed law (which had been but darkly hinted at by its author) was first announced in the senate, where the consul was obliged to agitate it previous to laying it before the people, the members of the senate were struck with alarm, indignation, and wrath; and they failed not to load Cassius with the epithets which they thought his conduct deserved. It was not here that he looked for approbation; but he doubted not of success and applause, when he should bring the measure forward at the assembly of the people. He had not well considered all circumstances, nor reckoned upon the effects of the jealousy of the tribunes, which was so powerfully excited by the endeavours of a *patrician* to supplant them in popularity. They could not, however, openly disapprove of the principle of the law, which was so directly to benefit their constituents; and therefore, when it was proposed, they remained silent; which their emissaries among the tribes observing, ceased to press the matter upon the populace.

It fell upon Virginius, the colleague of Cassius in the consulship, to excite suspicions against his measures; and in order to do this, it became necessary for him to affect to approve of them, as far as they regarded the citizens of Rome, but to condemn them, and to infer the worst intentions and the worst consequences, from the particular favour with which Cassius had treated the Hernici and the Latins, whom he put upon a footing

footing with Roman citizens! To this construction the conduct of the tribunes gave effect; and the people were not slow in giving up Cassius, when they found (as they thought) that the measures he had proposed, as far as themselves would be benefitted, were recognized by all parties; and that by abandoning him, the claims of the allies, which were the objects of their jealousy, would only be affected. The desperate conduct which, after this, Cassius pursued, resembled the struggling of game in the toils, which, the more it contends, becomes the more entangled. His attempt to introduce the Hernici and the Latins into the city, to carry his measure by the aid of their voices, confirmed the suspicions which had been attributed to his conduct; and the senate and the tribunes concurred in prosecuting him, as the intended tyrant of his country.

In the interim, the senate found themselves necessitated to do something which might correspond with the language held by Virginius, and a meeting was summoned for this purpose; upon which occasion Appius Claudius offered an advice, which at once spoke his own integrity, and the atrocity of the abuses that were known to exist, in respect to the public lands: he was for the appointment of ten commissaries to investigate the subject; and where indefensible abuses existed, either by usurpation or encroachment, to rectify and redress them, and from the funds thereby established, to aid the poorer citizens, and to find pay
and

and maintenance for them when they should take the field. This proposal met with general approbation; but many who applauded it never meant that it should be carried into execution. A decree, however, was drawn out, in terms of Claudius's advice, to amuse the people; and, as a change of consuls was soon to take place, the appointment of decemvirs (and thereby the execution of the decree) was postponed. What they determined upon with much more cordiality was, the prosecution of Cassius, when he should be out of office; and in this resolution they were equally sincere and successful. He was condemned, and suffered death, by being thrown from the top of the Tarpeian Rock; and by this execution the senate and the *patricians* enjoyed a three-fold gratification; revenge against the luckless individual; an example to deter others from similar proceedings; and an opportunity of reviving in the public mind the sentiment of horror against the regal government, which they were studious at all times to represent as synonymous with arbitrary power.

The execution of Cassius seemed to leave an impression of terror upon the minds of the people. The senate and the patricians, after this event, were particularly attentive to the characters of the men whom they advanced to the consulship; and two successive years elapsed before the subject of the agrarian law was revived.

The people, or rather their tribunes, observing the circumspection with which the consuls were
Q now

now chosen, and imputing to it the intention of the senate to elude carrying into execution the *senatus consultum* for the resumption and the partition of the conquered lands, in the consulship of M. Fabius and L. Valerius, when an enrolment of soldiers was required to act against the Volscians, refused to permit the people to enlist, till the *decemviri* or commissaries should be named to carry the intended agrarian law into effect. Upon this the consuls removed their tribunal out of the city, beyond the limits of the tribunitian authority; and when the people still refused to attend, they gave orders to destroy the houses of the delinquents in the country, which had the effect of bringing them to their standards.

After the conclusion of the campaign, which the consuls had purposely protracted, a scene of contention took place in the city, respecting the election of new consuls. The intended election was prevented by the outcries and violence of the tribunes and the people, whose jealousy was roused by the intention of naming Appius Claudius (the son of the first Claudius) to that office; and the tribunes having taken upon themselves to summon another assembly of the people, the senate and the *patricians* were thrown into a paroxysm of terror and apprehension for the preservation of their special and peculiar privileges: they had recourse to the election, first of one, and then of a second *interrex*, through the intervention of whom the matter was at last accommodated, by the senate agreeing to

to allow the tribunes, on the part of the people, to name one of the consuls, whilst the other should be chosen by the senate, so that the election became only matter of form.

C. Julius Iulus was named by the tribunes, and Q. Fabius Vibulanus was chosen by the senate; but the hopes of the people to have the agrarian law enforced by this expedient were disappointed. The consul of the senate's choice, by the dignity he assumed, and the respect he derived from his family and character, held a decided ascendancy in the government, which was acquiesced in by his colleague, whom he carried with him into the field against the Veians and the Equi, in one of those accommodating military excursions, which the consuls and the senate so well knew how to adopt, when they wished to give employment to the people out of the city.

The election of new consuls brought on another contest between the *patricians* and the *plebeians*, or, in other words, between the classes of *property* and *persons*. The object of the former was, to choose consuls who would resist every application for enforcing the agrarian law; and the latter were solicitous to have the choice fall upon *patricians*, who were favourably disposed towards the people. The matter was at last accommodated, as in the preceding year, by each of the parties naming one of the consuls. The *plebeians* chose Sp. Furius, and the senate C. Fabius.

The consuls having recourse to the usual expedient of arming the people for a military excursion, the tribune, Sp. Icilius, objected to the levies, and declared he would make the same resistance to every decree of the senate, until the agrarian law should be ratified. Upon this occasion Appius Claudius suggested the plan of introducing division among the tribunes themselves, who had hitherto been unanimous in their measures, which was accordingly put in practice with effect. Icilius was thereby thwarted in his resolution, and the people were induced to take arms against the enemy, who had committed great devastations on the Roman territory.

In this manner, for several years, the contest continued between the classes of *property* and *persons*, on the subject of the agrarian law, whilst the leaders of the respective parties, the consuls on the one side, and the tribunes on the other, appeared to be more immediately engaged. War in the field regularly succeeded to clamour in the city; but still the senate continued successful in eluding the publication of the law. This want of success seemed to suggest vindictive measures to the tribunes, who encouraged accusations and prosecutions against the consuls for official misconduct, when they had returned into the station of private citizens. These were extremely vexatious; and in the thirty-third year of the republic, they proved fatal to Menenius, the son of the virtuous Agrippa, who was accused, because during his consulship the enemy had

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carried the fort of Cremera, which, it was alleged, he might have prevented; and, for this neglect, a fine was imposed upon him to the amount of two thousand asses of brass, which exceeded his ability to pay. He refused the pecuniary aid of friends, and starved himself to death. Upon narrating this occurrence, a celebrated modern historian makes a general reflection, as if poverty had, at this time, been the common lot of the Roman consuls, which certainly was not the case (*o*). The father of Menenius was a singular instance of a senator and a *patrician* who died in poverty, when the order had, in general, enriched themselves by partial laws and oppressive measures.

(*o*) The following is the passage alluded to in Vertot's history liv. iii.

“ Les tribunes Q. Confidius & T. Genutius demanderent hautement sa mort, mais le senat & tous ses amis sollicitèrent si vivement en sa faveur, qu'il ne fut condamné qu'à une amende qui montoit à deux mille asses, c'est-à-dire environ vingt écus de notre monoye : somme modique si on la considère par raport au tems où nous écrivons, mais qui étoit très-considérable dans un siècle & une république où les premiers magistrats vivoient du travail de leurs mains.”—*Rich* and *poor* are relative terms; and the same quantity of money may, at different times, be the sign of considerable, or inconsiderable, wealth; the sum specified is therefore out of the question; but it is certain that Menenius, whose father did not leave money sufficient to bury him, was, in respect to men of his rank, extremely poor; and that they were, in general, in respect to him, immensely rich. A reflection, therefore, which seems to imply that men of consular dignity were, at this period, in circumstances like Menenius, is a gross misrepresentation of the truth.

This persecution of the consuls was obviously intended to influence the conduct of their successors in respect to the agrarian law. But the class of *property* had too much at stake; and the measure was obstinately resisted. Spurius Servilius, the successor of Menenius in the consulship, was, like him, brought to trial. The crime imputed to him was the loss of men in an action with the Tuscans. He had been bold and enterprising in the field, and his army had sustained considerable loss; but it was triumphant. The same intrepidity of disposition led him to meet this accusation manfully. His colleague bore testimony to his merits as a soldier and a general, and he was acquitted by the people.

These repeated disappointments induced the tribune, Genutius, to proceed directly to the object of contention. He required the consuls L. Emilius Mammercus and Vopius Julius, in the thirty-sixth year of the republic, forthwith to appoint commissaries to enforce the *senatus consultum* for the resumption and division of the public lands. They excused themselves from compliance, by the length of time that had elapsed since that decree had passed, which, not having been enforced by the then existing consuls, they said, had ceased to be longer binding upon the state; making this distinction betwixt established laws, and simple decrees of the senate, which had not passed into laws. The disappointed tribune would have wreaked his vengeance upon them; but upon finding that he could not prosecute the present consuls, he determined to bring their

their immediate predecessors in office, A. Manlius and L. Furius, to trial before an assembly of the people, for the injury they had done the poor citizens and brave soldiers, by omitting, during their consulship, to name decemvirs for carrying the agrarian law into effect; and he fixed a day for the trial.

The senators and *patricians* were seized with apprehension and terror for the consequences of this violent determination, and held secret consultations, the result of which was wrapt in silence and mystery. The populace anticipated their triumph, and considered the agrarian law as already confirmed; when, on the day preceding that which was appointed for the trial, the tribune Genutius, the public prosecutor, was found dead in his bed, without any marks appearing on his body, either of violence or of poison. The interposition of the gods immediately suggested itself to the superstition of the vulgar, who now looked up to the senate with reverence and awe; and for a long time afterwards no mention was made of the agrarian law.

This unlooked-for event operated like a mine sprung upon the class of *persons*, whom it altogether discomfited, yielding a complete and decided victory to the consuls, at the head of the class of *property*. Hereupon the situation of the two parties became totally changed; and the natural tendency of each of them, when acting without restraint, appeared strongly marked and exemplified.

The class of *persons* were in the act of making a direct attack upon *property*, which they wished to unhinge, that they might themselves snatch its advantages, when their influence was suddenly annihilated; and no sooner were the leaders of the class of *property* again possessed of power, than they reverted to arbitrary measures, and followed the bent of their inclinations, in tyrannizing over the class of *persons*.

At this time military levies were found, or were deemed, to be necessary; and the consuls established their tribunals in the forum for the enrolment of citizens. In the discharge of this duty, they proceeded against the appalled *plebeians* with the most determined rigour and severity, condemning hastily to punishment, by fine or by the lash, the smallest delay that occurred, or the least reluctance that appeared in the people to enlist. Such harsh and unjustifiable conduct was productive of general disgust; when the mal-treatment of an individual (as had before happened) produced consequences which gave a new turn to the relative situation of the two parties.

P. Volero had attained the military rank of a centurion, and was deemed a brave and distinguished officer; but he was a *plebeian*! The consuls summoned him to be enrolled as a private soldier. He remonstrated against this undeserved indignity and dishonour.—To remonstrate was to incur punishment! The consuls ordered their lictors to seize him, to strip him, and to scourge him. Volero had

had recourse to the tribunes; but they were over-awed.—“You are fearful (said he) that you may be smothered in your beds, like Genutius! “I appeal to the people.”—So saying, he struck the lictor in the face who attempted to seize him, exclaiming—“Assist me, fellow-citizens!”—The people had seen and suffered too much not to sympathize with a person so much injured. They attacked and drove off the lictors, and they would have wreaked their vengeance on the consuls themselves, had they not fled for personal safety, and escaped with some difficulty.

The senate was immediately assembled, when the consuls arraigned Volero as a rebel, and required that he might be condemned, and thrown from the top of the Tarpeian Rock! On the other hand, the tribunes demanded justice against the consuls themselves, for having disregarded an appeal made to the people, and, in violation of the Valerian law, having dared to order a brave and meritorious officer and citizen to be scourged like a slave. Volero, however, was apprehensive himself, that, as he was now circumstanced, he would not long find safety in a private station, and therefore he offered himself as a candidate for the tribuneship, promising the people that, if he were elected, they should benefit from his services. Notwithstanding the united influence of the senate and the *patricians*, his election was carried, and public expectation was aroused to observe how he would conduct himself.

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The mind of Volero stooped not to the gratification of personal resentment against the consuls, who had treated him so ill. His intended measures embraced the whole order of *patricians*, whom he represented as improperly monopolizing all the powers of the state. They held the principal civil and military appointments, and all sacerdotal offices were restricted to their order; and as every regular assembly of the people, whether by centuries or by *curiæ*, was preceded by a *senatus consultum*, and sanctioned by the auspices, they had it much in their power to thwart or frustrate every measure which did not meet with their previous approbation. He therefore proposed, that the election of the tribunes should be made by the *comitia tributa*, assembled by the authority of the tribunes alone, without any interference of the consuls and the senate, or the solemnity of the auspices. This proposed arrangement was highly applauded by the people, and as much disapproved of by the consuls, the senate, and the whole body of the *patricians*: in short, the classes of *property* and *persons* contested the point with equal earnestness and vehemence, and the agrarian law was entirely forgotten. A short respite to these contentions took place, by the miseries which a plague brought upon the city; but as soon as this calamity ceased, they were revived with undiminished animosity.

When the tribuneship of Volero expired, he was re-elected by the people, in opposition to the united

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influence of the *patricians*. In resentment for this choice, the senate called Appius Claudius to the consulship, who possessed the political opinions and intrepidity of his father, with a much greater degree of austerity and pride; but in some measure to restrain his severity, they gave him T. Quintius for his colleague, who was of opposite manners and dispositions. At a meeting of the senate the consuls adopted different sentiments; Claudius was for the hackneyed expedient of carrying the people into the field, which Quintius opposed; because at that time there was no just pretence for war; and, as their motive must be obvious, it might be resisted. Quintius having the precedence, and bearing the fasces during this month, had it in his power to enforce his opinion, which was approved of by the majority of the senate. In the mean time Volero revived his proposed law for the election of tribunes, to which he added also the election of ediles, and even a power of deciding in all matters that were referred to the voices of the people.

The senate met again upon these new propositions. Claudius was for using open force to bring the people to a sense of their duty; Quintius was for yielding something to gratify them. The senate determined that a plan of accommodation should be followed; and proposed to the tribunes, to stop all violence and tumult, and to admit of a calm discussion of the subject, on the part of the consuls, before the people. To this proposition

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the tribunes agreed; and Quintius had so far succeeded in recommending conciliation and harmony, that a sensible impression was made by his speech on the minds of his auditors; when the virulence of Claudius's harangue, and the tone of authority he assumed, rekindled all that rancour which Quintius had allayed. The senior tribune, Lectorius, was roused to retort, in terms equally dictatorial; and he ordered the consul to leave the assembly, that the suffrages of the people might be peaceably taken. Appius contemned the mandate, and called his friends and clients around him, that he might withstand violence. The tribunes held a tumultuary consultation together; and then Lectorius published, by the voice of a herald, that the college of tribunes had resolved the consul should be carried to prison. Immediately one of their officers offered to seize Claudius; the senators and *patricians* joined in his defence; Lectorius advanced in support of his officer, and called upon the people for assistance. The fray became general; such instruments as presented themselves being laid hold of as weapons. Lectorius was wounded, and much bloodshed might have ensued, had not Quintius, and some of the most elderly and dignified of the senators, snatched Claudius from the fray, which was at last terminated, or rather suspended, by the closing in of the evening.

The animosity which had thus been excited between the classes of *property* and *persons*, by the violence of their respective leaders, was not easily
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to be composed. Next day hostilities recommenced, and the people, headed by Lectorius, possessed themselves of the capitol. The senate met to devise some plan for terminating the commotion, and reconciling the jarring opinions of their consuls, who persisted in their opposition to each other. The tumults in the city continued for several days. At last Quintius, by entreaties and assurances, upon which the tribunes thought they might rely, prevailed with them to refer the proposed law to the consideration of the senate, in expectation that it would be adopted; and, in case of failure, they knew it could be brought forward again by their successors; reserving, however, to themselves the power of prosecuting Claudius for wounding, or being the cause of wounding, a tribune, whose person by law was sacred.

By the persuasions of Quintius, and in opposition to the remonstrances and protestations of Claudius, the senate was prevailed upon to concede this contested point to the wishes of the people, and the law passed through both orders of the state, instituting the election of tribunes to be made by the *comitia tributa*, assembled by authority of the tribunes, and without the solemnity of the auspices. In the thirty-eighth year of the republic the election of tribunes was accordingly made, for the first time, in this manner.

After this adjustment had taken place, it became necessary for the consuls to lead two armies against
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the Volscians and the Equi, who had been encouraged, by the internal disturbances of Rome, to make incursions upon the Roman territory. The rigour of discipline exercised by Claudius was imputed to resentment against the Roman citizens, who were now under his authority; and, in revenge, they determined to prevent him from obtaining the honour of a triumph in his present command, which they most disgracefully effected, by yielding to the enemy on all occasions. After a disastrous campaign, he was obliged to abandon the enemy's country; but before he brought his army back to Rome, he punished his soldiers by decimation, and beheaded all his officers who had deserted their posts.

Claudius and Quintius were succeeded in the consulate by L. Valerius and T. Emilius, who were both of them, from interested motives, favourably disposed towards the people. This encouraged the tribune Sicinius (grandson to the first tribune of that name) to revive the claim of the people to the agrarian law. As the consuls were not averse from this cause, they brought it before the senate, and Emilius, the father of the present consul, spoke in support of it. Claudius opposed it with vehemence, as being unjust in itself, besides having become obsolete, from the distance of time at which the decree had passed the senate: and therefore, he insisted that it was now become inadmissible; but to shew that he had himself no particular interest to serve, provided the division of the

the lands was relinquished, he had no objections to confiscate, to the use of the public, all possessions to which the proprietors could not establish legal and equitable rights. This proposal pleased neither the rich nor the poor, although the former affected to applaud it; and the tribunes were so irritated at the conduct of Claudius, that they cited him to stand trial before the tribunal of the people, as the avowed enemy of public liberty. The whole of the senate and the *patricians* were interested to save him, and interceded with the people in his behalf; but Claudius himself, on this occasion, abated nothing of his accustomed dignity, either in speech, dress, or deportment, and defended every part of his conduct so ably, that the tribunes, apprehensive the people might acquit him, pretended want of time to take the suffrages, and adjourned the trial. Appius, convinced that it would be impossible for him to escape their vengeance, put a period to his own existence.

After the death of Appius, the tribunes resumed the subject of the agrarian law, to which, it might now have been expected, that none would have dared to make opposition, from the late example of the danger attending it; but the gradual lapse of time had brought about changes in the possession of property, that broke asunder the bands which had hitherto connected the whole order of the *plebeians* in the same political interest. The classes of *property* and *persons* were no longer respectively restricted to the designations of *patricians*

cians and *plebeians*. In general, the *patricians* were included in the class of *property*; but wealth had likewise found its way to the order of *plebeians*, assimilating the enriched individuals among them, who were become proprietors of land, to the class of *property*, and leaving only the inferior *plebeians* to form the class of *persons*. The present was a trying question, which brought the two classes to the test, marking out the exact limits of each, except where, perhaps, particular views of ambition, on the one hand, and the ties of dependence and clientship on the other, might induce some few to separate from their natural classes. When, therefore, the agrarian law now came to be agitated, not only the whole of the senate and the *patricians* were against it, but many of the *plebeians* likewise manifested great repugnance to it, and the tribunes found that it was in vain to urge its adoption.

A sort of marked discontent seemed, after this, to possess the minds of the people; they felt as if the foundation on which they built their hopes had given way; they refused to give their attendance at the *comitia centuriata*; and, in the forty-first year of the republic, T. Quintius and Q. Servilius were chosen consuls by the senators and *patricians* alone, without the attendance of any of the lower order of the people, excepting such as were the clients of *patricians*. The preceding year had been employed in military enterprises under the consulship of Aulus Virginius and T. Numicius; and

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in the present, T. Quintius took Antium from the Volscians, the plunder of which, and its territory, he gave to his soldiers, by which many of them were greatly benefitted in their circumstances. This gratification had considerable effect in restoring good humour to the multitude.

The next consuls chosen were T. Emilius and Q. Fabius. The appointment of Emilius induced the tribunes to revive once more the claim to the agrarian law, which he greatly encouraged; appearing anxious that it might be established during his consulship. He was much reviled by the majority of the senate for this conduct, and warm altercations ensued, until an expedient was suggested by the consul Fabius, which met with universal approbation. He proposed that the city of Antium, with its territory, should be allotted as an asylum and provision for the destitute citizens; and that triumvirs should be appointed to regulate the settlement, and divide the lands. The scheme was received by the people with applause; but when it came to be carried into execution, even the poorest among them felt reluctance at being removed from the habits they had acquired in Rome, and regarded a new place of residence as a species of exile; so that the proposed settlement was chiefly made up of strangers. It answered, however, the purpose of completely silencing all the arguments in favour of the agrarian law, as none could plead poverty who had declined so comfortable and promising a provision.

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BOOK

B O O K T H I R D.

FROM THE FIRST CLAIMS TO THE ESTABLISHMENT OF LAWS FOR THE ADMINISTRATION OF JUSTICE, TO THE RE-CAPTURE OF ROME FROM THE GAULS BY CAMILLUS.

WITHOUT some fixed principle to regulate opinion, it is impossible to write consistently on the variety of occurrences which the Roman republic produced. The nature of that government having established *causes, effects* must necessarily follow! and if these *effects* incur blame, that blame ought to fall upon the first authors of the *causes*, who, by abolishing the monarchy, which regulated and equalized the government, and by assuming all the powers of the state to themselves, and abusing those powers, laid the foundation for all the multiplied ills which succeeded, and which necessarily must be the consequence of the fluctuating system of government they adopted. I am led into these general remarks from the inconsistency of my leading author (Vertot) in the reflections he makes upon the next subject of dispute that arose between the contending parties in Rome*. After having

* Liv. IV.

clearly

clearly established, that the senate had usurped to themselves all the powers of the monarchy, (which necessarily destroyed the balance of the state) and that they grossly abused the authority they had in this manner acquired, he reasons as if possession had justified these usurpations, and treats every attempt in the people to rectify these abuses, as an act of rebellion against their superiors, whose authority had been self-assumed, and was become oppressive beyond sufferance. It is true, that the tribunes of the people, who agitated these measures, were generally influenced by selfish motives; but this did not prevent the measures in themselves from being often most just and necessary. The oppressive conduct of the senate had furnished a plentiful field of abuses, to which the tribunes might readily resort, when they wished to embroil the classes of *property* and *persons*, in order to raise themselves to importance: and such was invariably their object, without regard to consequences, or to ultimate right or wrong; but that the people had no other channel of redress, was owing to the senate and the *patricians* themselves, who had abolished the monarchy, which was the pillar of security to the people, and the prop of equal liberty to every order in the state.

Hitherto no laws had been established in Rome for the administration of justice. During the regal government, it would appear, that the monarch himself acted the part of judge, and determined the differences between individuals by the com-

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mon rules of equity and justice; and as he stood superior to, and unconnected with, either of the great classes which naturally divide the community or with any of the political orders of the state, the presumption was, that his decisions would be impartial and just. When the senate abolished royalty, and substituted two of their own body, as consuls, to exercise all the regal functions, they, in like manner, became the official judges of the state; but it must be observed, that the consuls belonged to the class of *property*, and to the order of *patri- cians*, who were naturally and politically at variance with the class of *persons* and the order of *plebeians*, and having no fixed laws, nor any rules (except pretended mysteries, which were only accessible to members of the senate) for the direction of their judgment, or the government of their opinions, every cause which involved the interest of the class or order to which the consul belonged, had a party for a judge, who was at liberty to substitute prejudice in place of law, in the decisions he might be pleased to adopt. Under such circumstances, an application, on the part of the people, to regulate the decisions of their judges, and to establish the sacred rules of right and wrong among individuals, could not be deemed an unreasonable demand. Such was the proposition made by C. Terentillus Arsa; but he was a tribune of the people, and therefore not justice, but contention, was the motive to which his conduct was attributed. It must be acknowledged, that this proposal was introduced with another, for diminishing the au-
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thority of the consuls; and he chose a time for agitating these subjects that bore the appearance of an intention to carry them by surprize.

The consuls, L. Lucretius Tricipitinus and T. Veturius Geminus, were in the field, opposing the Volscians and the Equi, who had attacked the territory of Rome, after the city had been visited by a plague, in the forty-sixth year of the republic, which had proved fatal to the two preceding consuls, to many of the principal inhabitants, and to multitudes of the people. It was at this time, and under these circumstances, that Terentillus brought forward his proposals for abridging the authority of the consuls, and establishing laws to regulate the administration of justice, which he was earnest to have immediately adopted. Quintus Fabius, who, in the absence of the consuls, had been left governor of Rome, used great address and prudence, in not only obtaining a delay in the prosecution of these measures till the return of the chief magistrates and the absent citizens, but in prevailing upon the other tribunes to oppose the intended attack upon the consular authority, which, at their instigation, was laid aside. They persisted, however, in their claim to the establishment of laws.

The consuls had no sooner returned, than rumours of expected, or pretended, hostilities determined the senate to make fresh levies. These were regarded by the tribunes as mere pretences to elude the proposed laws, and they interfered to prevent

the citizens from enlisting with the consuls, and even relieved some of them who were in the custody of the lictors. Hereupon the consuls quitted the forum, and gave up the enrolment; and, as it happened, the expected hostilities did not take place. The tribunes now employed their time in recommending their plan of laws to the people; and the senators, who insisted for their right to deliver arbitrary judgments, determined to defeat every intended innovation on this subject.

These intentions on both sides were interrupted by the alarms which some extraordinary meteorological appearances, attended by earthquakes, occasioned. The discoveries of modern philosophy, which have assigned natural causes for such effects, and traced the congeniality of these phenomena, have lessened the horror with which they affect the human mind. Ignorance is the parent of superstition. The immediate agency of the gods was suggested, and man, the slave of his own apprehensions, applied to himself the calamities which his fears predicted. Rumour magnified and multiplied events, and terror stalked with hideous stare through the desponding streets of Rome. All occupations were forgotten, excepting what were prompted by fear; and the law of Terentillus was no longer mentioned either by the people or their tribunes. In such a state of mind imposition is invited, and artifice never fails to produce its effect. Recourse was had to oracles and the Sybilline books; and the answers, coming through the channel

channel of the priests (who were *patricians*) imputed the threatened calamities to the internal divisions of the state, which failed not to impress the people. They insisted that their tribunes should confer with the senate, in order to reconcile all differences between them; and meetings were accordingly held for this purpose; but both sides persisting in their respective views, a reconciliation was found to be impracticable.

When these alarming appearances had ceased, the terrors they had occasioned began to subside, and men gradually returned to their former habits and opinions. The compilation of laws was again recommended by the tribunes of the people, and the form of a decree was drawn up, for carrying that measure into effect, empowering the people to nominate five senators of consular dignity, whom they thought best qualified by intelligence and wisdom, to compile and frame such a code of laws as would embrace both public and private causes, and for establishing the other necessary steps towards its approbation, confirmation, and publication. This decree the tribunes, in opposition to the senate and the *patricians*, now determined to submit to the suffrages of the people, and convoked an assembly for that purpose. All the senators and *patricians* attended; and the most eminent of them set forth the irregularity of this procedure in so important a concern, which involved the general interests of the whole community, but which had neither been preceded by a *senatus consultum* nor

the auspices, to sanction its proceedings, and give them validity. With many these considerations had weight; but the inferior people called out to their tribunes to collect the suffrages. This the younger senators and *patricians* were determined, at all events, to prevent; to which they were induced by the exhortations and example of Quintus Cæso, a youth as remarkable for intrepidity of mind, as for superiority of stature, strength of body, and elegance of form, who led them on to attack the multitude; whom, in spite of the interposition of the tribunes, they drove from the forum, and dispersed.

In such exploits Cæso repeatedly distinguished himself; to which he was greatly encouraged by the applauses of the senate; and he became the terror of the people, both in respect to his violence and strength. Nor was he in powers of speech less formidable than in action, displaying upon all occasions a superiority to the tribunes themselves in this species of contention. The whole strength of the class of *property* seemed collected in the abilities and the audacity of this young man, and the tribunes found it necessary to concert a plan for his destruction. A. Virginius, one of their number, cited him to stand trial before the assembly of the people. Immediately his courage forsook him; he humbled himself in dress and demeanour, and implored the forgiveness of the meanest of the people. When his trial took place, all the generals, under whom he had served, stood forward to bear testimony

testimony to the services he had performed against the enemies of his country, by his prowess and valour; but the circumstance which swayed most with the people in his favour, was the intercession of his father, the dignified and irreproachable Cincinnatus, who neither extolled nor made promises for his son, but rested the force of his solicitations upon the purity of his own conduct. The people, impressed with the superior virtues and talents of Cincinnatus, were disposed to grant the prayer of his petition, when one of the tribunes, named M. Volscius, accused Cæso of having murdered his brother. The circumstances of this pretended murder he artfully detailed, narrating such acts of violence as agreed with what many of the people had experienced from the hands of Cæso, which excited at once their sympathy and their vengeance, and they shewed a disposition, without further enquiry, to pronounce the sentence of death against him; but Virginius, who saw the illegality of such a proceeding, restrained them, and named another day for Cæso to make his defence against this new and more formidable accusation. All that his father and friends could obtain was, that he should not be imprisoned, but admitted to bail; whilst Cincinnatus and nine other *patricians* became responsible for his appearance on the day of trial, under such a forfeiture as should be determined upon by the senate and the tribunes.

Cæso immediately fled from Rome, under the impression that innocence would be no protection
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to him against the prejudices of his judges and the influence of his prosecutors. Of course the forfeiture came to be exacted from the sureties; and it fell so heavy upon Cincinnatus, as to oblige him to dispose of the whole of his property and effects, excepting about five arpents of land on the further side of the Tiber, which he afterwards cultivated with his own hands for the support of his family (p). The dignified poverty of this great man has contributed much to raise the general character of the ancient Roman republicans, although the very praises which history bestows upon him, seem to imply that the virtues he practised were singular and uncommon; indeed, they appear as much to have excited the wonder and admiration of his cotemporaries, as the recital of them has excited these sentiments in modern times! To apply the same character, therefore, to the *patricians* and Roman senators in general, is surely drawing a very false inference from the ad-

(p) According to Livy, ten sureties were required, and each surety bound for three thousand asses of brass; the whole sum forfeited was thirty thousand asses, which I suppose fell entirely upon Cincinnatus, and thereby ruined him; his friends would only be required to give their names. Both the character of Cincinnatus, and the effect produced upon his circumstances by the fine, demonstrate that he bore the whole expence. To judge of this by converting the *as* into English money, would give a very false idea of its amount; by Arbuthnot's tables, 3000 asses is only £. 9. 13. 6. and 30,000 of course £. 96. 15. but if we can find what quantity of corn the *as* would at that time have purchased, we shall then have a just idea of the real amount of this fine.

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miration which the conduct of Cincinnatus produced, which could only be deemed extraordinary, because it was uncommon! It would appear, that before this event, which reduced Cincinnatus to poverty, he was in easy circumstances, and lived like other *patricians*, so that his subsisting afterwards by the labour of his hands was not a matter of choice, but of necessity. His glory consisted in being called from this obscure situation, by the unanimous voice of his countrymen, to extricate the state from difficulties, which he accordingly effected; at the head of armies relieving the distresses of his country, subduing its enemies, enriching his soldiers, and remaining himself under the same necessity of labouring his farm.

Notwithstanding the banishment of Cæso, the tribunes were again baffled in their attempts to pass Terentillus's law, the whole body of *patricians* rallying to prevent it, and prosecuting their measures with such uniformity and effect, as to overpower all the exertions of the tribunes, without, at the same time, exposing any individual to their particular resentment. Their conduct in this respect was extraordinary; on every other subject, and on every other occasion, they treated the *plebeians* with marked attention; but whenever the Terentillian law was agitated, their violence had no limits*.

Such was the zeal of the *patricians* to preserve this relic of arbitrary authority, which their order

* Tit. Liv. lib. III. c. xiv.

had

had snatched from the wreck of royalty, and which enabled them, in their character of consuls, to tyrannize over the *plebeians* and the class of *persons*; like freebooters, defending by violence what they had unjustifiably acquired. Nor was the conduct of the tribunes more defensible in the means which they employed for the resumption of the people's rights. They had prevailed against an individual by a false accusation; they now attempted a similar imposition upon the whole body of the senators and the *patricians*, by fabricating a fictitious plot, to implicate in guilt the principal persons among their opponents; and this upon the authority of an anonymous letter, received with much mystery at a public meeting of the people; whereupon they had the hardihood to apply immediately to the senate, for the authority of that body to seize the suspected persons, and to retain them under their immediate custody, as the proper magistrates of the people. Preparatory to this development, much art had been employed to spread alarms among the people, and to prepare them for the intended scene of outrage which was to follow; but the senate, along with P. Valerius, had called C. Claudius to the consulship, who was brother to the late Appius, and possessed all his superior abilities and talents, without any of the defects of his character. Claudius had no difficulty in exposing to the senate the obvious insufficiency, and the malignant tendency of these accusations; and when the disappointed tribunes returned to the people, impatient on this occasion to arraign the conduct of the senate, Claudius repaired

repaired thither also, and, ascending the tribunal before them, delivered to the people the same explanation which he had given to the senate, and satisfied all who were capable of reflection, that the whole was an artifice of the tribunes to carry their schemes into execution.

This outrageous conduct, both on the part of the *patricians* or the class of *property*, and of the tribunes in behalf of the class of *persons*, claims particular attention. In the first place, every government which refuses equal justice to all orders of the state is tyrannous; an application, therefore, on the part of the class of *persons* for equal laws to regulate the administration of justice, especially when the judges or administrators of these laws were constitutionally appointed from the class of *property*, was certainly reasonable and equitable; but in the second place, as these classes (dividing and including the whole inhabitants in every government) are naturally hostile to each other, and, when left to themselves, are not, on either side, restrained by equitable considerations, more especially too in the present instance, when the class of *persons* was led and directed by the tribunes of the people, whose unvaried object was discord, the class of *property*, it must be allowed, had powerful motives for obstinately retaining whatever ascendancy or influence they had acquired; but again we must reflect, in the third place, that the senate and *patricians*, or the class of *property*, had themselves been the cause of the proscription of monarchy, which reduced the people to the

the necessity of electing tribunes, because they had no other means left to protect themselves against the self-assumed tyranny and oppression of the consuls, senate, and patricians, or, in one word, of the class of *property*. That these circumstances should have eluded the observation of persons immediately interested and concerned in the government, who were induced to mistake usurpation for right, is not at all surprising; but that they should have escaped the eye of the historian, who at one view may compare the present with the past, and trace the chain of causes to their effects, is indeed wonderful and astonishing.

The internal broils of Rome at last excited exterior ambition. M. Herdonius, a Sabine, was encouraged to undertake the hardy enterprise of possessing himself of the capitol or citadel, upon the supposition that he might easily induce a discontented people to join him against the senate, whom they considered as their oppressors; and, by a nocturnal attack, he effected his first object; but he was completely disappointed of its expected consequences. The influence of the tribunes was an effectual protection against the views of any individual, who depended upon popularity for success; because such success must supplant them, and annihilate all their importance. In this view the appointment of tribunes was, doubtless, an unfurmountable bar, either to the establishment of a monarchy, or of a despotism, unless, indeed, they were themselves induced to become the supporters of it, which became at last the destiny of Rome,

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The report of an enemy being in possession of the capitol occasioned a general consternation in the city, and for some time it was doubtful whether it had been taken by foreign or domestic assailants, until the return of light discovered the real situation of affairs. The tribunes took advantage of this event, to require from the consuls, before they would admit of the citizens being enrolled for attacking the enemy, that they would pledge themselves, upon the recapture of the capitol, to sanction the decree for the establishment of laws. Claudius was for spurning such conditions, and attempting, by means of the *patricians* alone, to dislodge the enemy; but Valerius, with the approbation of the most elderly of the senators, agreed to the terms proposed by the tribunes, and pledged himself accordingly. The citizens enlisted with alacrity, and took an oath not to lay down their arms but with the approbation of their consuls; a legion also arrived from Tusculum, which was sent, unsolicited, to their assistance. At the head of the citizens and these allies, Valerius (to whom the lot of commanding fell) advanced to storm the hill, which was possessed by Herdonius, and the defence was obstinate as the attack was gallant. In the ardour of setting an example to his troops, the consul was killed; but his death was concealed, and the attack prosecuted with perseverance and success. To avoid falling into the hands of his enemies, Herdonius put an end to his own life, and the whole of his

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followers were either cut off, or otherwise destroyed.

After this success the tribunes claimed the performance of the promise, for which the word of the deceased consul had been pledged. Claudius, under a variety of pretexts, eluded performance; and at last he fixed a day for the election of another consul. By previous concert, and the concurrence of the *patricians*, Cincinnatus, in his absence, was elected; and he was conducted from the plough to fill the first office of the state. He silenced the tribunes, by convincing the people that they were still bound by the oath they had taken to Valerius, to remain under arms until discharged by their consuls, and by threatening to carry them into the field, and retain them during the winter, to which they had never before been accustomed. By such means he intimidated both the people and their tribunes, who were at last glad to suspend their claims on the subject of the laws, provided they were exempted from the duties of the field. The remainder of the consulship of Cincinnatus was passed with so much attention on his part to equity and justice, that the people seemed to have forgotten that there was any occasion for the establishment of laws. Quintus Fabius Vibulanus and L. Cornelius Maluginensis, were the next consuls chosen.

Their consulship was principally distinguished by the prosecution of the tribune Volscius, before an assembly of the people, at the instance of the questor,

questor, for having calumniated Q. Cæso, by a false accusation of murder, which had driven him to the necessity of abandoning his country; and such evidence was produced as clearly established the guilt of Volscius, and the innocence of Cæso; but the tribunes (who had been continued in office for three successive years) interdicted the progress of this trial, until the people should have given their suffrages on the subject of the proposed laws. In like manner the senate introduced the trial of Volscius, whenever the mention of commissaries for compiling the laws was made by the tribunes; and both parties continued, reciprocally, to play the same game against each other. The succeeding consulship of C. Nautius, and L. Minutius was remarkable for the necessity of calling Cincinnatus to the dictatorship, to which he was named by the consul Nautius, for the purpose of rescuing the army of Minutius, which was surrounded and completely hemmed in by the Equi. This service he effected—completely subdued the enemy, gave his soldiers the plunder of their camp, and not only took nothing to himself, but refused the offer of the senate, who wished to confer upon him a suitable establishment from the lands and the wealth which his conquests had added to the state. He received the honour of a triumph, and dignified by the merit he had displayed, and the esteem he had acquired, within fifteen days after he had assumed the ensigns of the dictatorship, resigned his office, and retired to his farm. After this the tribunes dared not any longer to

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oppose the trial of Volscius, who was convicted of the crimes imputed to him, and sentenced to perpetual banishment; and the exiled son of the virtuous Cincinnatus was recalled.

The following year, which was the fifty-second of the republic, under the consulship of C. Horatius and Q. Minucius, the tribunes obstinately persisted in refusing to allow the people to be enrolled, until the Terentillian law should be sanctioned, notwithstanding the Equi and the Sabines were ravaging the Roman territory, even to the gates of the city. Upon this occasion Cincinnatus was called to the senate, and by his advice it was resolved, that the senators themselves, with their friends, attendants, and clients, should arm, and attempt to beat off the enemy, or die honourably in the field; which alternative, it is to be observed, they preferred to regulating their judicial opinions otherwise than by the caprice of their own wills, or to subjecting themselves to act under fair and equal laws; but when this venerable band was equipt in arms, and before they sallied forth against their numerous enemies, the consul Horatius convoked an assembly of the people, who were eager to behold so extraordinary a sight. Under the impression which it could not fail to make upon them, he reviled the tribune Virginius for being the cause of the present affecting measure, by withholding Roman citizens from their duty, and addressing the people at the same time pathetically, the tribune found it necessary to recede from his

first intentions, and to admit that they should take arms, and even that the Terentillian law should be abandoned, provided the senate would only indulge the people in one other point. The senate assembled, at the entreaty of the tribune, to hear the requisition on the part of the people explained, which was, that the number of their tribunes should be increased from five to ten. With this demand Cincinnatus strongly urged the senate to agree, considering it as an advantageous means to get rid of their pertinacious attachment to laws; and the majority coincided in the same opinion. The consent of the senate was announced to Virginius; and for once the senate and the tribunes (but from very opposite motives) concurred in the same measure.

An application was, in the course of next year, made by the tribunes, to have the unoccupied part of Mount Aventine allotted for the residence of the people, who were now become so numerous as to be straitened for room. As this ground belonged to the public, and was uncultivated and of little use, the demand in itself was neither unjust nor uneligible; but the consuls, M. Valerius and Sp. Virginius, conceiving that there was some degree of affinity between it and the agrarian law, which they dreaded to revive, wished rather to suppress it, and therefore avoided calling any meeting of the senate, in the hopes that by not agitating the business, it might be forgotten. L. Icilius, the principal or presiding tribune, considering this con-

duct as unprecedented, sent an apparitor to the consuls with a message from him, requiring them immediately to summon the senate, and to attend it. The consuls considering this message as an insult, directed their lictors to punish the messenger for his insolence, which one of them accordingly did, by giving him some blows. Hereupon the tribunes became indignant; they ordered the lictor to be apprehended, as having violated the official sanctity of their character in the person of their servant, and arraigned him as a sacrilegious person before the tribunal of the people. The consuls had not the means of releasing him, and the senate attempted in vain, notwithstanding the increased number of the tribunes, to detach one from the interest of the rest; they had previously determined upon unanimity, as engaged in a common cause. To save the unhappy man from the dreadful sentence that hung over him, the senate was obliged to compound the matter with the tribunes; Mount Aventine was assigned to the people, and the lictor was discharged; but the most important consequence of this transaction was the prerogative which the tribunes acquired, and hereafter exercised, of demanding, at their pleasure, a convocation of the senate.

In the succeeding year, the violence and indiscretion of the consuls, T. Romilius and C. Veturius, in the first instance, in exercising unseasonable severity to make levies for the military excursions they had determined to carry on, and the corresponding

sponding irritation of the tribunes, in attempting to release some citizens their lictors had seized, and ordering the consuls themselves to be conducted to prison for interfering between them, drew on a general fray, wherein the people and their tribunes were ultimately dispersed, and pretty roughly handled by the *patricians*, who came in aid of the consuls. The tribunes, in consequence, cited the consuls to stand trial for their conduct before an assembly of the people, which the consuls despising, they referred the matter to the senate, where it was debated; but no decision being likely to take place, the tribunes had recourse again to the people, where finding that this dispute, which had a reference only to the tribunes and the consuls, had ceased to be interesting, they made a merit of giving it up; but that they might agitate a subject which would be more immediately interesting to their constituents, they revived the claim to the agrarian law. After having artfully prepared the multitude to enter warmly into this measure, they fixed the next day for discussing it before an assembly of the people; and as it was the question which most peculiarly discriminated the classes of *property* and *persons*, the leaders of the opposite parties were equally earnest and anxious for success: secret consultations were respectively held on each side, preparatory to the contest, which promised to exhibit a trial both of strength and of skill.

In the morning the parties were early at their posts. The tribunes, to affect an appearance of candour, offered the tribunal to any person who chose to harangue against the intended law; upon which several senators presented themselves; but as soon as they began to speak, different groups of low fellows began to hoot and holla, so that they could not be heard. The consuls protested against all further proceedings in so tumultuous an assembly; but the tribunes, who had predetermined the conduct they were to pursue, informed them that their protestations would avail them nothing, and ordered the suffrages of the people to be taken; whereupon the urns were opened, and the billets, or tablets, distributed. This was the signal for the ambushed *patricians* to enter upon action. Forthwith parties of young men of the first families of the state, who had been purposely dispersed among the crowd, now exercised their fury against all who dared to oppose them; and making their way to the urns, shivered them to pieces, and scattered their contents. The people were appalled, and fled; the tribunes were disconcerted; and the tide of victory turned in favour of the class of *property*.

Loud and vehement were the complaints of the tribunes at the next day's assembly, which was convoked by them, on account of the outrages that had so recently been committed against the majesty of the people. To substantiate their accusations, they fixed upon the *Posthumia*, *Sempronia*, and *Clelia*.

Clelia families, as the ringleaders of the tumult. Nor did the senate interfere to prevent the measures which were taken for their prosecution, which was suffered to take place as appointed. The people were softened by this forbearance of the senate, who thought the issue of the trial a convenient sacrifice, to procure a suspension of this formidable law. The culprits were sentenced to a considerable fine, and their effects were publicly sold for its payment: but the senate employed people to buy them up, and they were afterwards restored to the former owners. The claims to the agrarian law, which were soon revived, were interrupted by a war in support of the city of Tusculum, in which, from gratitude, the people freely joined, contrary to the views of their tribunes. The great victory, which was on this occasion gained by the consuls, was supposed to have been principally owing to the services of a body of eight hundred veteran volunteers, headed by Siccus Dentatus, who had distinguished himself at Rome, by supporting the claims to the agrarian law; for which reason, it was imagined, the consul Romilius ordered him upon a service that was deemed desperate; but his experience and skill in military affairs enabled him to attack the enemy's camp successfully, and to cut off their corps de reserve; and this achievement turned the scale of victory in favour of the Roman army. Siccus Dentatus, with his corps of veterans, proceeded directly to Rome, where he narrated all the particulars of the action to the tribunes of the people, and created so strong a prejudice against the consuls,

fuls, that, notwithstanding their success, a triumph was denied them. Dentatus was afterwards chosen one of the tribunes; and when the consulship of Romilius and Veturius expired, they were prosecuted and fined by the people for misconduct in office, the one to the amount of ten thousand, and the other of fifteen thousand asses.

The succeeding consuls, Tarpeius and Æternius, were not deterred by the punishment of their predecessors, from holding firm language on the subject of the agrarian law, which they avowed their determination to oppose. The tribunes, probably despairing of success in this pursuit, changed their object, and turned their views to the Terentillian law, or the decree for compiling a code of laws to regulate the administration of justice. To this proposition the senate showed less aversion than they had formerly done. Of two evils they might think it expedient to adopt the least, and preferred the Terentillian to the agrarian law, probably imagining, that by giving way to the former, the latter would be totally abandoned. Whatever were their motives, the senate listened to the proposal; and the late consul, Romilius, who had been so recently fined by the people, to the astonishment of every person, became their advocate in support of the present measure, and suggested the plan of sending deputies to Greece for selecting from the Athenian, and other popular governments of that country, such laws as would suit the Roman republic, to be afterwards digested by commissioners

missioners appointed for that purpose. This scheme was relished by all the orders of the state; and, after some difference as to the general mode of carrying it into execution, the following persons were chosen from their own body by the senate, as the deputies to be sent to Greece; viz. Sp. Posthumius, A. Manlius, and P. Sulpitius Cumerinus. The remainder of this year passed in tranquillity. The following year, which was the fifty-sixth of the republic, proved calamitous, by a pestilence that prevailed throughout Italy, and desolated Rome in common with the neighbouring states, its enemies or its rivals.

Under the consulship of P. Sestius Capitolinus and T. Menenius, in the succeeding year, these calamities ceased, and the people of Rome were rejoiced by the return of their deputies from Greece, with a selection of laws. Immediately great impatience was expressed for the appointment of decemvirs to complete this popular undertaking, by digesting the materials which the deputies had imported. The consul Sestius approved of the measure; but Menenius had a dread of introducing so great an innovation into the government, and sought for delays to retard its accomplishment. He pretended, that the election of consuls for the succeeding year ought to precede the appointment of decemvirs, which occasioned the tribunes to expedite this election, and Appius Claudius (the third in succession of this name) and T. Genutius were chosen. The appointment of decemvirs was again called

called for; but Menenius feigned sickness, and confined himself to his house; and Sestius thought the business too important to be agitated by a single consul. The tribunes had recourse to the newly-elected consuls, with whom they consulted, and then they brought the matter before an assembly of the people. Claudius mounted the tribunal, and harangued very eloquently upon the advantages which would result to the state from the establishment of equal laws, making a voluntary offer, in the name of himself and his colleague, to resign their late appointment to the consulship for the ensuing year, if it should be found to impede the nomination of decemvirs. The speech and conduct of Claudius was highly applauded; and the scruples of Sestius being overcome, probably by other considerations, he was prevailed upon, notwithstanding the continued confinement of Menenius, to bring the affair before the senate, where it was debated, and finally adopted. After some opposition from the tribunes, it was agreed, that the decemvirs should be wholly chosen from the body of the senate. They were to be vested with all the authority of the state, and their appointment was to continue for one year, during which time the consular and tribunician appointments, and all the other offices of magistracy, were to be suspended. An assembly of the people by centuries, preceded by all the solemnities of form and religion, made the election; and the following persons were named decemvirs, Appius Claudius, T. Genutius, P. Sestius, L. Veturius, C. Julius, A. Manlius,

Manlius, Ser. Sulpicius, P. Curiatius, T. Romilius, and Sp. Posthumus.

The conduct of these men, particularly of Appius, who presided at the board of decemvirs, was so correct, so attentive, so equitable, so unassuming, and even so humble and courteous to the lowest *plebeian*, while they were each of them in turn, diurnally, possessed of unlimited authority, and attended by the ensigns of supreme command, that the people became quite delighted with this new mode of government, which almost effaced from their minds the recollection of their favourite tribunes, from whose machinations the *patricians* were hardly less pleased to be freed. Nor were the decemvirs inattentive to the principal object of their appointment; they gave uniform application to that great work; they invited information; they exposed the progress of their undertaking, and solicited the criticism and remarks of their fellow-citizens, that they might be enabled to correct or improve what they had done; and at the expiration of the year, they had completed, from the ancient ordinances of their kings, and the laws borrowed from the Greek states, a compilation that filled ten tables, which was first submitted to the senate, and afterwards to an assembly of the people convoked by centuries, and which met with the complete approbation of every order, and almost of every individual, in the state.

But although these laws, as far as they went, were universally approved of, yet it was the opinion

nion of many, that some additional laws were still necessary to render the code complete, which might be comprised in two more tables. In order to frame these supplementary tables, it was proposed to choose decemvirs, in place of constitutional magistrates, for the ensuing year; to which both the *patricians* and *plebeians* readily agreed. The appointment of decemvir now became an object of attraction to the most eminent members of the senate. Appius Claudius, who had a fore-taste of its sweets, and who brooded upon the further purposes to which his ambition might convert it, chose to prosecute his wishes by underhand means. Diffimulation and hypocrisy form the cloak in which the deep-thinking villain wraps himself up, to conceal his deliberate intentions. Claudius continued to treat the *plebeians* with affability (very foreign to his nature) and with marked attention. He cajoled, caressed, and consulted with their former tribunes, whom he made his dupes, employing their influence to forward his own schemes. He pretended to have no views to a second appointment, upon which subject he spoke with great candour and moderation. Many of the competitors, however, were distrustful of his intentions, and therefore took a step, which, at the same time that it conferred an honour upon him, they thought would have the effect of excluding him from the nomination; they appointed him to preside at the election. In this situation it became his duty to name the persons who aspired to the office; and hitherto, custom, propriety, and modesty,

deftly, had prevented every president (at least in the election to offices of curule dignity) from recommending himself. Upon the present occasion, however, Claudius thought such punctilios might be dispensed with; and having previously settled matters with his popular friends, he named himself for the first appointment, and nine others, who were suited to his own purposes, for the remainder, among whom were included three *plebeians*, in opposition to the decree of the senate, and, probably, as stipulated between him and the leaders of the people. This nomination was confirmed by the votes of the centuries, in preference to the most distinguished names in the senate. The decemvirs thus chosen were, Appius Claudius, M. Cornelius Maluginensis, M. Sergius, L. Minucius, Q. Fabius Vibulanus, Q. Pætilius, T. Antonius Merenda, C. Duilius, Sp. Oppius Comicen, and M. Rabuleius.

As soon as the election was over, Appius set about realizing the plan of tyranny he had digested in his own mind. His colleagues were obliged to him for their appointments; they were all to be sharers with him in the powers of government to be usurped; and they had only to pledge themselves mutually to support each other, to render their tyranny complete and permanent. The classes of *property* and *persons* had been lulled into security by the equity, the moderation, the gentleness of the conduct and demeanour of the preceding decemvirs, which was but the prelude to

to the deep-laid plot of Claudius; and their mutual jealousy served to entrap them both. On the one hand, the suspension of the tribunical influence was particularly gratifying to the *patricians*; and on the other, the existence of a power in the state superior to the higher as well as the lower orders, and which thereby seemed to put all upon a level, produced much satisfaction to the *plebeians*: they were equally thrown off their guard, and left a prey to the ambitious designs of Claudius.

All deception was now at an end. The decemvirs entered upon their office as they intended to prosecute it, the whole of them appearing at once, with each twelve lictors in their train, bearing armed fasces. The populace were struck with astonishment and dismay, considering this display of power as the tenfold apparition of royalty, of which they had been taught to entertain such dreadful apprehensions! It is unnecessary to enter into a detail of a government which was a systematic tyranny. They never convoked the senate; they admitted of no assemblies of the people; they proscribed patriotism, and punished public virtue; they emulated one another in excesses and self-gratifications, to which every claim of right and justice was sacrificed; and they were mutually and reciprocally supported by each other in every act of oppression or iniquity which they committed. The Romans looked anxiously forward to the time which was to terminate this delegated authority;

thority; but they looked in vain. That period arrived without any appearance of the decemvirs abdicating their appointments. On the contrary, their insolence increased as their usurpation became more manifest; and by reiterated oppressions, the spirit of the Roman people seemed at last completely broken and subdued.

Hitherto the decemvirs had supported their authority by the energy which the civil government supplied, seconded by the herd of servile dependants, who are ever obsequious to power, and who are not less numerous because vice and injustice bear sway; but the present degenerated state of the Roman government had attracted the attention of their neighbours. Their allies treated them with neglect, and their enemies began to hold them in contempt. The Sabines and the Equi invaded their territories, and carried their incursions almost to the gates of Rome. A military force was wanting to repel these hostile invaders; but such could not be obtained without the sanction of a decree of the senate. The decemvirs were therefore compelled, at last, to call a meeting of that body, which was with some difficulty assembled, as most of the senators had retired to the country, to avoid the tyranny of their oppressors. Thither the summonses were sent; and when the senate met, Appius, who presided, declared the cause of their meeting; but L. Valerius Potitus, rising out of his turn, moved, that the state of the government should first

first be considered and its proper magistrates restored, before any other measures could be agitated. The tyrant rose in wrath, and ordered him to be silent, whilst the other decemvirs accused him of the heinous crime of sedition, and threatened to have him thrown from the Tarpeian Rock. This did not prevent M. Horatius Barbatus from taxing the decemvirs with tyranny and usurpation; upon which Appius thought proper to change his tone; he renounced all intentions of tyrannizing, and, reverting to the subject which had occasioned their meeting, desired his uncle, C. Claudius, to deliver his opinion. This respectable senator reprobated, in pointed terms, the conduct of his nephew, and seconded the proposal which had been made by Valerius; and to this opinion Cincinnatus and other senators assented; but the artful speech of L. Cornelius, brother to one of the decemvirs, which turned upon the delay the election of magistrates would occasion, and the immediate necessity there was for resisting the enemy by a military force under the decemvirs, afforded those who were disposed to favour the present tyranny a pretence for voting, and possibly imposed upon others, so that Appius found himself supported by a majority; and notwithstanding the proposal which Valerius made to obviate the delay by the nomination of a dictator, he and his colleagues held the matter as decided; ordered the decree to be drawn out, and immediately signed it; after which they dismissed the senate, and came off triumphant, having

ing completed their plan of usurpation, by the acquisition of military power.

The legions were forthwith raised, and divided into three armies; two to act in the field against the foreign enemies, and one to remain with Appius, to support his authority in the city. The centurions and the soldiers, who considered the decemvirs as the tyrants of their country, were averse to conquer under their command, and upon all occasions gave way to the enemy. The accounts of these disasters gave general satisfaction in Rome, where the incapacity of the present commanders was a fertile subject for remark and observation. The plan of deceit put in practice by Appius, to get rid of the veteran Siccus Dentatus, who had been eloquent on these subjects to his fellow-citizens, is an instance of the flagitious means which these miscreants pursued to attain their ends. Under the semblance of confidence and command, he sent Siccus from the city to the army, with secret orders for his destruction. The decemvirs there received him with particular distinction, appearing to be much governed by his advice; and at last they took the opportunity of sending him to execute a piece of service which he had himself suggested, where he was massacred by the party that was his escort; but not until, with his single arm, he had killed fifteen, and wounded thirty of his assassins.

The story of Virginia is too well known to need recital here. Like the death of Lucretia,

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it proved the means of delivering Rome from a tyrannous usurpation. Perhaps it may be regarded as a wise institution of providence, for the general good of mankind, that unbridled power naturally leads to such excesses, as not unfrequently induce its own immediate destruction, and that too by the very means through which it might intend to perpetuate its tyranny! The blood of a daughter, which the guilt of a tyrant compelled a father to shed, excited the sympathy of the Roman army, as well of officers as soldiers, who, being before outraged by the illegal domination of their tyrants, entered readily into the feelings of Virginius against Appius, and proceeded to Rome, at once to avenge his cause, and to extricate themselves and their country from the thralldom to which they had been reduced. The like feelings were also excited in the other Roman army, where the murder of Siccus Dentatus had prepared the minds of the soldiers for revolt; and they were readily influenced by Icilius, the intended husband of Virginia, and Numitorius, her uncle, to march to Rome. Both armies met at Mount Aventine; and when deputies were sent to them from the senate, they required to be allowed to treat with Valerius and Horatius, who had manifested the greatest resentment and hostility against the decemvirs; but these senators refused to accept of this mission from the senate, until the decemvirs should have resigned the offices they had illegally retained. The plea for this retention was, the publication

publication of the two additional tables of laws, which, in terms of their original appointment, they had compiled; but this objection was over-ruled, and the decemvirs proceeded to the forum, and publicly divested themselves of the insignia of their office.

Several observations occur respecting the decemvirate, which claim attention. Why were the decemvirs, whose object was to compile laws, entrusted with all the powers of the executive government? Such a situation by no means demanded such a trust, but was rather incompatible with it! Neither does it appear to have been intended in the original scheme suggested by Terentillus, nor indeed by the senate themselves, when they agreed to the measure. So far from supposing that they were to supersede the consular authority, Menenius requires that the new consuls may be elected before the decemvirs were nominated. I suspect that this change in the plan was produced in the private agreement which took place between the tribunes and Appius, when he first engaged to patronize the measure; and that his proffered resignation of the consulship was intended to make room for this proposition. The tribunes might, on this occasion, be disposed to make a temporary sacrifice of their own authority, jointly with the consular power, to secure the ratification of the present law, under an apprehension that this decree of the senate (like that for the agrarian law) might otherwise be eluded in the execution by the

patricians; and the senate, on the other hand, might be induced to give their concurrence from two considerations; first, because the decemvirs were to be chosen from their own body; and, secondly, because the tribunitian office was to be suspended, and they might entertain hopes of abolishing it entirely. To secure his appointment as a decemvir, Appius made use of popularity; and his first year's enjoyment of the office was wholly dedicated, not only to establish himself in the good graces of the people, but to obtain the confidence of the demagogues who were their advisers. The omission of some necessary laws in the first compilation, was probably a device to obtain a new appointment of decemvirs; and when that measure had been agreed upon between him and the former tribunes, his nomination of three *plebeians* might be in conformity with that agreement; but as soon as he was reinstated in the decemvirate, he laid aside the mask of popularity altogether, and assumed the ensigns of terror, displaying openly to the people, that they had created masters who would rule them with a rod of iron: he was now at pains to shew as great a bias in favour of the *patricians*, as he had before shewn in favour of the *plebeians*. In the supplementary laws which were now compiled, the intermarriage of *patricians* and *plebeians* was expressly prohibited, and no remedy was applied to the acknowledged abuses that gave rise to the proposed agrarian law. He was attentive, in particular, to the young *patricians*, whom he

he was at pains to corrupt, and upon whom he seemed to depend for support in case of any popular tumults. Nor was this plan of conduct defective in its operation; for when the intentions of the decemvirs to usurp the government were established past all possibility of doubt, both by their tyrannical measures and their continuing in office after the term of their appointment had expired; when at last they were necessitated to summon a senate, that they might be enabled to levy a military force, which might be considered as the last convocation of that body — what was the conduct of those senators who had manifested such violent apprehensions at the ascendancy of the tribunes? Even Cincinnatus was but lukewarm in his opposition to the usurpation of the decemvirs; and it was apparent, from the want of support which Valerius, Horatius, and C. Claudius met with, that the senators in general were disposed to risk a *patrician* tyranny, in the hope, by means of it, to rid themselves entirely of the tribunitian magistrates; and this, in my opinion, accounts for the sequel of the contest involving the interest of the people, or the class of *persons*, in opposition to that of the *patricians*, or the class of *property*, in which the former, in the end, became completely victorious.

The division that had taken place in the senate induced the opposers of the decemvirs to side with the *plebeians*, because the two causes were in some measure blended, and the interests of the people,

or the class of *persons*, acquired the support of a party in the senate, which now got the ascendancy. When Valerius and Horatius came as deputies from the senate to the armies (which, under the conduct of military tribunes, had moved to Mons Sacer, to wait the deliberations of the senate) they were received as patrons and friends, by whose advice the people suspended their claims of vengeance against the decemvirs, and limited their demands to the restoration of their tribunes, the right of appeal, and an amnesty for quitting the field without the authority of their commanders. To these terms the senate agreed; upon which the troops marched back to the city, and being joined by their fellow-citizens at Mount Aventine, proceeded to the election of their tribunes, of whom the first three chosen were, Virginius, Icilius, and Numitorius, the father, intended husband, and uncle of Virginia; an inter-*rex* was then created, for the restoration of the consular appointment, who named Valerius and Horatius as consuls, agreeably to the wishes and the interests of the people.

The two consuls seemed determined to prevent *patrician* influence from again imposing a tyranny upon their country. In this view the popular laws which they established appear to me. Hitherto the senators and *patricians* considered themselves as independent of the laws and ordinances enacted by the *comitia tributa*. This subject the consuls brought before an assembly of the people by cen-

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turies, and had it there established, that the laws passed in the assemblies by tribes, styled *plebiscita*, should in future be binding upon all orders of the state. The Valerian law, which established an appeal to the assemblies of the people, was also formally renewed and corroborated by a positive enactment, that, futurely, no magistrates whatever should be created, from whose decisions and judgments this appeal should not have effect. This had an evident reference to the powers which had been exercised by the decemvirs. And a further regulation was added to this law, which required all the decrees of the senate, and even their most secret resolutions, to be remitted (unvitiated by any alteration or modification of the consuls) to the *ediles*, for registration or preservation in the temple of Ceres. These various laws were not a little mortifying and vexatious to many of the senators and *patricians*. They were clearly a consequence of the division that had taken place in the senate on the subject of the decemvirs, where the party which had been over-ruled, having now got the ascendancy, carried matters to an extreme in an opposite direction, from which the class of *persons* derived signal advantages over the class of *property*. The prosecution of the decemvirs, individually, followed; and first Appius Claudius, and then Oppius Comicen, were indicted. They were each of them committed to prison, where they ended their lives, to prevent the public execution which they were certain awaited them. The other decemvirs absconded, and their effects were publicly

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confiscated. The tribune Duillius, to prevent the further progress of vindictive measures against the decemvirs and their abettors, declared his dissent to any further prosecutions on this score during the remaining part of the year, and thereby restored serenity of mind to many members of the senate and other *patricians* who might have been implicated in the guilt of the decemvirs.

The senate indulged themselves, in an opportunity which occurred, of shewing their resentment against their consuls, by refusing them a triumph for the complete victories they had obtained over the Equi and the Volscians, and which, on similar occasions, was customary; but this injudicious sacrifice of justice to vengeance recoiled upon themselves, and served only to transfer to the people a privilege which had hitherto remained with the senate. The claim of the consuls was brought, by one of the tribunes, before an assembly of the people, who, notwithstanding the remonstrances of the senators (and particularly of C. Claudius) voted a triumph to Valerius and Horatius.

Thus established in influence and authority, it became the wish of the present tribunes to continue themselves in office; and they took measures to accomplish this point; they were also desirous of continuing the present consuls, who had so powerfully supported the interests of the people; but in both these intentions they were thwarted by one of their own number—the same Duillius

who had put a stop to prosecuting the abettors of the decemvirs. He brought the subject home to Valerius and Horatius, and made them declare their sentiments upon it, who both of them disavowed and disapproved of a prolongation of the consular appointment; and when the election of tribunes took place, happening to preside at the comitia, he contrived, by means of the influence of the senators, to get the five first tribunes chosen, exclusive of those at present in office; upon which he closed the election, dismissed the assembly, and resigned his own appointment. The consequence of this was, that, by an existing law, the tribunes who were chosen had the power of filling up the vacant places, which they accordingly did, and, what was unprecedented, two *patricians* of consular dignity were by this nomination appointed tribunes. A law was in consequence made, which required the presiding tribune to continue the election from one assembly to another, until the whole number should be chosen. The new consuls were Sp. Herminius and T. Virginus, moderate men, under whom (together with the passive conduct of the tribunes) the republic enjoyed one year of unusual domestic tranquillity. To them succeeded M. Geganius and C. Julius, in the sixty-second year of the republic.

During this year the *plebeians* complained of the haughtiness and arrogance of the *patricians*, especially the younger part of them. Whether this might have proceeded from the *plebeians* feeling their

their own importance, and becoming more susceptible of affront, or from the effects of resentment inducing the *patricians* to mortify the too successful and assuming *plebeians*, or from the operation of both these causes, the contentions between these orders arose to a very great height, and their rivallship seemed to have no bounds. The remarks both of the Roman and French historian, on this occasion, are directly in point to what has been said of the necessary and unavoidable consequence of this unstable system of government, where the contending classes (which were at the same time opposing orders in the state) without any controuling power to preserve an equipoise between them, had a natural tendency to oppress and over-power one another (q). In the succeeding consulship of T. Quintius Capitolinus and Agrippa Furius, this ill humour kept the *plebeians*

(q) "Seniores contra patrum, ut nimis feroces suos credere juvenes esse; ita malle, si modus excedendus esset, suis, quam adversariis, superesse animos. Adeo moderatio tuendæ libertatis, dum æquari velle simulando ita se quisque extollit, ut deprimat alium, in difficili est: cavendoque ne metuant homines, metuendos ultro se efficiunt: et injuriam à nobis repulsam, tanquam aut facere aut pati necesse sit, injungimus aliis." Liv. l. iii. c. 65.

"C'étoit toujours le même fond d'animosité que différens prétextes faisoient revivre. Chacun de ces deux ordres ne pouvoit souffrir ni magistrats, ni autorité dans le parti contraire. Si les consuls étoient redoutables au peuple, les tribuns n'étoient pas moins odieux au patriciens, et aucun de ces deux corps ne pensoit être libre s'il n'avoit abaissé l'autre." Vertot l. 4.

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from enlisting under the banners of the consuls, notwithstanding that the Equi and the Volscians had carried their ravages close to Rome. Upon this occasion the respectable consul, Quintius, in his speech to the people, reproached both orders with their respective defects, and their over-bearing dispositions, which fomented and perpetuated mutual discord between them, and prevented them from combining to support the common interests of the state; and he recommended harmony to them in such impressive terms, that the people, and even the tribunes, agreed to take up arms. The resolution was no sooner adopted than executed. The enemy were surpris'd, and completely defeated; their camp was taken; and the Roman soldiers returned laden with booty.

This success is supposed to have had some effect in heightening the pretensions of the *plebeians*, of whom many individuals had now become rich, and many had distinguished themselves by military services in subordinate command; they felt their claims to distinction in the state, and they complained grievously of their exclusion from it. Encouraged by the progressive success, which, through the vigilance of their tribunes, they had already gained over the assumed privileges of the *patricians*, their ambition now aspired to level all distinction between these political orders; they required that the invidious law of the last decemvirs, prohibiting the inter-marriage of *patricians* and *plebeians*, should be rescinded; and that *plebeians* might

might be declared eligible to the consular appointment. To avert the consequences of these new demands, the present consuls, M. Genutius and P. Curtius (who had succeeded Quintius and Agrippa Furius) had recourse to levies against the foreign enemies of the state; but the tribunes, particularly C. Canuleius, asserted that this was a mere pretence, refused to permit the people to enlist, and insisted upon bringing forward the new claims of the *plebeians* at an assembly of the people. The consuls were in perplexity. They durst not venture to summon a senate, on account of the influence of the popular party there; but they held private meetings of the senators, and after deliberating upon the subject, they found it necessary to concede something to the tribunes, that every thing might not be forcibly wrested from them; it was therefore agreed that the exceptionable law should be abrogated, and C. Claudius suggested the plan of electing six military tribunes, in place of the consuls, with the consular power divided among them, of whom three might be chosen from the *plebeians*; but this establishment was not to supersede the appointment of consuls, in case the comitia were disposed to prefer the ancient mode of government under its original form; and the option was to rest with them of choosing either consuls or military tribunes. To give this concession the merit of a victory with the tribunes, Claudius was to be strenuous in the senate against yielding any point to the *plebeians*, and the proposal of military tribunes was to come from T. Genutius,

nutius, the brother of the consul. The plan was pointedly followed out in the senate as projected, and completely answered the intended purpose. The *plebeians* were fully satisfied with the proposed concession, and asserted no further claims to the consular appointment, which remained, as formerly, appropriated to the order of *patricians*; and hereupon the levies were readily completed.

It has before been remarked, that the trying question of the agrarian law had introduced a difference of interests among the individuals composing the order of *plebeians*, which was not found, as formerly, to be uniformly the same with the class of *persons* †. The introduction of property among the *plebeians* made a necessary separation between the interests of the wealthy and of the poorer part of them, who formed what was properly the class of *persons*, distinguished from the class of *property*; but a common interest, or the esprit du corps, still connected them as members of the political or artificial order of the state, and made them unite in the same general measures, where these measures did not interfere with their individual or natural interests. In the agitation of the present questions between the *patricians* and the *plebeians*, it was rather the political or artificial orders of the state, than the natural classes, that were at variance; it was the wealthy part of the *plebeians*, who were struggling to break the artificial band that restrained them from rising to

† See page 239.

the natural rank in the state which property (the only source of real distinction in society) assigned them: they had the address to persuade the inferior *plebeians*, that the object was common to the whole order; but the delusion was not lasting. The sequel will shew, that the class of *persons* very soon discriminated between what was to benefit themselves, and what was only intended to benefit their leaders or advisers.

A few days after the appointment of military tribunes was authorized by the senate, an assembly of the people was held for the election of these magistrates, and notwithstanding that *plebeians* were eligible to be chosen, and that the most wealthy and popular offered themselves as candidates, the people only elected three, in place of six, and all of them *patricians*, men of distinguished reputation for courage and capacity in war*. A supposed or pretended informality in the election obliged them, however, very soon to resign their offices. An inter-*rex* was then appointed, who, in conformity with the votes of the majority of the people and the senate in favour of the consular government, named L. Papirius Mugillanus and L. Sempronius Atratinus consuls for the remainder of the year, which was the fifty-fifth or fifty-sixth of the republic.

For the succeeding year consuls were again chosen, and M. Geganius and T. Quintius were

* A. Sempronius Atratinus, L. Attilius, and T. Cicilius or Clælius.

elected;

elected; whose consulship was chiefly remarkable by the creation of a new curule office in the state, the censorship, which became afterwards of great importance: the present object of it was merely to hold the census, instituted by Servius Tullius, to be quinquennially observed, but which, for many years past had been omitted, from the occupation of the consuls, who used to hold it, in other public duties. To the appointment of two censors from the body of the *patricians*, the tribunes and the people made no objections. By the equitable conduct of the consul Quintius, who governed the city, while his colleague commanded in the field, the year passed free from internal contentions.

Another peaceable year elapsed under the consulship of M. Fabius and Posthumius Albutius, notwithstanding that some of the tribunes, particularly Pætilius, attempted to agitate the subject of the agrarian law, and even threatened to prevent levies; but as no occasion for levies occurred, his threats were disregarded, and his proposals had no effect. The succeeding year, under the consulship of Proculus Geganius and L. Menenius, a severe famine occasioned discontent, and mutual recrimination took place between the higher and lower orders, respecting the cause of this public calamity. The consuls appointed C. Minucius to purchase grain from the neighbouring states to supply the public market; but in this business the people whom he employed were anticipated by the agents of Sp. Mælius, a Roman knight, who appears to have been

been one of the most wealthy men in the state—a striking instance, at this time, of the opulence of a *plebeian*! This man accumulated all the corn that was to be bought in the vicinity of Rome, which he distributed gratuitously among the poorer citizens; by this means attaching to his interest, not only the poor, but the idle and the dissolute. Of these proceedings Minucius had particular information from the dealers in corn, with whom he had occasion to treat, and was informed further, that Mælius had secretly made a provision of arms, so that danger was to be apprehended to the state. All these circumstances he reported to the senate, who agreed in the necessity of appointing a dictator for the preservation of public liberty, and the aged Cincinnatus was, with the concurrence of the whole assembly, named to that dignified charge. He took vigorous measures, to the astonishment of all the citizens, who were not informed of, nor concerned in, the suspected conspiracy. He held his tribunal in the forum, and ordered Mælius to be brought before him, who, fearful of the consequences, attempted to escape amid the tumult of an insurrection which he excited among his numerous attendants and followers, by whom he was rescued from the hands of an officer that had him in charge. Upon which C. Servilius Ahala, the general of the horse, who superintended this arrest, put him to death with his own hand. This act was vindicated by the dictator; and the people were quieted by an order to distribute all the grain which

which Mælius had collected among them at the price of an as for a modius (*r*).

It does not amount to a proof, that the tribunes concurred in the designs of Mælius, because they complained grievously of the manner in which he was put to death, and threatened Servilius with trial and punishment. Their object at all times was to foment discontent among the people, and they would seize whatever occasion might offer to attain that end. On the present occasion, however, all that resulted from their endeavours was only to have military tribunes chosen, in place of consuls; the people still persisting to make *patricians* the objects of their choice; and among the three that were now elected, was L. Quintius, the son of the dictator who had occasioned the destruc-

(*r*) The translator of Livy says, in a note, that this, converted into English money and measure, would be at the rate of a peck and a half of corn for three farthings and one tenth of a farthing. If we could ascertain what proportion this rate bore to the common price of corn, we would have a rule for judging of the real value of an *as* at this period of the Roman history. The price here stated is certainly very low; but it was at a time of great scarcity, when prices must have been generally very high. For this reason, perhaps, if we rate it at half the customary price in years of plenty, it may be allowed to be sufficiently encouraging; which would make the customary price two asses for a modius, or a peck and a half of corn. By this estimation the fine of Menenius, which was two thousand asses, will amount to the value of fifteen hundred pecks of corn; and the fine of Cincinnatus (supposing him to have paid the amount forfeited by the ten fures for his son) which was thirty thousand asses, will be equal to the value of twenty-two thousand five hundred pecks of corn.

tion of Mælius. Hostilities with the Volscians and the Veians prevented the intended prosecution of Servilius; and the report of more formidable enemies occasioned the nomination of C. Mamercus Emilius to the dictatorship. It so happened, however, that the dictator had no occasion to take the field; he employed his authority in a way that was not relished by his own order, and which was severely resented by the individuals whom it immediately affected, but which made him be highly respected by the people. Considering the appointment of censor for the term of five years, as contrary to the genius of the Roman republic, where all offices of magistracy were limited to one year, he proposed a law for restraining the continuance of this office to one year and a half, which the people highly approved and greatly applauded, and after its adoption he resigned the dictatorship. The intemperance of the present censors, C. Furius and M. Geganius, in punishing the author of this measure, by an extraordinary and very shameful exertion of their official power, was a convincing evidence of its peculiar propriety. They degraded Mamercus to an inferior tribe, deprived him of the right of suffrage, and imposed upon him a very considerable fine. The indignation of the people was raised against the censors on this occasion, and they would have insulted them in the forum, had it not been for the interposition of Emilius himself to protect them.

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This unjust sentence afforded a subject for declamation to the tribunes, and they imputed the conduct of the censors to the whole body of the senators, who, they declared, had punished Emilius for having ensured public liberty, by limiting the authority of a curule office. These discourses so far impressed the people as to induce them to choose military tribunes in place of consuls; but their choice continued to fall upon *patricians*, and the rich *plebeians* still remained ungratified with the exercise of supreme command. It may be questioned whether this preference resulted from habit, or if it was the effect of superior influence; it is evident, however, that the majority of the *plebeians* no longer considered this to be their own cause. The individuals of their order, who formed the class of *persons*, could have no pretensions to this office of supreme magistracy, and whether *patricians* or rich *plebeians* were elected, it was the class of *property* that supplied the candidates. The *natural* distinction here took place of the artificial, and habit appears to have turned the scale in favour of *patricians*.

It was extremely mortifying to the leading *plebeians*, after having overcome all obstacles from the *patricians*, to find their way to supreme authority blocked up by the opposition of their own order; they could no longer suppress their feelings on this subject, but upbraided the people with their ingratitude, and threatened to abandon them to the overbearing arrogance of the *patricians*, their

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natural

natural oppressors. Such harangues produced considerable effect, to heighten which the agrarian law was again talked of, and the senate became considerably alarmed for the consequences. It was hereupon determined by them to make an effort for restoring the consular appointment; and a declaration of war from the Equi and the Volscians favoured their plan, because such circumstances requiring the conduct of experienced commanders, who could only be found among the *patricians*, it became a matter of indifference to the leading *plebeians*, whether consuls or military tribunes were chosen, since they had no hopes of being elected themselves. T. Quintius Cincinnatus and C. Julius Mento were accordingly chosen consuls.

Although each of the consuls was reputed to have military capacity and experience, they were defeated by the enemy, who had been at more than usual pains to discipline their army; but the disgrace of the Romans was chiefly attributed to the jealousy and disagreement that subsisted between the two commanders; the senate therefore wished to supersede them both, by the appointment of a dictator; but neither of the consuls could be prevailed upon to name one: although at variance on every other point, they agreed on this subject, because neither of them chose to give up a primary for a secondary station in the republic. In this dilemma the senate had recourse to an expedient, which gave an unlooked-for advantage to the popular party, and derogated greatly from the power
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and dignity of the consular appointment. The success of the enemy, and the obstinacy of the consuls, being equally pressing, Q. Servilius Priscus was induced to think of compulsory means to oblige them to name a dictator; and in this view he had recourse to the sovereign authority of the people, making his application to the tribunes, who were present in the senate. The tribunes held themselves competent, upon this application, to exert their own authority without troubling the people, and immediately ordered, that the two consuls should be conducted to prison if they did not forthwith name a dictator. With this arbitrary mandate they found it necessary to comply; and the choice falling by lot to Quintius, he named his father-in-law, A. Posthumius Tubertus, to the dictatorship. Tubertus was brave, experienced, and severe: he soon completed the necessary levies, engaged the enemy, defeated them in a bloody action, took possession of their camp, and then returned with his victorious army to Rome, where he resigned his appointment.

After this consuls were regularly chosen for three successive years, without any occurrence happening that materially affected the internal government of the state; on the fourth, which was the eighty-first of the republic, a severe drought produced a pestilence that was severely felt all over Italy; great alarms took place in Rome, and the spirit of superstition was roused, so that the magistrates were obliged to interpose, to confine the

rites of religion to those deities that were acknowledged by the state. This calamity raged for a year and a half, and when it ceased the people obtained the election of military tribunes in place of consuls; four of them were appointed, but all of them *patricians*. These magistrates were unfortunate in the conduct of a war against the Veians; they differed in opinion as to the measures to be pursued, and the enemy, taking advantage of their dissensions, defeated them; recourse was had to the appointment of a dictator, and the wishes of all seemed to concur in the choice of the respectable, although degraded, C. Mamercus Emilius, who was accordingly named. His conduct verified the public opinion of his merit. In less than sixteen days he resigned the dictatorship, after having triumphed for a complete victory obtained over the enemy, which not only produced honour, but emolument, to the army he commanded,

At the succeeding appointment of supreme magistrates, the tribunes of the people exerted themselves successfully in having military tribunes chosen; but, to the unspeakable mortification of the leading *plebeians*, the choice still fell upon *patricians*, four of whom were appointed, and among them was Appius Claudius, the son of the decemvir. The tribunes of the people remonstrated severely with their constituents against this neglect of their own order; they said it would be better to have the law entirely repealed, than that *plebeians*, who were entitled to be chosen, should never receive

receive the honour of the appointment; they threw out lures to the people, talked of new colonies, of the agrarian law, and of a scheme for establishing pay for military services. These expectations being raised, which were to be realized by *plebeian* magistrates, the senators became alarmed for the result of the next election, and bethought themselves of an expedient to restore the consular appointment: a pretence was formed for a military expedition of considerable extent, and care was taken to engage the principal *plebeians* upon it. Appius was left in charge of the city. During the absence of his colleagues (as had been concerted) he held the comitia for the election of consuls, and C. Sempronius Atratinus, and Q. Fabius Vibulanus, were chosen. By the time that the army returned, these magistrates were too firmly established to have their appointment called in question.

The tribunes of the people were eager to seize an opportunity, which occurred, of prosecuting one of these consuls for misconduct in the field; and they were the more sanguine in their hopes of success on this occasion, from having succeeded in a similar prosecution against C. Julius Mento, who was condemned to a fine of ten thousand asses of brass: he had been joint consul with T. Quintius, who was also prosecuted, but excused on account of services performed before and immediately after his defeat*, and, perhaps, in respect to

* See page 292.

the memory of his virtuous father Cincinnatus (*s*). The consul Sempronius, in the command of an army against the Volscians (who appear to have been remarkably well appointed in a general) had erred essentially in the requisite attentions which are necessary to ensure military success, although he was by no means deficient in personal courage, or the hardyhood of fighting; but the enemy had the ability to take advantage of all his defects, and success would undoubtedly have attended their superior discipline and skill, had not the commanding officer of the Roman cavalry, Sextus Tempanius, who was placed in a situation where horses could not act, dismounted his squadrons, and led them on foot to the support of his discomfited countrymen, bearing down the opposing ranks of the Volscians. The Volscian general sent orders for his troops to give way, that they might draw Tempanius to a distance from the other Romans, and then to close, and attempt to cut him off, which was in part successfully executed, and Tempanius was reduced to the necessity of taking post on a hill, to defend himself against superior numbers. In this situation the battle raged until night closed upon the combatants. In the morning, Tempanius, from his hill, could only perceive the dead and the dying lying scattered on

(*s*) "Profuisse ei Cincinnati patris memoria dicitur, venerabilis viri, et exactæ jam ætatis Capitolinus Quintius suppliciter orans, ne se brevi reliquo vitæ spatio tam triste nuncium ferre ad Cincinnatum paterentur." Liv. l. iv. ch. 41.
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the field, but without any view of the opposing armies, as each of the camps was abandoned: uncertain where to look for friends or foes, he took the nearest rout to Rome, where rumour had already reported his destruction, and his fellow citizens were overjoyed again to behold him with the brave men whom he commanded. He was urged by the tribunes to give a detailed account of the action, in hopes to find matter for the accusation of Sempronius; he did so, in terms modest in respect to himself, and respectful in regard to his general; nor was his particular merit in the engagement fully known, until the consul himself did him ample justice, in the recital he gave of the action. The people chose Tempanius, with the three centurions who commanded under him, among their tribunes for the succeeding year; and when one of their number, L. Hortensius, would have brought Sempronius to trial, after his consulship had expired, those brave men interposed in behalf of their general, and prevailed to have the prosecution given up. The acknowledged bravery of Sempronius, and the affection which his soldiers bore him, rendered him a popular character, and became the means of establishing a temporary harmony between the people and the senate.

The consulship of C. Sempronius and Q. Fabius was followed by the appointment of military tribunes, at the instance of the senate themselves; to them succeeded T. Quintus Capitolinus and Fabius Vibulanus as consuls; they proposed to the

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senate

senate to create two additional questors, to be employed with the army; and this was at first relished by all orders in the state, until the tribunes of the people claimed, that this new appointment might be open to *plebeians* as well as *patricians*; upon which the senate retracted their consent to the appointment, and the most violent contentions ensued between them and the tribunes of the people; the agrarian law was again talked of, the election of magistrates was interrupted, and recourse was obliged to be had to the limited appointment of an inter-*rex* (*t*), which was repeated in succession, until L. Papirius Mugilanus had the address, when in that office, to effect an agreement between the contending parties. It was determined that four questors should be appointed, who might be chosen, like the military tribunes, either from the order of *patricians* or *plebeians*; but when the elections took place, first of military tribunes, and then of questors, the votes of the electors filled both appointments with *patricians*. This proved a double disgrace and a great disappointment to the leading *plebeians*, and particularly to two of the present tribunes of the people, Antistius and Pompilius, who had, the one a son and the other a brother, among the candidates for the questorship: they suspected A. Sempronius Atratinus (the military tribune who presided at this election) of having favoured his own order in collecting the suffrages, and, as they could not prosecute him on account

(*t*) By a constitutional law, the office of inter-*rex* could not exist in the same person above five days.

of

of his present situation, they determined to wreak their vengeance against his brother, the late consul, who had failed in the war with the Volscians. Canuleius, another tribune, who was in league with Antistius and Pompilius, summoned him anew to answer for his conduct before the people, and in the hopes either of involving him in disgrace with his own order, or of irritating the people against him, they soon after agitated the question of the agrarian law, to which he had formerly been very hostile (*u*). He chose to be consistent in his public conduct, and continued his opposition to the agrarian law, notwithstanding his impending trial, the result of which was, that he was declared guilty, and fined fifteen hundred asses of brass (*v*).

The subject of the agrarian law was more feverishly agitated in the following year by Micilius and Metilius, both tribunes of the people, who had held that appointment above three years in succession, and whose object was to perpetuate themselves in office, by ingratiating themselves with the class of *persons*. The senators were under great apprehensions that this formidable law might at last be ratified, when the advice of the youngest man of their body, Appius Claudius, grandson to

(*u*) Livy remarks (in the person of Sempronius) that these three tribunes did not themselves wish for success to the agrarian law, but introduced the subject merely to create a prejudice against Sempronius. Lib. iv. c. 54.

(*v*) By Arbuthnot's conversion this amounts to £. 48. 8s. 3d. but its true value at that time would be better ascertained by finding the quantity of corn which this sum would then have purchased. See note to page 289.

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the decemvir, extricated them from the threatened danger; he recommended what, he said, he had heard as a maxim in his family, that the best way to defeat the measures of the tribunes was to excite jealousy among themselves; a single dissenting voice being sufficient for the purpose, he thought the present occasion offered a prospect of success, when particular tribunes were affecting a superior degree of popularity to the rest. His suggestion was approved of, and upon being put into practice, was attended with the desired success. Six of the tribunes were gained to the interest of the senate, and the proposed law of Micilius and Metilius was set aside. In the succeeding year, the same influence produced a declaration from a majority of the tribunes, that they would not permit any law to be proposed to the people, which had not previously been approved of by the senate; but another year put an end to this extraordinary intercourse, and established the wonted unanimity of the popular tribunes in their opposition to the consuls and the senate.

Posthumius Regillensis, a military tribune, was in this year (the ninety-fifth of the republic) appointed to command an army against the Veians, who had retaken Volæ from the Romans. To repossess this place was the object of Posthumius, who, in order to encourage his soldiers in the intended assault of it, promised, if they were successful, to allot the spoil to the troops; but when he had attained his object, he forgot his promise,

promise, and appropriated every thing to the use of the state, which completely irritated the army against a man, who was naturally proud, overbearing, and haughty, in command. When the army had returned to the vicinity of Rome, Sextius, one of the tribunes of the people, who was agitating the hackneyed subject of the agrarian law, proposed to the people, that, as a reward for their services, and as a compensation for their general's breach of promise, the soldiers of Posthumius should be recompensed with the lands of Volæ which they had conquered. Posthumius, who was present at the meeting, dropped a threat of vengeance against his soldiers, if they dared to interfere, which occasioned disgust to all who heard it, and was reprobated even by the senators themselves. The tribunes of the people failed not to make severe animadversions upon so tyrannical a declaration; and when it came to be reported in the camp, a commotion ensued, which the questor, commanding in absence of the general, attempted in vain to suppress. Posthumius repaired thither, fully determined to quell the insurrection by exemplary severity, and, carrying matters with a high hand, a general mutiny took place; the military tribune was put to death by the troops whom he commanded. This appears to be the greatest outrage against military discipline that had ever been committed in a Roman army. As soon as the act was perpetrated the whole Roman people, and the soldiers themselves, were

were struck with horror and remorse. After some contention between the tribunes of the people and the senate, A. Cornelius Coffus and L. Furius Medullinus were named consuls, to whom it was given in charge to punish the mutineers. By their great prudence, in only condemning those who were notoriously guilty, and by avoiding any enquiry that might extend crimination among the troops, tranquillity was soon restored, though not without complaints from the people, who alleged that they were punished with alacrity, but that measures for their redress or recompence were slow of adoption and tardy in execution.

Upon all occasions the agrarian law was the subject to which the tribunes of the people resorted for exciting contention; it was the question most highly interesting to the classes of *property* and *persons*, that is, the most wealthy and most destitute part of the society; and, as it excited the terrors and apprehensions of the one, it raised the hopes and expectations of the other; the tribunes were therefore certain, by it, on the one hand to create alarm, and on the other to court popularity: if other matters of greater moment to themselves were brought forward the agrarian law was a most useful accompaniment, because, to avoid the greater evil, the lesser was frequently adopted. It generally happened, however, at this advanced period of the republic, that the tribunes themselves (who were wealthy *plebeians*) were very insincere in their pretended attempts to establish the agrarian

rarian law, which would have affected themselves, in common with the other possessors of property. This measure was therefore adopted by them, rather as a bugbear to their political rivals, and as a plea for popularity, than as a measure which they really wished to accomplish. To this cause I principally attribute the invaried failure of every attempt to establish the agrarian law: it was the question upon which that portion of property embarked in the cause of *persons* must ultimately desert it, as repugnant to its own existence.

During two years, constant war, succeeded by pestilence and famine, so fully occupied the people, that their tribunes had no opportunity of influencing them. In the hundredth year of the republic, the return of peace and plenty awakened their attention to the harangues of their political advisers. The Icili were a distinguished family among the *plebeians*, eminent, I imagine, as well for wealth as for abilities. They had repeatedly presided in the college of tribunes, and distinguished themselves by services rendered to the order of *plebeians*. They considered themselves as entitled to a higher rank in the state; and they viewed with indignation the limits which the prejudices of their own order had set to their ambition, after the more formidable bars of the law had been removed. In this year three of the Icili were at the same time tribunes of the people; they laid their plan to carry, in the first place, the appointment of questor in favour of their own order;

order; concluding, that when the influence of habit was once removed, the future appointment would be more easily attained, and that this step would lead the way to their acquisition of the military tribunate. In this view they were successful in establishing the election of questors to be made in the assembly by tribes, and three *plebeians* were in consequence chosen to that appointment, C. Fabius Ambustus being the only *patrician* on this occasion elected. The innovation of *plebeian* questors was the cause of as much joy and exultation to the order of *plebeians*, as of sorrow and depression to the *patricians*.

The tribunes of the people, and of them the Icili in particular, regarded this success as a decisive victory, which opened to them not only the immediate prospect of succeeding to the military tribunate, but the more distant expectation of attaining even the consulate itself. They took measures for ensuring the advantages which they expected immediately to result from it, by establishing that military tribunes, and not consuls, should be elected for the ensuing year, and the Icili avowed themselves candidates for the appointment. The senate warded off this formidable attack by enacting two laws, which had the effect of defeating the present pretensions of the Icili; every person who held the office of tribune of the people was declared incapable of being elected military tribune during the same year, and no tribune of the people could continue
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in office for two successive years (*tw*). The Icili perceiving that these edicts excluded them from the appointment, were not anxious to have it conferred on any other *plebeian*, probably wishing their own family to be the first who should hold so dignified a station. The senate, to throw a ridicule upon the pretensions of the *plebeians*, which had been thus abandoned, inserted into the list of candidates for the military tribunate the names of some low and contemptible *plebeians*, whom they introduced as rivals to the most illustrious and eminent of their own order: the consequence was, that only *patricians* were chosen, namely, C. Julius Iulus, P. Cornelius Coffus, and C. Servilius Ahala.

Respectable as these magistrates were, they did not long enjoy the authority of their appointment. The information of extraordinary exertions making by the Volscians determined the senate to have recourse to the appointment of a dictator, to which Julius and Cornelius objected, considering themselves as equal to the occasion that called for this measure, which, they complained, would defraud them of the glory they might justly expect to acquire from military command. On this account they refused to name a dictator; and a dispute arose between them and the senate, similar

(*tw*) According to Livy these were conditional laws established by the senate, upon agreeing to the request of the people to have military tribunes rather than consuls appointed. L. iv. c. 55.

to what had formerly taken place in the consulship of L. Quintius and C. Julius Mento*. The same degrading expedient, which then disgraced the senate, was had recourse to again; they applied to the tribunes of the people, to compel the military tribunes (as the consuls had formerly been compelled) to name a dictator; but upon this occasion the popular tribunes refused to interfere, being averse to extricate the senate from their present embarrassments. Hereupon Servilius Ahala, the third military tribune, interposed, informing his colleagues, that he had hitherto kept aloof, in hopes that they would prefer the public good to their own private advantage; but as he found they were not disposed so to do, he was determined to relieve his country, by naming a dictator, and he called P. Cornelius to that appointment. The consequences were favourable to the republic, the enemy being easily overcome, with great advantage to the Roman army, so that the successful dictator soon resigned his dignity. The disappointed military tribunes resented the conduct of the senate towards them, by proposing, in place of consuls for the following year, that military tribunes should again be elected, which occasioned considerable apprehensions to the senators, from which, however, they were relieved by the choice falling exclusively upon their own order: in like manner, for the succeeding year, the military tribunes continued to be chosen from the *patricians*.

* See page 292.

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The leading *plebeians* were now highly mortified and indignant at the event of these elections, and used every effort and device within their power to create discontent in the people against the measures of the senate. Before hostilities had yet terminated with the Volscians, against whom the Romans had latterly been successful after having sustained one disaster (x), the senate wished to declare war against the Veientes, who had insulted their ambassadors; but by the influence of their tribunes the people were dissuaded from giving their sanction to this measure. A popular and spontaneous act of the senate, however, brought about a cordial reconciliation between them and the people, not more to the astonishment and surprise, than to the disappointment and vexation of the tribunes of the people. A *senatus consultum* was passed, establishing regular pay to the Roman soldiers, who had hitherto supported themselves in the field at their own private expence. A small tax, which was general, but proportioned to the circumstances of individuals, was imposed, to create a fund for this establishment. This circumstance gave the tribunes a pretence for excepting to the measure; but it was gratefully acknowledged as a benefaction by the people in general, and passed by them into a law. This remarkable event took place in the one hundred and third year of the republic.

(x) Verrugo was taken by the Volscians, and the Roman garrison put to the sword. Liv. l. iv. c. 58.

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The public measures which immediately followed the establishment of pay to the soldiers, manifested other motives than mere compassion to the people to have influenced the conduct of the senate. It was immediately determined to besiege the city of Veia, the strength and resources of which required the continued military exertions of years to ensure success to the enterprise, which never could have been undertaken by any army without pay. Such a discovery gave the tribunes a handle for declaring, that the senate had deluded the people by this seeming benefaction, for which their civil liberties and municipal privileges were bartered, since they were now to be detained perpetually in the field, under the rigour of military discipline.

The detail of military exploits I purposely avoid, as foreign to my subject. The siege of Veia was continued for ten years, under the successive direction of transient magistrates, and, of course, under the various circumstances of discomfiture and success. The first disaster that befel the besieging army had an effect equally unlooked for by the senate or the tribunes of the people; for in place of rendering the war unpopular, as was expected, it kindled an enthusiasm in its favour, and all orders of the state offered themselves as volunteers to recruit the army. Upon this occasion pay was for the first time voted to the knights, or the Roman cavalry. The defeat of Sergius's division of the army, occasioned by a
disagreement

disagreement between him and his colleague Virginus (both of them military tribunes) had an opposite tendency; exposing the general conduct of the war, and the motives for its prosecution, to the censures of the tribunes of the people. The senate, on this account, superseded the appointment of the present military tribunes before their term of service was completed, and had others elected, all of them *patricians*, among whom was the afterwards so eminent M. Furius Camillus. The measures which these new magistrates were necessitated to take to recruit the army, gave the tribunes an opportunity to make a considerable impression upon the minds of the people, so as to dispose them to resist the collection of the tax for military pay, the consequences of which might have produced an insurrection among the troops before Veia, had not the election, which took place, of military tribunes for the next year given a turn to the dispositions of these perpetual excitors of contention. Among the military tribunes chosen was found a person of *plebeian* rank; and although all the rest were *patricians*, this circumstance gave such encouragement to the hopes and expectations of the tribunes of the people, that they desisted from objecting to the levying of the tax. The following year, which was the hundred and tenth of the republic, all the military tribunes were chosen from the order of *plebeians*, excepting one; but the events of the war, under the auspices of these *plebeian* magistrates, proved unfortunate; and a cruel pestilence

following, the Romans had recourse to the Sybilline books, to unfold the causes, and apply the remedies which so many public calamities rendered necessary. The priests, who were the official interpreters of the will of the gods, imputed their displeasure to the gross impiety of electing *plebeians* into the first offices of the state, and instituted the appropriate means of deprecation. The harangues of the tribunes were in vain opposed to the influence of superstition; and, by these religious suggestions, the next year's election was carried in favour of *patricians*. No great successes, however, attended this interpretation of the will of heaven; and the election for the following year turning out equally unpromising, some exceptionable circumstances, in point of ceremony or form, were detected to invalidate it, which might at any time be assumed when occasion made it necessary, and afforded a pretence for the nomination of a dictator. M. Furius Camillus was raised to that dignified situation. The courage and capacity which on all occasions he had displayed, when employed on the public service, concentrated in him the general hopes and expectations of the community, and every one was eager to serve under his auspices. His conduct did not disappoint the confidence of his countrymen. He first completely defeated the army which acted in the field in aid of the besieged; and then, by carrying a mine successfully into the heart of the citadel, and assaulting the place on all sides at the same time, he succeeded in the enterprise of storming it, and, with the approbation of the

the senate, gave the plunder to his army, which had been reinforced by the whole Roman citizens, publicly invited to partake in the capture, and share in the riches of Veia. This happened in the one hundred and thirteenth year of the republic.

To render an essential service to the state, and thereby to become popular, was unavoidably to incur the envy and hatred of the tribunes of the people. When Camillus triumphed for the capture of Veia, his chariot was drawn by white horses. Such was the colour that royalty formerly assumed; and, since that time, it had been appropriated to the service of the gods. Here was a two-fold source of offence attributable to Camillus. He either affected the detestable distinctions of a king, or he was guilty of sacrilege against the gods! His measure of guilt was completed in the eyes of the tribunes of the people, when he opposed the proposal of one of their number, to have the city of Veia peopled with Romans, and put upon a footing with the mother city. The reasoning and the influence of Camillus completely defeated this scheme; and a well-timed distribution of the Veian territory, which he advised, to a certain extent, among the fathers of families, and such as put themselves in a situation to assume that useful and respectable character, reconciled the people to his sentiments on this important subject. So much were they pleased by these benefactions, that for two successive years consuls were chosen as the first magistrates of the state. As this unusual harmony

between the higher and lower orders was derived from the prudent advice of Camillus, it rendered him still more the object of tribunitian detestation.

An occasion soon offered, of which they availed themselves, to create a prejudice against Camillus. A vow which he had made, to consecrate a tenth part of the booty of Veia to Apollo, in case he succeeded in capturing the place, and which, at the moment of victory, had been forgotten, now recurred to his memory, and wounded his conscience by its non-accomplishment. He had recourse to the senate under this pious difficulty, who published an intimation to all the captors, who held the worship of the gods in reverence, requiring that they would pay back the value of a tenth part of their plunder, for the purpose of acquitting their general's vow. Such a demand soured the dispositions of the parties concerned, who were disposed to admit of the unfavourable interpretation which their tribunes gave of Camillus's conduct. The four white horses were now brought forward in judgment against him; and all, who were obliged to part with their money, saw his conduct in a very criminal point of view. Hereupon one of the tribunes indited him to stand trial before the people, for having appropriated to his own use two brazen gates from the plunder of Veia; and finding that on this charge he was likely to be condemned, he went into voluntary exile, rather than remain to be disgraced by a public condemnation. His trial took place in his absence,

absence, and he was fined to the amount of fifteen thousand asses.

The exile of Camillus was so immediately followed by the capture and destruction of Rome by the Gauls, that history is at pains to impute this dreadful calamity to the vengeance of the gods against the Romans, who had treated with so much ingratitude and injustice a citizen so meritorious and deserving. It ought rather to be considered as the immediate punishment of that arrogance and injustice which, on this occasion, they practised without success, but which afterwards conducted them to the conquest of the world. When Clusium was besieged by an army of Gauls, under Brennus, the inhabitants applied to Rome for assistance. The Roman senate sent the three Fabii, who were brothers, as ambassadors to mediate between the hostile parties. These young men, irritated by the haughty demeanour of the Gaul, forgot the character in which they were employed, and, joining the Clusians in a sally against the besiegers, distinguished themselves by acts of superior prowess and valour. Brennus dispatched an herald to Rome, to require that the ambassadors should be delivered up to him, for the aggression they had committed. The subject was debated in the senate, and remitted by them to an assembly of the people, where Fabius Ambustus, the father of the ambassadors, had so much influence, that he not only had the herald dismissed without any satisfaction or apology, but got his sons named among the

the military tribunes who were to command the army destined to oppose the Gauls. On the return of his herald, Brennus instantly raised the siege of Clusium, and decamped, to wreak his vengeance on the Romans.

This remarkable occurrence forms so important an era, and is so particularly narrated in every history of Rome, that it may be merely touched upon here, with a slight reference to the date of events. Camillus went into exile in the hundred and eighteenth year of the republic, and in the following year the Roman army was defeated by Brennus, and the city taken and burnt by the Gauls. The capitol or citadel defended itself against these invaders, who found it necessary to invest it, in the view of carrying it by blockade. A part of the Gaulish army, which was employed to forage, and to pillage the adjacent country, being remarkably negligent in discipline, was cut off by Camillus at the head of a few volunteers. Immediately the Romans, who were dispersed throughout the country, wished to rally under his standard; but he regarded himself as a banished man, and refused to assume such authority without the sanction of the Roman government, the epitome of which was blocked up in the capitol. Thither, however, the wishes of their countrymen were conveyed, and they joyfully concurred in the adoption of Camillus, whom they invested with the supreme appointment of dictator. In a short time he found himself at the head of forty thousand men, either

Roman citizens or their allies, who were eager to serve against the Gauls under so distinguished a commander.

In the mean time another Roman citizen had an opportunity of distinguishing himself, by saving the capitol from a nocturnal attack of the enemy. This was the famous exploit of M. Manlius, who, being alarmed in the night time by the uproar made among the sacred geese on the approach of the Gauls, stood singly, the bulwark of his country, and drove back the assailants as they appeared in succession against him, until, the alarm being spread through the garrison, his fellow-citizens run to his assistance, and the adventurous Gauls were precipitated from the precipice, which they had with so much difficulty ascended. After this fruitless attempt Brennus determined to starve the Romans into a surrender; but by this time Camillus, with a superior army, had blocked up the Gauls themselves, and brought upon them the same distresses which they imposed upon the Romans in the capitol, who remained uninformed of these favourable circumstances; a negotiation was therefore set on foot, and terms agreed upon between Brennus and the Roman garrison, in the execution of which the insolent injustice of the Gaul met, in its turn, with its proper punishment; Camillus arrived—recrimination took place, which ended in the conflict of arms, and the Gaulish army was completely defeated and destroyed.

BOOK FOURTH.

FROM THE RE-BUILDING OF ROME TO THE
FINAL DESTRUCTION OF CARTHAGE.

THE total destruction of Rome left the Roman people without habitations, and their tribunes proposed to abandon the city entirely, and to occupy Veia, where splendid buildings, already prepared to their hand, invited their residence. These obvious advantages, and the difficulty and expence of re-building houses for themselves at Rome, had a decided effect upon the minds of the populace, which the senators, and particularly Camillus, were at great pains to counteract by all the arguments which religious propensities and local prejudices could inspire. To these historians have superadded the incitements derived from the predicted greatness of the Roman name; but I suspect that the early circumstances, which are said to have foretold the pre-eminence of Rome, were at this time little regarded, being afterwards applied by fancy to the events which they were deemed to have announced. When the hand of time has perfected the work of ages, the finger of prediction is supposed to have pointed to the pile; but before the structure be completed, the doubtful indication hardly attracts attention, and never excites either conviction or confidence. It amuses after-
times

times to speculate on such subjects, and national vanity is always ready to cherish every topic that magnifies its own importance. To the agency of superstition, which is much more powerful than reason upon uninformed minds, the senate were indebted for their ultimate success in fixing the people at Rome. When assembled in the Curia Hostilia to deliberate on this important subject, the cohorts which were returning from guard passed through the forum, and the centurion who commanded the detachment happened to make use of these, or similar words, to the ensign-bearer—"Stop here—this is the properest place for us"—which were distinctly heard in the senate.—“Let us accept the omen (exclaimed Lucretius) it is the counsel of the gods!”—The whole senators applauded, and quitting the temple, announced to the people the mandate they had received from heaven. The multitude concurred in acknowledging its sanctity; the operation of re-building was no longer opposed; in the course of one year the inhabitants were again provided with houses, and, like the fabled phenix, the city arose from its ashes.

Before Rome had yet recovered from her recent disasters, the neighbouring states, who had so often experienced the superiority of her arms, conspired to accomplish her destruction. The Tuscans, the Equi, the Volscians, in concert with the Latins and the Hernici (her late allies) joined in a general confederacy against her, and invaded her territories.

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The military tribunes marched out against them; but their army was unable to cope with such numerous enemies, and they were obliged to take post on a hill in the neighbourhood of Rome, where they were cut off from supplies of every kind. Under these difficulties the Romans had recourse to the genius and abilities of their late deliverer, and named Camillus, for the third time, dictator. His prudent and decisive measures turned the fortune of war against the enemies of Rome, over whom he successively triumphed, and raised the reputation of his country to its former pre-eminence and splendor.

The respect and admiration which Camillus so justly acquired, kindled envy in the aspiring mind of M. Manlius Capitolinus, who thought his services neglected, while those of Camillus were so much the subject of praise. He remarked, that Camillus could never have been the restorer of Rome, if by his hand the capitol had not been saved; and as he could not hope to eclipse Camillus in the estimation of his fellow-senators and patricians, he determined to rest his expectations and hopes upon the favour of the populace. To ingratiate himself with them, he renewed their claim to the agrarian law, and set forth their additional pretensions to exemption from the debts they had contracted by rebuilding their houses. His compassion, or the affectation of it, induced him to sell his own lands, that he might relieve the poorer citizens, and save them from the oppressions of their
creditors,

creditors, out of whose hands he even used compulsory means to remove them. The consequence was, that the destitute, the idle, and the dissolute, attached themselves to him, and he endeavoured to inflame the rest of the people, by railing against the senators and patricians. The senate took alarm at these proceedings, and had recourse to the nomination of a dictator, under the pretence of a war with the Volscians. A. Cornelius Cossus was raised to this dignity. He took the field, and defeated the enemy; but the increased disturbances in the city occasioned his recall; and upon his return he first advised with the senate; and then proceeded, attended by them and most of the *patricians*, to the forum, where he summoned Manlius to appear before his tribunal. Manlius came attended by such a crowd of followers as seemed to enable him to dispute the authority of his judge. The dictator required him to make good the accusations with which he had aspersed the characters of several senators respecting Gaulish gold and plunder, and to name the persons whom he accused, otherwise to be conducted to prison as a calumniator. He refused to comply with this requisition. The lictors were ordered to seize his person; and the populace did not interfere, notwithstanding he called upon them for assistance. He was conveyed to prison. Cornelius having triumphed for his victory, resigned the dictatorship.

The populace shewed their sympathy for Manlius by assuming the habit of mourning, a custom
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tom reserved for the greatest public calamities. They extolled his services and his benefactions, and rendered the senate apprehensive for the consequences of their attachment; under the dread of which Manlius was liberated. This was regarded by him as a triumph; and he now thought he had only to prosecute his popular measures to become the sovereign of his country. Not satisfied with justifying the claims of the people to an equal division of the public lands, he advanced the preposterous doctrine, that, in a republic, all property ought to be equally divided; and in order to attain these objects, he suggested to the people, that they ought to chuse a chief who would level all other distinctions, by becoming at once the superior of the *patricians* as well as of the *plebeians*; assuring them, that if their choice should fall upon him, his conduct would manifest, that he only wished for authority to render them rich and happy. Such are said to have been the schemes and machinations which were agitated among the crowds that frequented his house upon the capitol, where none of his brothers or kindred were ever seen or consulted. Like Cassius, he was blinded by ambition, and overlooked the dangers that beset him, until he found himself involved in destruction.

The senate passed the authoritative edict—"that the military tribunes (then the chief magistrates) should take care the republic sustained no injury."—But this was not the only quarter from whence Manlius had cause to apprehend danger.

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Whoever attempted by popular means to attain authority in the state, without making the tribunes of the people his coadjutors or agents, could only succeed by supplanting their popularity and influence, and of course must excite their jealousy and enmity. When the senate were deliberating upon the means by which they should proceed against Manlius, M. Menenius and Q. Publilius, two of the tribunes of the people, proposed that he should be arraigned before an assembly of the people, for conspiring against the liberty of his country, and offered to be his prosecutors, and to make good the accusations against him. The senate gladly accepted the proposal; and on the day of his trial Manlius appeared attired as a culprit, unsupported and uncounseled by any of his kindred. To the accusations of the tribunes he only opposed an enumeration of his past services, and pathetically drew the attention of the people to the capitol, which was in their view. The tribunes perceiving how much they were affected by this circumstance, took occasion to adjourn the trial to another day, and to a place where this interesting object could not be seen. In this situation they had no difficulty to establish his guilt; and by the votes of the centuries he was condemned, like Cassius, to be thrown from the top of the Tarpeian Rock; which sentence was executed upon him. His house was ordered to be rased, and an interdict was passed, prohibiting any *patrician* from ever again possessing a house in the capitol. The con-

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demnation

demnation of Manlius happened in the hundred and twenty-sixth year of the republic.

The views of Manlius were founded on the support of the class of *persons*, wholly detached from property. In the speech which is attributed to him by Livy *, he reckons upon their numbers, and urges them to confide in their own strength, under the conduct and direction of him, whose zeal for their interest had been so frequently manifested. But his levelling system, by the proposed division of lands, and extinction of debts, produced a complete combination of the class of *property* (whether of the order of *patricians* or *plebeians*) against him; to which was added the whole influence of the tribunitian college, whose envy and jealousy he had excited. No wonder then, that when he came to be tried by the *comitia centuriata*, where *property* had so completely the ascendancy, he was convicted and condemned, without compunction or remorse, notwithstanding of his merit in having preserved the commonwealth, by saving the capitol, upon which, it is evident, he had placed much confidence and reliance.

The death of Manlius was followed by grievous lamentations for his fate. The services he had recently rendered to the state and to individuals were notorious. The crime for which he had suffered was unaccomplished and problematical; and in such circumstances it is natural for compassion to

* L. VI. c. 18.

succeed

succeed the sacrifice which justice, or state necessity, required. But the great body of the indigent populace might, in respect to Manlius, be actuated with the same feelings both before and after his condemnation and execution; for, although in point of numbers they were probably equal to all the rest of the inhabitants of Rome, they could only vote as one century, and their voice was, therefore, as nothing in the decision of his fate. This circumstance appears to have escaped the attention of historians, when they remark the sudden change of sentiments in the people after the death of Manlius. I must, however, repeat the observation, which strikes me forcibly, that, upon this occasion, as upon every former one where an individual attempted, by means of popularity, to seize the reins of government, the senate and the *patricians* were indebted to the influence of the tribunes of the people for the preservation of the republican form of government.

The following year a pestilence, which afflicted Rome, was imputed, by the superstition of the vulgar, to the resentment of Jupiter for the condemnation and execution of Manlius, who had defended the capitol, which was the sanctuary of the gods! A succession of wars with the neighbouring states gave full employment to the Roman arms for nearly six years afterwards, interrupting the rival contentions between the different orders of the state. The return of peace, says the French historian, occasioned new dissensions; as if the

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destiny

destiny of Rome had rendered it incapable of preserving, at the same time, internal and external tranquillity (*y*). The truth is, that internal tranquillity was altogether incompatible with the genius and constitution of the Roman republic, composed of the hostile classes of *property* and *persons*, without any controuling power to regulate or restrain them; and as the class of *persons* was now in the progress of recovering the usurped dominion, which the class of *property* had formerly assumed, and, perhaps, in its turn, of encroaching upon the proper rights and privileges of the other, the class of *property* embroiled the state perpetually in war, as the only means of suspending the attacks of their domestic enemies and rivals; and this perpetual state of foreign hostility brought the Romans to excel in the arts of war and policy, which in progress of time produced victories and conquests, and in the end, universal empire. This exalted superiority and celebrity of the Roman government has rendered it the admiration of after-times, as the greatest, the wisest, and the most happy of all human institutions! but in my view of the subject, not the perfection, but the defects of its internal constitution, produced all these wonderful consequences.

(*y*) "De nouvelles guerres qui s'allumerent successivement contre les Volques, les Circèiens, & les Prenestins, et qui durent près de six ans, étoufferent ces bruits populaires. La paix fit renaître de nouvelles dissensions, comme si ç'eût été la destinée de Rome de ne pouvoir conserver en même temps la tranquillité au dedans et au dehors de l'état." Vertot, l.vii.

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By the prosecution of wars attended with success, many *plebeians* now became distinguished and enriched; which, by adding to the numbers of that order, who considered themselves as entitled to the higher offices of the state, rendered the artificial division of the community, into *patricians* and *plebeians*, more and more at variance with the natural one, into *property* and *persons*; and the latter, therefore, pressed forward for that ascendancy which nature always assumes over art. In this part of the Roman history there appears to be some perplexity: the poorer citizens are represented as labouring under great difficulties from debts they had contracted by rebuilding their houses, and from the usurious practices and oppressive severities exercised by their creditors. As wealth was not at this time confined to *patricians*, I suspect that rich *plebeians* were equally disposed with the *patricians* to enforce the severity of the laws against their debtors; and that, in this instance, it was not the oppression of *patricians* over *plebeians*, but of the class of *property* in general (whether *patricians* or *plebeians*) over the class of *persons*, that constituted the sufferings of the poorer citizens. By attempting, or pretending, to relieve these sufferings, Manlius aspired at popularity, and thereby excited the detestation of the rich *plebeians*, as well as of the *patricians*, which, with the jealousy of the popular tribunes, accomplished his destruction. The fate of Manlius deterred others from interfering between debtors and their creditors; and the unrepealed laws in support of usury, which had

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been

been established by the influence of *property*, at the first institution of the republic, were now exercised without remorse or controul.

This union of the interests of the rich *plebeians* and the *patricians* (forming the class of *property*), in opposition to the inferior *plebeians*, or the class of *persons*, divested the latter of that adventitious aid from property, which the views of individuals generally brought to their support, and overbore them with the whole combined force of *property* acting against them. Under these circumstances the people were reduced to that state of depression, which is mentioned by Livy* ; and the reason that the higher offices of the state were at this time conferred solely upon *patricians*, and that *plebeians* did not even offer themselves as candidates for them, appears to me to be another effect of this union of the interests and views of the class of *property*, which brought their suffrages to be decisive in every election ; whereas, when a rich *plebeian* offered himself as a candidate for a high office (and such only could have pretensions) his expectations of success were principally founded on the support of his own order, which was acquired by popularity ; but a rigorous creditor could have no claim to this character, and would therefore chuse to decline so vain a competition (z).

* L. v. ch. 34 and 35.

(z) The conjecture I have hazarded on these subjects seems corroborated by the last mentioned circumstance, which appears defectively explained by the Roman historian. L. vi.

About the hundred and thirty-third year of the republic, an extraordinary effort was set on foot to break through that restraint which had hitherto prevented *plebeians* from holding the consular appointment, and which, in the end, proved successful ; and this effort is said to have been produced by the envy of one sister at the more dignified situation of another : these were the daughters of M. Fabius Ambustus, an eminent and much-respected *patrician* ; the younger of whom was married to a rich *plebeian*, named L. Licinius Stolo ; whereas her elder sister was the wife of Ser. Sulpicius, a *patrician*, who was at this time one of the military tribunes. The respect which the younger beheld the elder to enjoy from the dignified situation of her husband, affected her so much, and such, it seems, was her influence over her father and her husband, that, for her gratification, they are said to have undertaken to make the office of consul accessible to *plebeians*. The story is not altogether consistent ; for the office of military tribune, which was the alleged object of her envy, was at this time attainable to *plebeians* as well as *patricians*, and at the distance only of three or four years back an equal number from each order was appointed, namely P. and C. Manlii, and L. Julius, *patricians* ; and C. Sextilius, M. Albinus, and L. Antistius, *plebeians*. Of this nomination, it may be further remarked, that, according to Livy, the *plebeians* acquitted themselves, at least, with less cause for reproach than their *patrician* colleagues ; but however that matter may be, it

appears that the *patrician*, M. Fabius Ambustus, joined his son-in-law, L. Licinius Stolo, and another distinguished *plebeian*, L. Sextius, in a plan for entitling *plebeians* to hold the office of consul.

Fabius Ambustus was the same person formerly mentioned as the father of the three Fabii, who were the ambassadors sent to the Gaulish army before Clusium, and who involved their country in the ruinous war with that barbarous people*. Immediately on the re-establishment of the city, Q. Fabius was prosecuted before the people, by one of their tribunes, for his misconduct on that occasion; and the senate refusing to interfere in his behalf, a voluntary death prevented the apprehended consequences of the trial. Probably repentment for the fate of that son might now determine the conduct of Fabius Ambustus. Licinius and Sextius, by the addition of his influence, found little difficulty in being chosen tribunes of the people, for whose interest they assumed the pretence of great zeal. A law was framed by them for the attainment of their own favourite object; but that it might be seconded by their constituents (the class of *persons*) who felt themselves little concerned in the attainment of the consulship, two other laws were conjoined with it, which directly applied to their grievances and expectations; the first of these was intended to regulate the payment of debts, enacting that all usurious exactions

* See page 313.

should

should be deducted from the principal of the debt, and that the balance should be payable by three equal payments, in the course of three years; the second law respected landed property, and limited every citizen to the possession of five hundred jugera (A). The third law, which was the immediate object of Licinius and Sextius, abolished the office of military tribune altogether, and restored the appointment of consul, enjoining one to be always chosen from the order of *patricians*, and the other, as invariably, from the order of *plebeians**.

The commotion occasioned by these propositions was violent in the extreme; the passions of men were agitated, as their different interests were affected; and history remarks, that on this occasion there were deserters from the party of the *patricians* to that of the *plebeians*, and from the *plebeians* to the *patricians* (B). The touch-stone here was property! and, without regarding artificial distinctions, individuals now arranged them-

(A) Reckoned about three hundred acres by Dr. Ferguson. Hist. of the Roman Republic, vol. 1. page 61.

* Liv. l. vi. c. 35.

(B) " Tout le corps des patriciens s'éleva contre ces propositions; le peuple de son côté soutint les tribuns avec chaleur; il y eut même des transfuges dans les deux partis; le riche plebeien devenu contraire aux intérêts de son ordre par ses acquisitions, craignoit qu'on ne lui enlevât une partie de son bien; et le patricien qui ne se trouvoit de fonds de terre que la quantité prescrite par la loi, l'approuvoit dans la vûe de se rendre agreable au peuple, et de parvenir par sa faveur aux premieres dignitez de la republique." Vertot, Hist. l. vii.

selves

elves with the class of *property* or *persons*, as their immediate interests prompted. The great majority of the senate, with the generality of the *patricians*, and the richest of the *plebeians*, were against the proposed laws; these formed the class of *property*; but the class of *persons* became strengthened by the junction of some of the *patricians*, and all the *plebeians*, whose property would not be affected by the restraining law. The wish is natural of retaining what we possess; it is almost as natural to desire the reduction of that superiority in others which excites our envy!

Under these circumstances it was obvious that the *comitia tributa*, the legislature congenial to the tribunes of the people, and where the class of *persons* had a decided ascendancy, must confirm these popular laws, and therefore that the senate had no means of preventing them, but by the negating voice of some of the tribunes of the people. To this expedient they had recourse; and on such an occasion their success is not to be wondered at; but the transaction was conducted with so much address, that the propounders of the laws were unsuspecting of the intention, until by a *veto* from their colleagues the proposed laws were prohibited to be laid before the people. Sextius acquiesced in the legality of this obstruction; but alleged that these tribunes had been influenced by the senate to betray the interests of their constituents; he therefore declared, that he would follow this example of exercising his negative, and shew

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the conscript fathers the full effect of the *veto* of a tribune. Accordingly, when the time arrived for choosing military tribunes, Sextius and Licinius, by their *veto*, interdicted the election. The following year, being continued tribunes of the people, they exercised the same privilege with the same effect; and in this manner, for five successive years, they not only prevented the election of military tribunes, but of every other curule magistrate. In all this time no foreign war occurred, and the community subsisted without any offensive executive power (c).

At last the hostilities of the petty colony of Velitrae, which made incursions on the Roman territory, and dared to lay siege to Tusculum, the approved and confederated ally of Rome, made the measure of arms necessary and even popular, and

(c) I beg the attention of the reader to the following reflections upon this occurrence, in Doctor Ferguson's History of the Progress and Termination of the Roman Republic, vol. i. page 62.

“ An anarchy of five years ensued, during which time the
 “ republic, bereft of all its officers, had no magistracy besides
 “ the tribunes of the people, who were not legally vested
 “ with any degree of executive power. Any alarm from
 “ abroad must have suspended the contest at home, and forced
 “ the parties to a treaty; but they are said to have enjoyed, in
 “ this state of domestic trouble, uninterrupted peace with their
 “ neighbours, a circumstance from which we may infer, that
 “ in most of their wars they were themselves the aggressors,
 “ and owed this interval of peace to the vacancy of the con-
 “ sulate, and to their want of the prompters, by whom they
 “ were usually excited to quarrel with their neighbours.”

the

the two persevering tribunes found it expedient to withdraw their opposition to the appointment of curule magistrates. Military tribunes were elected; an army was set on foot; the enemy was beaten; the siege of Tusculum raised, and Velitræ, in its turn, besieged. The continuation of this siege rendering a new election of military tribunes necessary, Sextius and Licinius exerted their influence to get Fabius Ambustus chosen one of the number. His continuance in this elevated station enabled them to recommend their proposed laws with more effect, and enfeebled the opposition from the tribunes in the interest of the senate; but the decision of this important point was necessarily deferred until the army should return from Velitræ; before which time a new election of military tribunes took place. Sextius and Licinius, who were still tribunes of the people, now summoned the tribes to decide upon their laws, being either freed from the opposition of their colleagues, or determined to disregard it (D). In this extremity the

(D) According to Livy, there was still an opposition from some of the tribunes of the people to passing these laws, but the number who objected to them was reduced from eight to five, and Sextius and Licinius determined to carry through their laws, notwithstanding the negative of these tribunes; the object of the appointment of a dictator was therefore to prevent this illegal proceeding; and the purport of the speech, attributed by him to Camillus, is to this effect. L. vi. ch. 36. and 38.

The following is the statement of Vertot:—"En même tems que Sextius, par de pareils discours, fomentoit l'animosité
" des

the senate had recourse to the appointment of a dictator, and the great Camillus was once more named to this dignified station. The tribunes, unrestrained by this formidable measure, determined to proceed in establishing their laws, and the tribes being assembled, were actually in the process of giving their votes, when the dictator interposed to prevent them. Some time was spent in contentions between him and the tribunes; at last he threatened to issue an edict, or actually did publish it, for summoning the people to repair to the Campus Martius to take the military oath, and follow him to the field, which was not complied with (E). But the time being in this manner consumed, and the passing of the law thereby prevented, the principal object of the dictator was attained; he pretended some informality in the

" des plebeïens contre le senat; ses amis et ses partisans gagnèrent ses collègues qui leverent enfin leur opposition; Sextius debarassé de cet obstacle, convoca l'assemblée du peuple." Liv. vii.

(E) According to Vertot the edict or ordinance of the dictator was published.—"Le dictateur, pour gagner du temps, fit publier une ordonnance, par laquelle il étoit ordonné au peuple Romain de se trouver au Champs de Mars pour le suivre à la guerre."—But in Livy, he only threatened such a measure, which put the people in a fright. L. vi. c. 38.

The tribunes threatened to fine Camillus to the amount of 50,000 drachmas, if he did not revoke his edict, says Vertot. Livy makes them to have passed a law, by the authority of the people, that in case Camillus should on this occasion exercise any part of the dictatorial office, he should be fined to a certain amount.

ceremonial

ceremonial of his appointment, and resigned his charge.

The senate, thinking themselves unsafe at this juncture under any other form of government, had recourse to the appointment of another dictator, and Publius Manlius was nominated; but in the interim between the resignation of Camillus and the new dictator's entering upon the discharge of his official duty, Sextius and Licinius assembled the people to decide upon the merits of their proposed laws, when those which regarded usury, and the distribution of lands above the restricted quantity, were highly approved of; but that which ordained the election of one of the consuls from the order of the *plebeians* was rejected. This produced much mortification and disappointment to the tribunes, who expressed the highest indignation at what they termed the ingratitude of the people, who could not be brought to take an interest, in opposition to long established prejudices, where they expected to reap no particular benefit or advantage. These circumstances clearly point out the natural distinction which property had introduced among the individuals composing the order of *plebeians*, now become a forced combination of the two discordant classes of *property* and *persons*, which had, each of them, its separate and opposite views and interests.

The new dictator offended the senate greatly by naming a *plebeian* for his master of the horse; an

innovation which indicated a very different disposition from what was supposed to have recommended him to the dignified office he filled. His apology was, that this *plebeian*, in some degree, was ennobled, by having exercised the appointment of military tribune; and that he was a relative of his own. In the mean time Sextius and Licinius, upon this discovery of the dispositions of the people, adopted a new plan of conduct for accomplishing their favourite purpose; they seemed highly to resent the behaviour of their constituents; and renouncing all intentions of interesting themselves further in their behalf, refused to accept the tribunician appointment; from which determination, however, they suffered themselves, by entreaty, to be prevailed upon to recede, and they were chosen tribunes of the people for the tenth time in succession. They had observed, that prejudice and superstition formed the most powerful engines their opponents employed against them, resting upon the supposed defects of the *plebeian* character, which excluded them from religious transactions and ceremonies. To this object they bent their attention, and laying aside for the present all views to the establishment of the contested laws, they only required a law might be passed, appointing, in place of duumvirs, decemvirs to be chosen for inspecting the sacred rites, and that these officers should be named equally from the *patricians* and the *plebeians*. As this proposition did not affect temporal interests, and its intended influence was not generally obvious, possibly too

in consideration of the abandonment of the more exceptionable laws, it was adopted without much difficulty; and the tribunes, seemingly contented with so moderate a boon, gave no further opposition to the appointment of military tribunes.

The attention of the Romans was at this time suddenly called off from their internal contests, by the alarming intelligence that an army of Gauls was on its march, a second time to attempt the destruction of Rome. Immediately every breast was filled with apprehension, and every eye was turned upon Camillus, who, for the fifth time, was named dictator. He conducted an army, with his usual discernment and capacity, to meet the invaders, whom he completely defeated; but on his return to the city he found himself unequal to the task of subduing the imperious and determined spirits of Sextius and Licinius, who summoned an assembly of the people to decide upon their favourite law, and without any previous discussion of the subject, they began immediately to collect the votes of the tribes. The dictator, attended by the senate, interposed to prevent these proceedings, upon which the tribunes ordered a lictor to seize and conduct him to prison. The *patricians* drove off the lictor, and arranged themselves in support of the sovereign magistrate, in opposition to the people, headed by their tribunes. All was tumult and disorder, and the dispute was about to terminate in violence, when the dictator requested that the tribunes would for a short time suspend

suspend their animosity, until he consulted with the senate, whom he assembled in an adjoining temple. The result of this consultation was, that finding it in vain to attempt longer to exclude *plebeians* from the consulate, the necessary sacrifice should be made upon the best terms possible; and, as they could not preserve the whole, they ought to endeavour to appropriate a part of the consular power exclusively to the *patricians*. The consuls being necessarily absent from the city when armies were in the field, it was impossible for them at all times to exercise their juridical functions. The creation of a curule magistrate, who should rank next to the consuls, for exercising this important part of the consular duty, seemed to be called for; and this appeared a fit occasion to make the proposal; when, in return for the concession which was about to be yielded to the *plebeian* order, they might require that a pretor, or supreme judge, should be appointed exclusively from the order of *patricians*. These terms were proposed, and agreed to by the tribunes on the part of the people. At the same time another office was established, exclusively, to *patricians*, which seemed only a balance to what the *plebeians* already held; and the proposition appeared to originate in the motive of giving relief to these last officers from the multiplicity of burdensome duties they had to discharge*; this was the appointment of curule ediles. These

* Liv. l. vi. ch. 42.

important institutions were made in the hundred and forty-fifth year of the republic, when P. Sextius, the late tribune of the people, who had the principal merit of establishing the appointment, was chosen the first *plebeian* consul, and Sp. Furius, son of the dictator, was appointed the first pretor.

There is some difference in the statement of authors respecting the enactment of the three original laws proposed by P. Sextius and C. Licinius Stolo, which were certainly at first intended to be passed at the same time. The laws which respected debts, and the limitation of landed property, being meant as a temptation to induce the body of the people (the class of *persons*) to interest themselves in the third law, the object of which was, the attainment of the consular office to the superior *plebeians*, who were, in fact, a portion of the class of *property*. I understand from Livy, either that the two first of these laws were passed, when approved of by the people, at that assembly which was called, after the resignation of Camillus, and before Manlius began to officiate as dictator, but which rejected the law for the appointment of a *plebeian* consul, or that all three laws were passed, at the same time, by the last assembly of the people, which acted in opposition to the authority of Camillus the dictator, whom the tribunes would have imprisoned, and whom they reduced to the necessity of yielding conditionally to the ordinance

or

or ordinances they had established (F). However this may have been, Licinius was afterwards condemned, by his own law, to a fine of ten thousand asses, and to lose the half of his land, which was distributed to the poorer citizens, in terms of the institution, for having been found possessed of double the restricted quantity, under the pretence that half of it appertained to his son, whom he had emancipated for the purpose of covering this fraud. The law in this instance was rigorously applied, because this was the first detected infringement of it, and also because the framer of it was the culprit, to whom many would owe a spite for having instituted so incommodious a regulation. It was not long when much more pal-

(F) "While the *patricians* continued to reject this proposal, on account of the effect it was likely to have on their pretensions in general, they gave way successively, and at the interval of some years, first, to the acts that were devised in favour of insolvent debtors; next to the agrarian law, or limitation of property in land; and last of all, to the new establishment relating to the priesthood, and to the communication of the consulate itself to persons of *plebeian* rank." Ferguson's Hist. vol. i. p. 63.

"Enfin après l'établissement des consuls, du préteur, & des édiles curules, la loi qui concernoit les terres publiques fut reçue, comme le seul moyen d'appaiser la multitude, & de rétablir l'union dans l'état. Vertot. l. vii.

Neither of these authors quote authorities for these opposite statements.

Hook, in his Roman History, makes all the three laws to have been passed at the same time.

"After warm debates in the senate about the measures proper to be taken, it was at length resolved to comply with the people's desires, and to accept the three laws in question, as the only means to extinguish their obstinate fury." V. i. b. iii. ch. iv. page 434.

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pable breaches of it were overlooked, and the influx and influence of wealth, which the extended acquisitions of the republic produced, brought it into total disregard.

The internal tranquillity that followed these attainments of the *plebeians* was rather a consequence of the succession of foreign wars, which the hostile policy of the Romans, from the imperfection of their government, produced, than any stable improvement allaying the dissensions inseparable from an unbalanced and unharmonized society, composed of domineering *property*, and the unreasonable, unregulated multitude, which formed the class of *persons*. These perpetually-contending divisions, which naturally exist in every civilized community, monarchical authority, under legal restraint, is alone competent to controul. In the Roman republic, all grants, all acquisitions, to either side, but increased their natural propensity to assume and aspire at more. When the consulate was acquired by the *plebeians*, which conferred upon them dignity and command, their tribunes discovered that the *patricians* still appropriated to themselves all juridical authority, which ought likewise to be equally divided; and the field was as open to contention as ever. Consequent struggles could only be prevented by putting arms into the hands of the multitude; permitting them occasionally to taste the sweets of plunder, and feeding their national vanity with the achievements of military fame. This was a perpetually-

perpetually-operating cause, which, in the end, produced its effect. The Romans, for ever fighting, became more expert than other nations, both in the theory and practice of war. Hence their political wisdom, which consisted in making dupes of less experienced nations, and their heroic exertions, which have been so enthusiastically admired!

At first, from motives of jealousy, the senate avoided entering upon any hostile enterprize, lest the *plebeian* consul should acquire honour and renown; but when the tribunes began to set on foot new claims and pretensions, they were glad to resort, as formerly, to arms. A pestilence gave them some respite, which, among its extensive ravages, terminated the glorious career of the life of Camillus. The superstitious means employed in the view of counteracting or affuaging this calamity occupied the attention of the Romans for some years; and upon this occasion were first introduced among them the rudiments of dramatic entertainments*. A war with the Hernici, in the consulate of L. Genucius and Q. Servilius Ahala, was the first in which a *plebeian* consul commanded in the field. The eagerness of Genucius to engage the enemy led him into an ambuscade, where he perished. This occasioned much triumph to the *patricians*, who inferred from it the interposition of the gods to avenge the sacrilegious appointment of *plebeian*

* Liv. l. vii. ch. ii.

consuls. A dictator was named, and a bloody battle gave victory to the Romans. Next year an army of Gauls gave occasion to the nomination of another dictator, and produced particular distinction to T. Manlius, who, from the trophy of his prowess, acquired the surname of Torquatus. The Gauls were obliged to retire. Every succeeding year was fertile in wars, and gave constant employment to the Roman arms, producing triumphs to their generals, whether consuls or dictators. In the consulate of C. Marcius and Cn. Manlius, a law was instituted by the tribunes Duilius and Mænius, notwithstanding the opposition of the *patricians*, which reduced the legal interest of money to one per cent monthly (g). Cn. Manlius introduced an extraordinary innovation, by passing a law in his camp for levying a tax on the emancipation of slaves, which was confirmed by the senate; but the tribunes of the people, to prevent such a proceeding in future, instituted a law, which made it capital for any person to summon assemblies of the people at a distance from Rome †.

In the succeeding consulate of M. Fabius Ambustus and M. Popilius Lænas, the *plebeians* at-

(g) *Fenus unciarium vel unciæ usuræ* held to be the same with *usura centesima*, where one *as* was paid monthly for the use of a hundred; which was at the rate of 12 per cent, per annum. Adams's Roman Antiquities, p. 509.

† Liv. l. vii. 16.

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tained a new honour, by the nomination of a dictator from their order. C. Martius Rutilus was advanced to this dignity; and he named a *plebeian* for his master of the horse. The *patricians* felt great indignation at these appointments, and endeavoured to impede the necessary preparations for the war, which had the effect of animating the *plebeians* to expedite them. The dictator was soon capacitated to act against the enemy, whom, by a tract of prudent and spirited conduct, he completely defeated, taking eight thousand prisoners, and, by an ordinance of the people, without the concurrence of the senate, he obtained a triumph. These mortifications seem to have roused the *patricians* to an extraordinary exertion of their influence. To prevent a *plebeian* dictator or a *plebeian* consul from holding the comitia for the election of consuls, they suffered an interregnum to take place, and then obtained the election of two *patricians*, C. Sulpicius Peticus and M. Valerius Publicula, to be consuls. The tribunes protested against this election, as a breach of the late regulation for the appointment of *plebeian* consuls; but the interrex observed, that a law of the twelve tables enjoined the last decree of the people to be in force—"and (said he) the present appointment is "certainly the last decree of the people;" the election was therefore held valid, which happened, says Livy, four hundred years after the building of the city, thirty-five after its recovery from the Gauls, and eleven since the first appointment of

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plebeian

plebeian consuls *, being the hundred and seventy-sixth year of the republic.

The next election of consuls produced another struggle, in which the *patricians* were again successful, by having two of their order chosen. The hostilities of this year occasioned a dictator to be named, T. Manlius was advanced to that dignity. When the election of consuls came on, a violent dispute took place between him and the tribunes of the people, who insisted upon proceeding in terms of the Licinian law; but the dictator would admit only of *patrician* consuls. The election was suspended, and an interregnum took place. The office of inter-*rex* was eleven times changed before the election was accomplished, when the tribunes carried their point, by the admission of a *plebeian*: P. Valerius Publicula and C. Marcius Rutilus were chosen consuls. For the relief of debtors, they concurred in appointing public bankers to apply money from the treasury to the aid of individuals; and by taking the most lenient mode of security for the public, were the means of removing much private distress. The occurrences of this year occasioned the appointment of another dictator, when the same dispute recurred on the subject of choosing consuls. The people (who were never so zealous on this head as their tribunes) were disposed, from the late favour they had received, to make some concession to the senate.

A pause to hostilities occurring, a census was deemed necessary, which the late changes in the

* Liv. l. vii. ch. 19.

possession

possession of property suggested. An election of censors therefore impended, and C. Martius Rutilus, the only *plebeian* who had ever been a dictator, offered himself as a candidate for this dignified appointment. The indignation of the *patricians* was highly excited by such unparalleled presumption, which, nevertheless, was attended with success, and Manlius Cnæus, a patrician, was chosen for his colleague. The consular election next became a subject of dispute; but it also terminated in favour of the *plebeians*. M. Popillius Lænas and L. Cornelius Scipio were chosen. An army of Gauls called forth the Romans to the field, and, Scipio being sick, the *plebeian* consul had the honour of defeating the barbarians. He had been wounded in the battle, which afforded a pretence for naming a dictator to hold the comitia to elect new consuls. L. Furius Camillus, in this dignified station, acquired great credit with the senate, by procuring the choice to fall upon *patricians*. He was himself appointed, with Appius Claudius. The death of Appius gave him the chief command of the army against the Gauls, whom he defeated. Upon this occasion M. Valerius acquired renown, and the surname of Corvus, by killing a Gaul who had challenged the Romans to produce a champion that would fight him. Camillus named a dictator to hold the comitia for electing new consuls, and Valerius Corvus was, in his absence, chosen along with a *plebeian* colleague.

Soon after these events peace is said to have been restored to the Romans, and the armies were discharged:

charged: at the same time it is observed that a plague was prevalent. It should seem that only pestilence or war could establish internal quiet in Rome! In the consulate of T. Manlius Torquatus and C. Plautius, the legal interest of money was further reduced from one to a half per cent monthly, which was equivalent to six per cent. per annum, and debtors were allowed to discharge their debts within three years, by paying one fourth part immediately, and a fourth at each of the succeeding years*. This happened in the hundred and sixty-fourth year of the republic (H). Under the same consuls foreign hostilities were recommenced, and in a few years all the states in the immediate neighbourhood of Rome were rendered completely subservient to her, either in the quality of dependants or allies.

At this period of the history the following reflections occur. The artificial division of the community into *patricians* and *plebeians*, which, at the commencement of the republic, corresponded with the natural one of *property* and *persons*, was now in a great measure done away. At first the

* Liv. l. vii. ch. 27.

(H) This seems to be precisely, or nearly, the terms of the law for the discharge of debts, which was proposed by Sextius and Licinius [see page 328]. Are we from hence to suppose that such a law did not pass till now, or that, at this time, it was only enforced or renewed? If the former, the people were made the dupes of these tribunes, who, when they had attained their own object (the consulate) paid no more attention to the grievances of the people.

patricians,

patricians, who were also the class of *property*, possessed, exclusively, all the powers of the state, legislative as well as executive, and carried their oppressions of the class of *persons* to such a height, that a crisis was produced, which, in place of terminating in a despotism (the usual effect of such a cause) occasioned the appointment of *plebeian* magistrates or leaders, to combine and direct the force and influence of this division of the society against their natural rivals and oppressors, the class of *property*. By degrees wealth came into the possession of individuals, who, under the common designation of *plebeians*, were associated with the class of *persons*, and a double effect was from hence produced. This portion of property being excluded from its natural situation in the society, was obliged to act in aid of the class of *persons*, by whose means its claims might be attained; and the influence of the class of *persons* was hereby greatly augmented. The double operation of these combined causes, in process of time, levelled all distinction between the orders of *patricians* and *plebeians*, who now shared alike all the offices of the state. They were equally eligible to the consulate: a *plebeian* had been named dictator, and chosen censor; the office of prætor came also to be filled by a *plebeian**; and the curule edileship was no longer exclusively possessed by *patricians* (1).

Even

* Liv. l. viii. ch. 18.

(1) "C'est ainsi que le peuple entra insensiblement en partage avec la noblesse, de tous les honneurs, & de toutes les dignitez de la republique. Il étoit déjà en possession de l'edilité

Even sacerdotal appointments were shared by *plebeians*, and, not long afterwards, were made common to both orders. By the same combined influence the class of *persons* had attained a legislature, where its tribunes presided, and its numbers were ascendant, the comitia by tribes, competent to enact laws that were binding upon the whole community, by means of which the oppressive statutes of the class of *property* were counteracted or rescinded, and laws were instituted to restrain its influence, and even to curtail its rights. At the same time (it is curious to remark) the comitia by centuries, where *property* had the ascendancy, continued to be assembled by the curule magistrates, for the institution of such laws as this portion of the society demanded; so that each of the classes (*property* and *persons*) had its distinct and separate legislature, which could enact laws binding upon its opponent, and which they exercised with hostile intentions against one another, like the batteries of modern armies.

As there was no regulating power in the Roman republic to restrain and balance these contending divisions of the society, the senate and the *patricians*, who at first usurped all authority, had no means of retaining their power but by interrupting

“ l’édilité curule, quoique les historiens ne marquent point le nom des deux premiers plebeïens qui en furent revêtus. “ Philon autre plebeïen parvint quelque tems après à la pre-
“ teur, &c.” Vertot, l. viii.

the

the measures of their opponents, which could only be done by engaging them continually in foreign hostilities; and this perpetual state of warfare made them more expert and more formidable in arms than their neighbours, whom by degrees they completely subdued. By this means territory and wealth were acquired to the state, individuals attained riches and renown, and the whole community was influenced by the animating enthusiasm of national distinction. These adventitious causes concurred with the original motive, which did not cease to operate, to engage the Romans subsequently in more distant military enterprises, and to extend the sphere of their political pursuits.

In the hundred and sixty-seventh year of the republic they first engaged in war with the Samnites, for the acquisition of Capua. This war produced a more formidable enemy than they had hitherto contended with, and carried their arms to a more remote distance from Rome. It continued, from first to last, for seventy-one years, with occasional interruptions, which were generally filled up with other wars; for while Rome had to contend with the Samnites, her nearer neighbours coalesced against her, and she had often to employ, at the same time, consular armies in different countries against different enemies, so that the consuls of the preceding year were frequently continued in command, under the name of proconsuls, while the present consuls, and even a dictator, might at the same time be employed, and each at the head of a distinct

tinct army. In general success attended their arms wherever they fought, and when an occasional disaster happened, it acted like a stimulus upon the pride and magnanimity of the nation.

Such constant and extensive exertion was, during its continuance, suppressive of internal discord; but any short intervals of peace that occurred were immediately productive of new claims among the two classes that divided the society. A truce with the Samnites gave the Romans leisure completely to humble and subdue the Latins and Campanians, a part of whose lands was distributed among the poorer citizens of Rome. At this short pause of hostilities three laws were instituted in favour of the *plebeians*: 1. That all decrees made by the people should be binding upon every order of the state (κ): 2. That the senate should previously ratify the edicts that were brought before the assemblies by centuries, which gave the people the ultimate decision: and, 3. That one of the censors should always be chosen from the *plebeians*. A short time afterwards, in the consulate of L. Furius Camillus and Junius Brutus Scæva, the liberty of the people was founded, or, in the words of the historian, "had a new beginning," (1) by the

(κ) This indicates, what was very likely to happen, a disregard of some popular ordinances to have taken place during the continuance of foreign hostilities, which made a repetition of this law in support of the *plebiscita*, or ordinances of the comitia by tribes, necessary.

(1) "Eo anno plebi Romanæ velut aliud initium libertatis factum est, quod ligari nexi desierunt." Liv. l. viii. c. 28.

enactment of a law which prohibited debtors to be adjudged to servitude for the payment of their debts. This emancipation is said to have originated in the abuses of an infamous usurer against C. Publilius, a youth, who was enslaved on account of the debts of his father. The atrocity of the case, and the severity of the treatment of the young man, attracted the sympathy of the people, who beset the senate for redress. A law in consequence was passed, which restricted creditors to the attachment of effects, and protected the persons of their debtors (1). Immediately all debtors in the custody of their creditors were released*.

After this, other wars broke out, and hostilities with the Samnites were again renewed, which involved other states, so that the whole strength of the Roman republic was brought into exertion for many years; but a short relaxation from hostilities, during the consulate of M. Valerius and Q. Apuleius Pansa, gave room for a claim on the part of the *plebeians*, which, Livy observes, engaged the principal men among them to take part in it: the truth is, the principal men were chiefly interested in the business, which the inferior *plebeians*,

(1) This was certainly a very important law in favour of the class of *persons*, obtained in an unusual way, by a grant of the senate. It seems to have been carried from the impression made by the atrocity of the particular case, and the urgency of the populace. It was soon afterwards neglected, which appears to have been the principal cause of the secession to Mount Janiculum.

* Liv. l. viii. c. 28.

or those constituting the class of *persons*, had little concern with, although they were induced by their tribunes to consider it as their own cause. A law was proposed for doubling the number of priests and augurs, the half of whom were to be chosen from the order of *plebeians*. This was violently contested, but in the end it was adopted. The same year a law passed for securing the privilege of appeals more effectually to the people*. A year or two afterwards, during the progress of the war which re-commenced with the Samnites and the Etrurians, in the consulate of Q. Fabius Maximus and P. Decius, the curule ediles impeached a great many citizens for possessing more than the legal allotment of land, none of whom were acquitted†; and on another occasion the same magistrate cited for trial before the people some usurers, whose effects were confiscated ‡.

The endless detail of battles and military exploits, which almost uninterruptedly fill so many pages, makes the Roman historian exclaim—
“What man would not be tired either with writing or reading the history of these tedious wars, which the Romans did not become weary of prosecuting!” § The following considerations may partly account for the perseverance they displayed. By prosecuting these wars, the senate and the class of *property* were secured against the claims and encroachments of the people, or the class of

* Liv. l. x. c. 9. † Ibid. l. x. c. 13. ‡ Ibid. l. x. c. 23.
§ Ibid. l. x. c. 31.

persons :

persons : the advantages of command and authority being now no longer confined to one order in the society, but open to all, the levies were therefore no more obstructed by the interference of the tribunes; and the people, besides sharing in the glory, being frequently rewarded by plunder and other casual emoluments, had an interest and a pride in the successes of the state. At this time it became common, upon granting a truce to a discomfited enemy, to stipulate for an advance of pay, provisions, and cloathing to the troops.

The emulation which in these wars took place between the *patrician* and *plebeian* generals was favourable to the display of heroic exertion and virtuous reserve; and never, at any period of the republic, did there appear more shining examples of public and private virtue (*m*). The character of L. Posthumus was a contrast to that of his contemporaries; he was insolent, overbearing, and proud. In his consulate he contested the authority of the senate, and disregarded their orders; he was, however, successful in his military operations against the Samnites; and when the term of his official

(*m*) This is the era of the republic alluded to in the Preface, when, by the removal of the restraints which artificial distinction had laid upon the *plebeians*, property was allowed to produce its natural effect upon society; when the two classes of *property* and *persons* were brought nearly to a level in the government; and when civilization and public and private virtue were in consequence in their highest state of perfection.

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appointment expired, upon being refused a triumph by the senate, he divided the whole of the booty he had taken among his troops, whom he disbanded, and afterwards he obtained a triumph by the authority of the people*; but upon being brought to trial for having employed two thousand of his soldiers to grub up a forest on his own estate, he was condemned, by the votes of the tribes, to a fine of two hundred thousand sesterces †.

In the fifty-fourth year from the first commencement of the war with the Samnites, which was the two hundred and twenty-first of the republic, that people was reduced to solicit peace, for the fourth time, from the Romans, which was granted. This partial respite from hostilities was presently productive of internal discord at Rome; the people became clamorous on the subject of their debts, and their clamours increased during two successive consulates, their claims or pretensions being opposed and thwarted by the whole weight and influence of their creditors. This was properly a dispute between the classes of *property* and *persons*, as, doubtless, among the opposing creditors were included many rich *plebeians* as well as *patricians*. The people considering themselves as aggrieved and oppressed, seceded to Mount Janiculus, on the opposite side of the river, as they had formerly done to Mount Sacer. The senate had recourse to the creation of a dictator, and Q. Hortensius was ap-

* Freinshiem's Suppl. to Livy, l. xi. c. 18. † *L.* 166; 115. 8*d.* pointed.

pointed. From the remedy which he successfully applied, and which was, to pass a law, *affirming the ordinances of the people to be binding upon all members of the state*, it would appear that the cause for this commotion was an infraction of the Publilian law for the liberation of debtors, so named from the person who was the cause of enacting it*. The people hereupon returned satisfied to their houses. After this success they are represented as having exercised their legislative powers indiscretely, by sanctioning improper laws, at the instigation of designing and ambitious men †; abuses to which such popular legislatures must ever be liable! From these internal dissensions the government was relieved by the re-commencement of foreign hostilities.

With the successful exertion of their arms, the views of the Romans extended. The city of Tarentum next attracted their attention: perhaps the indiscretion of that devoted people might draw upon them the just resentment of the Romans; it was but accelerating the fate that eventually awaited them; for the spreading conquests of Rome were unavoidably to envelope all Italy. This war brought Pyrrhus as an ally to the Tarentines, and the Samnites joined in the league; but the hardihood and perseverance of the Romans overcame all the enemies that opposed them: Pyrrhus was driven back to his native dominions; the Sam-

* See pages 350 and 351. † Freinshiem's Suppl. l. xi. c. 25. and 26.

nites were reduced to the last extremity; and Tarentum was taken, and disposed of at the will of the conquerors. So ended, after seventy-one years protraction, the war between the Romans and the Samnites, who were completely subdued; and all Italy soon became bound in allegiance (under the specious names of *friends* and *allies*) to the Roman state.

By these wonderful successes, and this expansion of power, the Roman name became known to the transmarine states and governments, and attracted their attention. After the expulsion of Pyrrhus from Italy, the Romans were not a little elated by an embassy, which they received from the sovereign of Egypt. The Carthaginians had for some years kept up with them the semblance of an amicable intercourse; but these proud masters of the ocean now, with jealousy, beheld the Romans in possession of a maritime city, which might entice them to the element they held in subjection, and carry their pursuits beyond it. In truth, the seeds of enmity were already sown between these rival republics, which were speedily to rise into a plentiful harvest of hostilities.

During the progress of this struggle for the empire of Italy, the Roman character appeared to much advantage, proceeding principally from the emulation which at this time existed between the *patricians* and *plebeians*, upon the recent advancement of the latter to the command of armies and the government of the state. As the two orders

became

became rivals for public esteem, which could only be attracted by public exertion and private moderation, acts of heroism and virtue were excited: hence the devotement of the Decii, and the splendid poverty of Fabius and Fabricius. But history is herself in error, and she misleads others, when she represents these men as only examples of the general character of Roman republicans. Even at this time, when there was an obligation to affect the semblance of virtue, because it had currency and influence, Fabius, Fabricius, and Curius Dentatus, are represented as singular characters. The same page that states the rejection of Pyrrhus's presents by Fabricius, informs us, that they were successfully distributed by Cineus among all the families of distinction at Rome (M). It is recorded, that Fabius, after enjoying the first offices of the state, died poor; that Fabricius lived in a cottage, despising proffered riches; and that Curius, when offered fifty jugera of land as a reward for his public services, would only accept of seven: but the same history, at the same period, mentions the conduct of Posthumius, who employed two thousand Roman soldiers to grub up the trees on his own es-

(M) This was the first time that Cineus visited Rome in quality of ambassador from Pyrrhus. When he went a second time, in the same capacity, after the battle of Asculum, and when the senate had set an example, by refusing the Roman prisoners sent by Pyrrhus but upon the footing of an exchange, all the Romans, both men and women, copied the conduct of Fabricius, and rejected the presents that were proffered them. Freinshiem's Suppl. l. xxiii. c. 31. and c. 46.

tate; and of P. Cornelius Rufinus, of whom Fabricius said, after having, on account of his abilities, contributed to appoint him to the consulate—"that he chose rather to be fleeced by a consul than sold by an enemy."—The same Rufinus was afterwards degraded from the rank of a senator, by the same Fabricius when censor, because he was found to possess ten pounds weight of silver plate for his table; but this circumstance must not lead to a false conclusion; it applies to the customs, not to the virtues of the age: a man may covet and acquire wealth improperly, although he do not lay it out on silver plate.

Eight years were employed by the Romans, after the termination of the war with the Samnites and Tarentines, in completely subduing and effectually establishing their empire over Italy, and in settling the solid advantages to be derived from their conquests, which might enable them to prosecute the system they had successfully adopted, at once so conducive to the internal quiet of their own government, and so gratifying to public and private ambition (N). The rigid manners, which the peculiar situation of the society, and the example of eminent individuals, had imposed, began gradually to relax. At an early period of the Samnite war,

(N) Three years after the termination of the war with the Samnites and Tarentines, silver was first used by the Romans as money, being coined into *denarii* and *quinarii*, equivalent to ten and five asses or pounds of brass; and *sesterces*, which were equal to two and a half asses of brass.

the curule ediles had prosecuted and convicted many citizens of a breach of the Licinian law for limiting the extent of property in land*, which showed the disposition at that time to infringe it. This was, in fact, an edict of the class of *persons* against the class of *property*, although it was at first obtained through the aid of the rich *plebeians*, whose motives involved other objects; and these being now attained, they followed naturally the bent of their own inclinations in wishing to rid themselves of this disagreeable restraint. In general the senators and the magistrates (whether *patricians* or *plebeians*) who were, notwithstanding what historians allege, very different men from Fabius, and Fabricius, and Curius, took advantage of the acquisitions of the public to enlarge their own private acquisitions; and in a short time individuals became possessed of estates resembling principalities, which they cultivated by numerous bands of slaves captured in war, to the expulsion of the industrious husbandman (o), so that the law of Licinius became virtually annulled.

I must beware of being seduced by warlike enterprises, the dazzling allurements of which seem

* See page 352.

(o) "Les grands par une collusion réciproque s'emparèrent d'une partie de ces terres. Leurs domaines devinrent insensiblement de petits états, qu'ils peuplèrent de ce nombre infini d'esclaves qu'ils avoient fait pendant une si long guerre, et les laboureurs originaires dépouillés de leurs terres, abandonnoient la campagne ou ils ne pouvoient plus subsister." Vertot, Hist. l. viii.

to have totally blinded some authors to the real objects of government, which, in place of internal regulation for the preservation of property and personal liberty, they have mistaken for successful aggression against other states, and the attainment of foreign dominion (p). The progress of the Roman arms, in their first extended war in Italy, has claimed my attention only to shew, that at every disengagement or relaxation from hostile pursuits, their intestine divisions recurred, which in some measure compelled their executive government (composed from the class of *property*) to have recourse to hostilities for employing a people, who were, from the unbalanced and unstable constitution of their republic, ungovernable and dissatisfied.

The progress and effects of the civil government of the Romans, not the splendid achievements of their arms, being the subject of my enquiries, the busy period of the first Punic war, from their first aggression upon Messina to their proud establishment of peace with the vanquished and humiliated Carthaginians which added such a range of increased dominion, and so much wealth, and power,

(p) "Yet under all these defects, as we have repeated occasion to observe, they enjoyed the most envied distinction of nations, continual prosperity, and an almost uninterrupted succession of statesmen and warriors, unequalled in the history of mankind." Ferguson's Hist. vol. i. p. 72.

and

and influence to Rome (q), presents but a blank in my investigations; because such a contest, so arduous on the part of the Romans, required the exertion of every nerve of their strength, and of course completely occupied the whole community, or the classes of *property* and *persons* extraneously, and left the internal government unaltered and undisturbed. In other words, foreign war produced (what nothing else could produce) domestic peace. The class of *property* (now formed in common of the *patricians* and the principal *plebeians*) contrived to interest even the class of *persons*, in prosecuting hostile enterprises, which, at the same time that they relieved themselves from internal contests, gratified their ambition, their love of fame, their lust of power, and their avarice.

I must not, however, pass without remark the singular instance of great poverty and great virtue, which was on this occasion advanced to command in the person of Regulus: his story is well known, and need not be repeated here; but the reflection

(q) The terms of this peace are thus stated by Dr. Ferguson:

That the Carthaginians should evacuate Sicily, and all the islands from thence to Africa.

That they should not for the future make war on Hiero, king of Syracuse, nor any of his allies:

That they should release all Roman captives without ransom:

And, within twenty years, pay to the Romans a sum of three thousand Euboic talents—about two hundred and seventy-nine thousand pounds. Hist. Progr. and Term. R. Republ. vol. i. p. 97.

tions

tions of writers upon it appear to me unsupported; they apply to the Romans in general what was peculiar to this great and exemplary character; as if every Roman in authority had at that time been a Regulus, which was by no means the case. One of the great advantages the Romans, as a warlike people, derived from their form of government was, that all their citizens were brought forward into action as soldiers; and the business of war being incessantly pursued, great military talents had always the opportunity of distinguishing themselves, and never failed to be advanced to their proper sphere of action, however they might be circumstanced as to poverty or riches: hence virtuous poverty was frequently at the head of armies; but to infer that every man who commanded an army was therefore in a state of frugal poverty, like Regulus, is surely a very false conclusion. The first war with Carthage, which commenced in the two hundred and forty-sixth year of the republic, and ended in the two hundred and sixty-eighth, employed the arms of the Romans for twenty-two years.

Foreign war being absolutely requisite to harmonize the two discordant classes which composed the Roman republic, on the termination of this contest with Carthage, they employed their legions against some of the Italian states, particularly the Ligurians, who had become refractory while their arms were otherwise engaged; they also advanced northward, and contended with the Gauls, situated on both sides of the Po, where they received a check, but

but were afterwards victorious. To the southward, their arms were employed in reducing the islands of Sardinia and Corsica, which by secret encouragement from Carthage were disposed to revolt as often as they were subdued. This occasioned some sparing with the Carthaginians, who were glad to purchase tranquillity until better prepared for action. But notwithstanding these foreign occupations, dissensions began to appear within the city. In the consulate of M. Æmilius Lepidus and M. Publius Malleolus, the tribune Flaminius proposed a law for dividing certain lands, taken from the Senones, among the people, contrary to the inclination of the senate, who did their utmost to oppose it: it was, indeed, at first prevented by the interposition of the father of the tribune, who dragged his son from the rostra; but it was soon afterwards revived, and carried in spite of the senate*.

The Romans next found a pretence for carrying their arms into Illyricum, the principal places of which they got into their possession; and from thence they opened a friendly intercourse with the Grecian states, whom they cajoled, and by whom they were treated with great respect. But the Gauls, who are said to have been offended by the Flamian law disposing of a portion of their lands, determined to save the Romans the trouble of employing their troops at a distance from Rome, by advancing in great force to invade the Roman territory. The rumour of this

* Frienshem's Suppl. l. xx. ch. 18. and 19.
invasion

invasion spread terror throughout Italy, and the Roman army was voluntarily reinforced by all the neighbouring states, notwithstanding which they were much indebted to chance for the victory, which, after a hard contested battle, they obtained. This happened in the consulate of L. Æmilius Papius and C. Atilius Regulus, the latter of whom was killed in the action. The Romans then retaliated, by invading the Gauls, which continued to give occupation to their legions, until they became again at variance with Carthage.

I have thought it necessary to shew how the interval between the first and second Punic war was unremittingly employed in hostilities by the Romans, which fostered their military spirit, and prevented internal discord from distracting their government. It is true that a remarkable occurrence happened in this time, which was the shutting of the temple of Janus (R); but it is equally true, that the seeming tranquillity which

(R) "Soon after the Romans had reconciled these new acquired subjects to their government, had quelled a revolt in Tuscany, and vanquished some cantons in Liguria, whom it is said they brought to submit as fast as the access to that country could be opened, they found themselves at peace with all the world, and in token of this memorable circumstance shut the gates of the temple of Janus, a ceremony which the continual succession of wars, from the reign of Numa to the present time, had prevented, during a period of four hundred and thirty years; a ceremony which, when performed, marked a situation as transient as it was strange and uncommon." Ferguson's Hist, vol. i. page

gave occasion to this ceremony did not pass the limit of a few months.

After a peace of twenty-three years between the Carthaginians and Romans, the second Punic war commenced with the siege of Seguntum in Spain, by Hanibal, in the two hundred and ninetieth year of the republic. All that I have to say on the subject of this memorable war, so fertile of great events, and so inviting to the pen of the historian, is to mark the period of its duration, which was seventeen years, in all which time the Roman constitution remained stationary, the contending classes of which it was composed being effectually restrained and curbed, in their mutual tendency to encroachment, by the iron rod of Mars. The battle of Zama terminated the war, in the three hundred and eighth year of the republic, upon conditions which were dictated by the conqueror (s).

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"(s) That Carthage should continue to hold in Africa all that she had possessed before the war, and be governed by her own laws and institutions:—That she should make immediate restitution of all Roman ships, or other effects, taken in violation of the late truce:—Should release or deliver up all captives, deserters, or fugitive slaves, taken or received during any part of the war:—Surrender the whole of her fleet, saving ten galleys of three tier of oars:—Deliver up all the elephants she then had in the stalls of the republic, and refrain from taming or breaking any more of these animals:—That she should not make war on any nation whatever, without consent of the Romans:—That she should indemnify Maffiniffa for all the losses he had sustained in

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As the Romans prosecuted every war till it terminated in success, they in the end attained an ample reward for all their toils and dangers; and past advantages induced them inflexibly to persevere in their pursuits; every individual too, being practised and experienced in the trade of war, was habituated to the vicissitudes which inseparably attend it; and hence they became collectively prepared to struggle with adversity, and to bear up against misfortunes. Nurtured in the school of Mars, they were taught to suffer defeat, as well as to attain victory! Such men were repeatedly beaten by Hanibal, but they never would be subdued. The final result of this alarming and eventful war, by adding so extensively to the wealth, the power, and the dominions of the Romans, proved a new incitement to their ambition, and urged them to prosecute their system of aggression, by extending their influence and multiplying their conquests.

Their success against the Carthaginians contributed greatly to increase their intercourse with other states and nations. King Philip of Macedon had aided Carthage, and his conduct in other respects afforded a pretence for war; his kingdom lay conveniently, in contact with Illyricum, and adjoining to the Grecian states, for opening a proper field to employ the Roman arms. Some reluct-

“ the late war:—And, to re-imburse the Romans, pay a sum of ten thousand talents [near a million sterling] at the rate of two hundred talents a year, for fifty years.” Ferguson’s Hist. vol. i. p. 167.

ance,

ance, however, to this measure was testified by the people, at the instigation of one of their tribunes, who accused the senate of systematically engaging them perpetually in war; but an artful speech from P. Sulpicius Galba, the consul, alarming their apprehensions, by imputing to Philip an intention, like Hanibal, to invade Italy, procured their assent, and the Macedonian war was in due form sanctioned by the constitutional determination of the people. During the prosecution of this war, hostilities became requisite likewise against the Gauls and in Spain; so that the legions and the arms of the republic had sufficient employment. Having in five years reduced Philip to a proper state of humiliation, acquired a complete ascendancy over the Grecian states, under the pretence of restoring their liberties, by protecting them against every other power but themselves; and having laid the foundation of a future war with Antiochus king of Syria, they concluded a peace with Philip, or rather, they dictated the conditions by which he might retain the name of king of Macedon, under their authority.

This peace made little difference in the occupation of their troops; it was found expedient to protect the Peloponesus, or more properly, to overawe it with an army, and to watch the motions of Antiochus. The northern provinces of Italy continued to demand exertion and defence against the Ligurians and the Gauls. “ Here (says a modern historian) and in Spain, during
“ the

“the recess of other wars, there was a continual service for the consuls and prætors, and a continual exercise to the legions*.” About five years after the ratification of peace with Philip, the Romans and Antiochus came to open hostilities, which carried their arms into Asia, where, in proportion to the numbers, the splendour, and the riches that abounded, they found the conquest easy, the unsubstantial Asiatic multitude yielding readily to the efforts of disciplined valour. The vanquished monarch was glad to submit to the terms which the Romans should dictate, who circumscribed his territory, and required a pecuniary compensation for the expences of the war (τ). In other respects the terms were calculated to recompense those allies who had testified, by their conduct, an entire resignation to the will of the Roman state. The Etolians were of an opposite description, having sided with Antiochus, and they were now obliged to purchase peace by the payment of five hundred talents (υ), and other conditions which the Roman policy dictated. King Philip, by his conduct on this occasion, recommended himself to the forbearance of the Roman state; his shackles were loosened, so that he was permitted to fill his treasury, and to increase and discipline his army.

* Dr. Ferguson's Hist. vol. i. p. 186.

(τ) Five thousand talents, which was about 160,000l.

(υ) “If they chose to make these payments in gold, rather than silver, the proportion should be one of gold to ten of silver.” Ferguson's Hist. vol. i. p. 202.

These

These measures of the Macedonian monarch paved the way for the resistance afterwards made, by his son and successor Perseus, to the arms of the republic, in the second Macedonian war, which happened in the three hundred and thirty-ninth year of the republic. In the first and second years of this war the Roman arms received some checks, and many of the neighbouring states, and even some of the more attached dependants of Rome, manifested disaffection to their cause. Their ultimate success, however, as upon all former occasions, only rendered this opposition the means of more firmly rivetting their power, which they now openly exercised, by inflicting exemplary punishment upon those who had dared to disregard it. The second Macedonian war was terminated in the three hundred and forty second year of the republic.

The next object that attracted the jealousy of the Roman government was the tranquil prosperity of Carthage. Under the shade of peace, and without the assumptions of power, she had accumulated wealth, which drew upon her the watchful, or the avaricious, eyes of Rome. By a dastardly conduct, the Romans drove a submissive people to despair, and experienced defeat and disgrace before they could wreak unprovoked and implacable vengeance on a vanquished rival. In the three hundred and sixty-third year of the republic, the Carthaginians were, by an edict of the senate of Rome, extirpated from the face of the

B b earth,

earth, and not a vestige was left, to mark to future ages the place where so renowned a city had stood.

In the course of a hundred and seventeen years, which elapsed from the commencement of the first Punic war to the destruction of Carthage, so constantly had the Romans been engaged in foreign hostilities, either in extending their dominions by unparalleled success, or in defending their territories from formidable invasion, that intestine contentions between the opposing classes of *property* and *persons* were, from this cause alone, suppressed, and by this means, and no other, internal peace was preserved. Almost the only new regulations adopted were the increase of magistrates, and of civil and military appointments, which the immense increase of their establishments, by such extraordinary attainments of wealth, dominion, and empire, rendered necessary.

During the calamitous circumstances of the republic, when Hanibal had defeated their armies in Italy, and their strength and resources were reduced to the lowest ebb, C. Oppius, a tribune of the people, passed a law restricting the ladies to half an ounce of gold in their dress, interdicting them from wearing cloaths of different colours, and prohibiting to them the use of carriages drawn by horses within the limits of the city, or a mile round it. The circumstances under which this law was passed sufficiently explain its object. After the successful

successful termination of the second Punic war, and after the reduction of king Philip of Macedon and of the Grecian states to the condition of dependants upon the republic, when wealth had flowed abundantly, both through public and private channels, into Rome, M. Fundanius and L. Valerius, tribunes of the people, proposed the repeal of the Oppian law. M. and P. Junius Brutus, also tribunes, opposed it. The ladies used all their influence by petition, and by personal application to the consuls, the chief magistrates, the senators, and even the people, to regain their former privileges; but M. Portius Cato, one of the consuls, a stern supporter of discipline in every department, an hostile opponent to the encroachments of luxury, and a rigid and exemplary stickler for the temperance of former times, spoke with great asperity against the ladies and their cause; to whom Valerius replied with so much effect, that they attained their wishes, and the law was repealed*. A few years afterwards, before the commencement of the war with Antiochus and the Etolians, a law was enacted to put a stop to the practice of an usurious fraud, by lending money in the name of allies, to whom the limitation of interest did not apply. By this law the regulation of interest was extended to the Latins and other allies, as well as the citizens of Rome †. Competitions for the consulate and other principal offices occasioned contests, when the people were courted

* Livy, l. xxx. c. 1. to 8. † Livy, l. xxxv. c. 7.

by each of the parties. Some years after the termination of the war with Antiochus, the two Scipios, Africanus and Asiaticus, the former the conqueror of Hanibal and Carthage, and the latter of Antiochus, were successively arraigned by two tribunes of the people. Africanus disdained to make any defence, and left Rome, never to return to it again. After his death Asiaticus was accused of having received money from Antiochus as a bribe, to the amount of six thousand pounds weight of gold, which, at four pounds sterling per ounce, makes two hundred and eighty-eight thousand pounds. He was condemned by the people, and fined so highly, that upon confiscating his effects all that he possessed was not found adequate to the payment of the fine (v), so that there did not remain a doubt of his having been unjustly accused and condemned. These accusations appear to have originated in jealousy, envy, and malice *. In the consulate of P. Claudius and L. Porcius, upon the death of one of the prætors. Q. Fulvius Flaccus, who had been chosen curule edile, offered himself as a candidate for the vacant prætorship. The senate regarded him as disqualified, and therefore objected to his pretensions; but he persisted; and resting his cause upon the favour of the people, who were disposed to support him, the senate came to the resolution

(v) This fine is said to have been forty thousand, or two hundred and forty thousand, sesterces. Livy, l. xxxviii. c.

* Ibid l. xxxviii. c. 50. to 60.

that

that a second prætor, for the remainder of that year, should be deemed unnecessary *. These are the principal occurrences recorded in this long period of hostilities, which in any degree involved civil contest.

While arms, and triumphs, and conquests, engaged the whole attention of the state, the executive power, which was vested in the class of *property*, very much influenced the laws and institutions that were adopted. Peculation, extortion, and bribery, from the profusion of riches abounding in the new dominions of the Romans, became prominent crimes; and the tribune, Culpurnius Piso, during the last Punic war, instituted a law for punishing these offences by restitution and fine; but these crimes, and afterwards the crimes of murder, breach of faith, robbery, assault, poisoning, incest, adultery, &c. in place of being tried by the people, as formerly, or by quæstors of their appointment, were now to be judged by a jury of senators under the prætor, who upon this occasion assumed the name of quæstor †. The Licinian law, which had been regularly instituted by the comitia tributa, was now totally disregarded, and virtually repealed.

The wealth which had been carried into Rome, and exhibited in the triumphs of her generals, astonishes the mind at the recital. Scipio Africanus, after the first capture of Carthage, put one

* Livy, l. xxxix. c. 39.

† Livy, l. xxxix. c. 39. Ferg. Hist. vol. 1. p. 269 and 270.

B b 3

hundred

hundred and twenty-three thousand pounds weight of silver into the treasury; Cato brought from Spain fourteen hundred pounds weight of gold, and a large quantity of bullion and silver; Quintius, from Greece, produced of bullion and of money, in converted value, to the amount of two hundred and fifty-four thousand eight hundred and thirty-nine pounds sterling, besides vases, shields, &c. of gold and silver, and to the number of a hundred and fourteen crowns of gold presented to him by the different cities; L. Scipio, surnamed Asiaticus, who conquered Antiochus, exhibited at his triumph twelve hundred and twenty elephants teeth, two hundred and twenty-four crowns of gold, one hundred and thirty-seven thousand four hundred and twenty pounds weight of silver, one thousand and twenty-four pounds weight of gold plate, and fourteen hundred and twenty-four of silver plate, and money to the value of a hundred and sixty-one thousand pounds sterling; Manlius, on subduing the Gallo-Greeks, displayed two hundred crowns of gold, two hundred and twenty thousand pounds weight of silver, two thousand two hundred and three of gold, and to the value of thirty-five thousand pounds sterling in money. The triumph of Æmilius for the conquest of Perseus king of Macedon was remarkably splendid, in which there were exhibited a number of enormous vessels of gold and silver. Valerius Antias says, that the gold and silver amounted to one million and two hundred thousand sesterces, or nine hundred and sixty-eight

eight thousand seven hundred and fifty pounds sterling; but Livy observes, that from the number of waggons employed in the conveyance, and the weight which is mentioned in general terms, the value must have considerably exceeded that amount*. Such was but a small portion of the treasure, which, in the course of these successive and successful wars, found its way to the Roman treasury.

* Livy, l. xlv. ch. 40.

BOOK FIFTH.

FROM THE RETURN OF HER ARMIES, AND THE
RESORT OF THE COUNTRY INHABITANTS
TO ROME, TO THE FINAL SUBVERSION OF
THE REPUBLIC.

THIS gigantic republic, extending its avowed and acknowledged empire over Italy, Greece, Illyricum, Macedon, part of Africa, Lusitania, and Spain, was now arrived at the maturity of its strength; and these countries, being completely subdued, were without much exertion retained in subjection, especially after some severe examples had been made of such as dared to manifest the smallest tendency to resistance. The superfluous legions had returned to the capitol, which was also filled with inhabitants from the country, whose labour was supplanted by the multitude of slaves which Roman victories had imported into Italy, and whom the rich, every where the proprietors of land, now employed in cultivating their fields. The influx of wealth, from the conquest of so many opulent countries, by enriching individuals, had added to the disparity between the contending classes

classes of *property* and *persons*, and rendered their opposing interests more apparent (v).

At this period of the Roman history, authors are at great pains to point out the revolution that had taken place in the manners and morals of the Romans, from the recent effects of luxury, which they heighten by the contrast of former times, falsely appreciated from individuals who were recorded, not as examples, but as exceptions to the character of the times in which they lived (w). To this exaggerated cause is solely imputed the violent contest that arose upon the attempt of

(v) By the immense and disproportionate fortunes which the generals in these wars acquired, the natural gradation of property in society, so necessary to the establishment and preservation of civil liberty, was broken, and the effect of this cause was powerful in producing and accelerating the abuses of government which soon afterwards followed.

(w) Detailed explanations have been adopted to account for an effect, which uniformly and universally proceeds from the same simple cause—the influence of property on society. The following is Doctor Ferguson's statement:

“ Two hundred and thirty years had elapsed since the animosities of patrician and plebeian were extinguished by the equal participation of public honours. This distinction itself was in a great measure obliterated, and gave way to a new one, which, under the denominations of nobles and commons, or illustrious and obscure, without involving any legal disparity of privileges, gave rise to an aristocracy, which was partly hereditary, founded in the repeated succession to honours in the same family, and partly personal, founded in the habits of high station, and in the advantages of education, such as never fail to distinguish the conditions of men in every great and prosperous state.” *Hist. of the Progress and Term. &c. vol. 1. p. 277.* The specialities here enumerated are the general attendants on property.

Tiberius

Tiberius Gracchus to re-establish the Licinian law. Doubtless the manners of the Romans were much altered, and their morals not amended; but, without respect to either, the nature of their government must have produced internal divisions upon the change of circumstances which had taken place. To me the whole transaction appears a natural effect from an existing cause. The abatement of hostilities, the return of the people to the city, and the leisure they enjoyed, must infallibly have revived the contentions between *property* and *persons*, without regard to the refinements of luxury; and the opposition of the former would now be stronger than when the Licinian law first passed, because the distinction of *patricians* and *plebeians* being entirely done away, the whole influence of the class of *property* was united to resist it.

When the city was again filled with the class of *persons*, they would become impatient to regain the footing they had lost by the long continuance of the war, and the influence which, in its management, the class of *property* had acquired. The law of Licinius for limiting the extent of property in land had been fairly established and acted upon, and many (and among the rest its original institutor) had been prosecuted, convicted, and punished, for its infraction: no regular repeal had ever taken place, but it had been suffered (clearly from the influence of *property*) to go into desuetude. The resumption of this law was an alluring object to any person who

who wished to benefit the people, or to court popularity as the means of aspiring to higher attainments. In one or other of these views Tiberius Gracchus appeared: on a critical occasion he had successfully appealed to the people, who had saved him from the effect of a decree of the senate, condemning him, as questor, to be delivered up along with the consul Mancinus, for a disgraceful treaty they had been under the necessity of concluding with the Spaniards to save a Roman army, and which the senate would not confirm. This favour is supposed to have influenced Tiberius with sentiments of gratitude towards the people, and of enmity to those who had devoted him to destruction.

However that may have been, Tiberius, when tribune of the people, proposed to renew the Licinian law for limiting property in land, with some ameliorations to render it less exceptionable (x). The measure was eagerly embraced by the people, or the class of *persons*, and as violently opposed by the senate and the wealthy, or the class of *property*. The contest became exactly similar to what had formerly taken place when the agrarian law was agi-

(x) "He proposed to make some abatements in the rigour of the Licinian law, allowing every family, holding five hundred jugera in right of the father, to hold half as much in right of every unemancipated son; and proposed that every person, who should suffer any diminution of his property in consequence of the intended reform, should have compensation made him; and that the sum necessary for this purpose should be issued from the treasury." Ferg. Hist. vol. i. p. 283.
tated,

tated, only there was no mention of *patricians* and *plebeians*, and the class of *persons*, on this account, derived less support from property; but the assembly by tribes, where the class of *persons* by their numbers preponderated, were to decide the important question, and of course there was only one mode of defence left to the class of *property*, which they adopted. Octavius, one of the tribunes, was gained by them to put his negative upon the measure. This was a complete constitutional bar; but Tiberius would not acquiesce in it. His conduct after this appears to me to invite suspicion, being dictated by personal motives and passion; he laid aside all the gratifying circumstances for ameliorating the law, and adopted it as formerly established by Licinius. Upon failing in his endeavours to persuade Octavius to withhold his opposition, he pursued a more violent plan of conduct, interdicted all public business, and affected to be in fear of his life, which procured him a guard from the populace. At last he insisted, that either he or Octavius should be deposed by the votes of the tribes. This proceeding was altogether new and unprecedented; and as he was well assured of the support of the tribes, it amounted, on his part, to violating the appointment of a tribune, which the laws had consecrated. The matter was, however, brought to this issue, and Octavius was degraded, and had nearly fallen a victim to popular vengeance. The law was then passed, and Tiberius himself, Appius Claudius his father-in-law, and Caius Gracchus

Gracchus his brother, were appointed commissioners for carrying it into execution.

The influence of this measure was extensive and universal, affecting not only all the citizens of Rome, but the whole inhabitants of Italy, who became involved in it, as their interest attached them to the class of *property* or the class of *persons*. The senate procrastinated the execution of the law, in the hopes that some occasion might offer for defeating it. Tiberius, who was now embarked in the cause of the people, and had no safety but in their support, prosecuted other measures to ingratiate himself with them; he moved, that the administration of the bequest of king Attalus, who had left his dominions and treasure to the Roman state, should be taken from the senate and placed in the people; and that his treasures should be distributed among the poorer citizens, to enable them to stock the land, which, by the limitation of property, would be divided among them. These proposals were confirmed by the tribes; the tendency of which, in respect to the proposer, was evident. He also obtained another act for joining the equestrian order with the senators in forming the juries which constituted the tribunals of justice; and he gave the people to understand, that it was his intention, among other popular acts, to shorten the term of military service, and to establish an appeal from the sentence of the present courts to the people, in terms of the Valerian law, which, by this new institution, had been set aside.

Tiberius

Tiberius found, however, that the step he had taken, of deposing a tribune, was generally condemned as a dangerous innovation in the government, and that even the people themselves were staggered by its enormity. He foresaw, therefore, that as he was situated, there was no safety for him in a private station, and he determined to be re-elected tribune, although this was contrary to an established rule, which had, indeed, in former times, been grossly violated. Upon this important point the two parties were at issue, and each of them exerted itself to the utmost. When the day of election arrived, the friends of Tiberius were disappointed of the numbers whom they expected to attend, occasioned by the operations of harvest: they spun out the time in expectation of attendance, and at last obtained an adjournment till the following day. By this protraction the passions of men were wound up to the highest pitch. Tiberius took every step to engage the sympathy of the multitude. The senate assembled to resolve on measures for the preservation of their property, and (as they might believe) of the constitution of their government; and upon finding the consul, Mucius Scaevola, who had given countenance to Tiberius's first plan of reform, averse to go all the lengths which their indignation dictated, Scipio Naffica exclaimed—"Since the consul deserts the republic, let those who wish to preserve it follow me."—The event was such as this determination indicated, and ended in the murder of Tiberius. "His body" (says the respectable modern

historian whose general account I have followed) "as being that of a tyrant, together with the "killed of the party, amounting to about three "hundred, as accomplices in a treasonable design "against the republic, were denied the honours of "burial, and thrown into the river. Some of the "most active of his partizans that escaped, were "afterwards cited to appear, and were outlawed or "condemned*." The bloody victory was thus complete on the part of the class of *property*.

The reflections which occur to me on this occasion are different from those of the learned historian I have quoted. The whole of this tumult I consider as a natural consequence of the defects of the civil government of Rome, similar in cause and effect to the tumults which so frequently occurred in the earlier periods of the history, and uniformly induced by the opposition of the two contending classes which composed the community, unbalanced and unrestrained by any regulating power in the constitution. Such internal contests, therefore, never could cease, but from the interruptions which foreign wars occasioned, by removing the people from the seat of government. Previous to this event, a long suspension from civil feuds had occurred, only because a long tract of foreign hostilities had occurred, as unparalleled in its duration as in its effects: so long, and no longer, was domestic quiet preserved in Rome. When at last there succeeded such a relaxation of hostilities as

* Ferguson's Hist. vol. i. p. 298.

occasioned the city to be again filled with people; the contentions were revived, and the present tumult was the result:

With respect to the views of Tiberius Gracchus, different opinions have prevailed: the excellence of his private character and the severity of his fate have disposed mankind to judge favourably of him; but whatever might have been his original intentions, it appears to me, that if he had prevailed in his plan of being re-elected tribune, he would have been placed in a situation from whence he could not have receded with safety, of course he must have advanced, and the consequences might have abridged the duration of the Roman republic; in the three hundred and seventy-sixth year of which he fell.

Caius Gracchus, who was but twenty-one years of age when his brother was killed, brooded over the means of avenging his death. His determination was to support the party, or the division of the community, which his brother had adopted, and by walking in his steps, and at the same time avoiding his errors, to carry his schemes into execution, and at once to gratify his own ambition and revenge. In this view he remained for some years secluded, during which time, whilst his enemies were lulled into security, he was engaged in improving his talents and acquirements, to qualify himself for the part he intended to act. When in some measure prepared, he made his first appearance in the defence of Vectius, a friend of his brother's,

ther's, whom the opposite party accused and wished to ruin, and whom Caius so ably defended, that he was acquitted by the suffrages of the assembly. After this successful display of his abilities, which excited the admiration, and roused the expectations of the populace, he was readily gratified in his desire to go questor to the army employed in Sardinia, where he wished to establish his character in the discharge of a public employment. The senate were not averse to gratify him in a situation which removed him so far from the city. In the three hundred and eighty-third year of the republic, seven years after the death of Tiberius, he entered upon this office, and in the discharge of it was so correct and attentive both to his public and private conduct, that his fame, heightened perhaps by being contrasted with the general conduct and behaviour of others, spread not only to Rome, but to the provinces dependent upon her government, the report of which is said to have excited the apprehensions of the senate. Micipsa, king of Numidia, supplied the Roman army in Sardinia gratuitously with corn; and he instructed his ambassadors at Rome to inform the senate, that the virtues of their questor, C. Gracchus, had occasioned this donation. A motive may be imagined to induce a dependant upon the government of Rome to mark with distinction the upright conduct of an officer, who had much in his power: and this circumstance evinces the abuses which at that time were prevalent (y). However that may have been, the

(y) This idea is confirmed by what Caius afterwards asserts, on

the compliment to Gracchus was not at all relished by the senate, whose jealousy it roused, which they vented in indignation against the astonished ambassadors, who, probably, were not aware of the offence they had committed. The marked enmity which the senate displayed against Gracchus determined him to return to Rome, where he suddenly appeared, when it was not known he had left Sardinia. For this he was accused; but the defence which he made afforded him an opportunity of raising his character, by shewing the disinterested conduct he had pursued, and establishing that he had served as questor for three years, which was two years longer than the law required. Upon offering himself to the people as a candidate for the tribunate, the community was immediately thrown into combustion by the opposing interests of *property* and *persons*; but the numbers of the latter, notwithstanding the united influence of the former, carried the election in favour of Caius.

He had now attained the situation in which he was to open his plan of hostility against the senate and the class of *property*, by the support and aid of the class of *persons*, or, through them, to aspire at sovereign authority. His whole tribuneship was

on comparing his own conduct with that of other questors—
 “ Il ajouta qu’il étoit revenu de Sardaigne sans argent, au lieu
 “ que tous ceux qui l’avoient précédé dans le même emploi, s’y
 “ étoient enrichis, et qu’ils avoient rapporté non seulement leurs
 “ bourses pleines d’or & d’argent, mais qu’ils en avoient encore
 “ rempli les cruches & les vases qui leurs avoient servi en pas-
 “ sant dans cette île pour y porter du vin.” Vertot, Hist. liv. ix.

a series

a series of popular acts, to ingratiate himself with the class of *persons*, and to rivet their attachment. He fixed the price of corn at a low rate to accommodate the poor; some say, he distributed it gratuitously to them out of the public granaries. He changed the administration of justice, by removing it from the senate entirely to the knights, of whom three hundred were selected to serve as assessors to the senate, to supply juries for the decision of all causes tried before the prætor. In this law the senate, ashamed of the detected abuses of former courts, concurred; and as the knights formed the middle rank in the society, and might be equally attached either to the class of *property* or *persons*, it was certainly the most impartial appointment that could be adopted: but the class of *persons*, whose numbers were decisive in the assembly by tribes, gave to Caius the nomination of the three hundred assessors, and he chose only such persons as were attached to himself (z). He proposed the construction of public granaries for the preservation of grain against years of scarcity; and the measure being adopted, the buildings were constructed, under his immediate direction, in a style of magnificence correspondent to the greatness of the Roman republic. Indeed, under the pretence of attending to the interests of the people, he assumed to himself the management of all public

(z) “ Elle passa toute d’une voix, et le peuple plus puissant
 “ que le senat par le nombre de ses suffrages, & qui idolatroit
 “ Caius, remit à lui seul le choix de ces trois cent chevaliers qui
 “ devoit entrer dans les magistratures de la ville: il ne nomma
 “ que ses amis & ses créateurs.” Vertot, Hist. liv. ix.

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affairs,

affairs, and the discharge of all the duties of government (a); and, however his conduct might in other respects be censured, the activity and ability he displayed in the execution of such a variety of business attracted universal admiration. Such an assumption of power excited the jealousy and the indignation of the senate and the other magistrates, who waited with impatience for the time when a new election of tribunes might bring it to a period. That time at last arrived; and Caius, aware of the step which had brought on the ruin of his brother, kept entirely aloof at the election, and did not appear as a candidate. But he had done what was much more effectual, in establishing his credit so completely with the people, by the benefits he conferred upon them, that in the expectation of deriving further advantages from his administration, they continued him in the tribunate (b).

The

(a) " Et sous prétexte de veiller à ce qu'il ne se fit rien contre les intérêts du peuple, il rapelloit à lui toute l'autorité du gouvernement. On le voyoit environné d'ambassadeurs, de magistrats, de gens de guerre, d'hommes de lettres, d'artisans, & d'ouvriers, sans que le nombre & la différence des affaires l'enbarrassent." Vertot, liv. ix.

(b) " Caius ne fit aucun mouvement pour y avoir part, mais le peuple qui se flattoit d'obtenir de nouveaux privilèges par son habilité, le nomma tribun pour la seconde fois; & on remarqua qu'il avoit été le premier citoyen qui fut parvenu à cette dignité sans l'avoir brigüée." Vertot, l. ix.

Doctor Ferguson says, that Caius Gracchus "proceeded to offer himself as a candidate to be re-elected into the office of tribune. In this he followed the example of his brother Tiberius in a step which, being reckoned illegal as well as

" alarming,

The senate were equally astonished and vexed at this disappointment: they saw the measure that had proved fatal to Tiberius carried seemingly without effort by Caius, which they regarded as the establishment of his tyranny against them and the class of *property*, and they deliberated upon the means of defeating it. There were but two opinions; whether to proceed openly and by violence against him, or by policy to endeavour to undermine and supplant him; the latter opinion prevailed. They made choice of M. Livius Drusus, one of the tribunes of the people, to rival Caius in acts of popularity, sanctioned by the approbation of the senate; and he entered into their views, and executed their plan with considerable success. Whenever any popular measure was proposed by Caius, Drusus went a step further, and proposed something still more popular and more advantageous to the people, which the senate authorized. These acts produced the effects intended upon the multitude, many of whom began to prefer Drusus to Caius, who experienced much inward vexation on this account, although he affected to treat Drusus as a dependant of the senate. In the mean time Caius set about executing his favourite plans. The first was, to carry into effect the agrarian law of Tiberius, which involved the gratification of his private resentment

" alarming, was that which hastened his ruin." Hist. Progress, &c. vol. 1. p. 322.

These representations are somewhat different; the first appears to me best supported.

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and

and revenge. In this view he associated with himself in the triumvirate for executing the law, Fulvius Flaccus and Papirius Carbo, who did not add to the credit of his administration, and they set immediately about a rigorous discharge of this invidious duty; but at this time violent disputes existed among the proprietors of land about the limits of their property. Scipio Africanus, who was the adopted son of the conqueror of Hanibal, and, though married to the sister of Gracchus, a great supporter of the class of *property*, being at this time in high estimation at Rome, took occasion from these disputes to make a proposal, which had the effect of stopping the violent measures of the triumvirs, and thwarting the execution of their law. He observed to an assembly of the people, that the duty of the triumvirs consisted in restricting every individual's property in land to five hundred jugera, and in dividing the overplus among the poor; but before this could be properly performed, it was highly necessary to settle the disputes among individuals, about the extent and boundaries of their respective properties, for which purpose a special commission was requisite, as the triumvirs had no authority to interfere in that business. The people acquiesced in this proposal; and the consul Turdianus, who was regarded as a man of great moderation, was appointed to this new charge, which, in the mean time, suspended the proceedings of the triumvirs. Turdianus applied, with seeming diligence, to the business entrusted to him, and made great progress in ascer-

taining the rights of individuals, by which he completely blinded both the people and the triumvirs, who expected soon to be enabled to proceed in the execution of their commission; but when his business was near a close, the consul had a sudden call to the province of Illyricum, and was indispensably detained there. The triumvirs found themselves completely duped, and felt the most violent resentment against Scipio, as the author of this deceit, which, for the present, frustrated the agrarian law. To involve him in a dilemma between the people and the senate, Carbo required him to declare aloud, before an assembly of the people, what was his opinion of the murder of his brother-in-law Tiberius?—"If he aspired to be the tyrant of his country (replied Scipio) that it was just!"—A violent agitation took place among the people, which Scipio did not regard. Fulvius Flaccus vented threats; Caius said nothing. The next morning Scipio was found dead in his bed*.

But the measure of greatest magnitude, which Caius Gracchus prosecuted with persevering industry, was to extend the rights of citizenship to all the inhabitants of Italy. At first, and soon after his advancement to the tribunate, he only obtained this advantage for the inhabitants of Latium; but he afterwards extended it to all the Italian states (c), not without considerable opposition

* Vertot's Hist. Liv. ix.

(c) "C'est dans cet vûe qu'il fit un nouvel edit pour

sition from the Roman citizens, whose importance was thereby very considerably diminished. Historians have remarked, that by this measure Gracchus greatly increased his influence; because all the new citizens, who so much out-numbered the old, deriving their privileges from him, were ready at all times and on all occasions to support him. This was, perhaps, all that Gracchus had in view; but a consequence much more general and important resulted from it. Whilst only the resident inhabitants of Rome were her citizens and legislators, a foreign war had always the effect, by removing them from the capital, to interrupt the contention between *property* and *persons*, before it had proceeded so far as totally to unhinge the constitution; but when all the inhabitants of Italy became citizens and legislators, this effect could no longer be produced, because no war could occupy the whole of them, and the city was at all times liable to be crammed with the class of *persons*, to *elect* and to *legislate*, so that internal contests hereafter withstood foreign hostilities, the only curb which had formerly restrained them.

The measure of sending a colony to rebuild Carthage, which was proposed by the tribune Q. Rubrius, and supported by Gracchus, was carried; and he, with Flaccus, was appointed to conduct

“ donner le droit de bourgeoisie & le titre de citoyens Romains à tous les habitans du Latium, & il étendit depuis ce droit jusques aux Alpes.” Vertot, liv. ix.

the

the colony for rebuilding the city which Scipio had destroyed. They transported thither six thousand families; but during their absence the character of Flaccus was openly attacked, and the reputation of Gracchus was sullied with suspicions on the subject of the murder of Scipio. Caius found it necessary to return to Rome to support his party, which was upon the wane. On this account he invited Italians to the city to exercise their right of suffrage in the public assemblies. The senate took the alarm, and instructed the consul Fannius to publish an ordinance, requiring all strangers to remove, which Caius opposed, with a public invitation for them to remain, promising them the support of the laws and of the people against the authority of the consul (d); but he found himself unable to make good his promises, and was necessitated to submit to see a friend of his own, who had been his host, seized by the lictors of the consul and maltreated, without daring to resent it. He found also that his popularity, or the authority which in consequence of it he had assumed, had excited the envy of the other tribunes, who used their influence at the next election to exclude him from the tribunate, notwithstanding he had the greatest number of

(d) “ Caius pour ne pas laisser penetrer la diminution de son credit, quoique depuis son retour d’Afrique il se sentit moins autorisé, fit publier une ordonnance toute contraire, il invitoit ces peuples à rester dans la ville, et il leur promettoit le secours des loix, et la protection du peuple contre le decret du consul.” Vertot, liv. ix.

suffrages,

suffrages, which they found means to suppress. The reflection still recurs, that the tribunes of the people proved the most effectual protection of the state against the assumption of arbitrary power through the influence of popularity. Tiberius Gracchus received the blow which brought him to the ground, and caused his destruction, from the hand of a tribune; and Caius was disappointed of his third tribunitian appointment by the jealousy of his fellow tribunes.

The senate upon this occasion obtained a double victory; first, by the disappointment of Caius, in his hopes of being continued tribune; and secondly, by the appointment of Opimius, his avowed enemy, to the consulate. Opimius had been the accuser of Caius, as accessory in the guilt of Frigellæ, which place, when prætor, he had razed for disaffection to the Roman state. The senate and the class of *property* having now attained an ascendancy in the government, determined forthwith to cancel all the popular laws of Gracchus. The edict for rebuilding Carthage was immediately annulled by the authority of the consul, who further determined to prosecute Caius personally to destruction. The late proceedings against Tiberius had introduced violence and murder into civil contests, and the person now at the head of government, and of the class of *property*, prepared himself for aggression as well as defence. He introduced hired troops into the city,

city (e), and was accompanied by a guard of them, as well as by some of the richest individuals, with their attendants, wherever he went, and thus escorted, he took all occasions of insulting Gracchus, in the hopes of occasioning a feud, that might give an opportunity of putting him to death; but Caius was guarded in his conduct, and did not resent the injuries that were offered. Flaccus felt other dispositions, and urged the necessity of repelling force by force.

On the day appointed for deciding upon the laws of Gracchus, each of the parties mustered their forces, and the class of *persons* stood opposed to the class of *property*. As the consul presided at this assembly, the auspices preceded the discussion of business; when one of the lictors, officiating in these ceremonies, spoke injuriously to some of Caius's party, who, with more zeal than discretion, put him to death. Immediately the senate was assembled by the consul, and the affair laid before them, who, regarding it as an attack upon the government, voted the state to be in danger, and armed the consul with authority to protect the commonwealth. This was the edict which made him absolute. He summoned the whole *patricians* and knights to meet him armed, and with armed attendants, in the market place next day. Flaccus urged the populace to prepare for their defence. Caius lamented the extremi-

(e) " Il fit entrer dans la ville un corps de troupes de Can-
diots qui étoient à la solde de la république." Vertot, liv. ix.
ties

ties to which matters had been driven, and seemed to foresee the consequences that were to follow, but determined to recommend submission rather than opposition. Opimius was resolved upon the destruction of the leaders of the popular party. Rome stood now divided, and armed against itself. In the morning the popular party took possession of the Aventine Hill; and, at the instance of Caius, sent an offer to treat with the consul, to prevent the effusion of blood. He would accept only of unconditional submission from criminals to the judgment of the senate, interdicted any further intercourse except upon these terms, set a price upon the heads of Caius and Flaccus, threatened condign punishment to their adherents, and offered indemnity to all who would abandon them, upon which their party was presently diminished in numbers. They were then attacked by the consul and dispersed. Flaccus was taken and put to death. Gracchus fell by the hand of himself, or of his slave Philocrates, whom he enjoined to perform this last duty. When Tiberius was murdered, three hundred citizens were said to have been slain; but, upon this occasion, upwards of three thousand perished, whose bodies were thrown into the Tiber. This insurrection happened in the three hundred and eighty-eighth year of the republic.

The fate of the Gracchi, and the execution of so many who had been concerned or involved with them, deterred every person from following their

their example, or attempting to oppose the measures of the class of *property*, now masters equally of the government and the legislature (f). Papirius Carbo, who had been the co-adjutor of Caius and Flaccus in the commission for enforcing the law of Tiberius, became a convert to the prevailing party. He undertook the defence of Opimius, when arraigned for having put so many citizens to death without the forms of law, and succeeded in obtaining his acquittal, for which purpose he seems to have been gratified with the consulate; but he was afterwards accused as having been concerned in the death of Scipio, and no one appearing in his defence, he was condemned, which occasioned him to put an end to his own existence. Even the tribunes elected by the people took part with the class of *property*, and abolished the law for regulating the division of the conquered lands, the property of which they sanctioned to the present possessors, by a law establishing a quit-rent to be paid for them, which was destined to benefit the poorer citizens; but this quit-rent was soon afterwards done away also through the intervention of a tribune of the people.

The picture which history presents, a few years after these occurrences, of the corruption of the leading men in the senate, in their negotiations with Jugurtha, previous to the war with that prince, derogates so much from the character of

(f) See note to page 217.

virtue and magnanimity, misapplied to Roman senators in general, that it offers a strong presumption of their preceding degeneracy; for it is hardly possible that of a sudden they could have become so completely and shamelessly abandoned. Of three commissions which were successively sent to Jugurtha, (the first conducted by the late consul Opimius, and the last by Æmilius Scaurus, the prince of the senate) and an army under the command of a consul, each, in its turn, was bribed to betray the honour of the Roman state, and countenance and abet the perpetrator of murder and injustice. It is the province of history to brand with infamy such delinquents, and transmit their crimes to the detestation of future ages! Doubtless the majority of the senate, from the conduct they pursued at this time, were participators in this guilt, notwithstanding the gloss which a modern historian gives to these transactions, as if Jugurtha had been disappointed in his attempts to influence this body with his gold. It was after a full experience of their dispositions, and a train of repeated negotiation with the Roman senate, that he exclaimed—"Here is a city to be sold, if a purchaser could be found."

The indignation of the Roman people was roused by the wicked audacity of Jugurtha, and the prostituted acquiescence of their own government. Their tribunes dared at last, ten years after the death of Caius Gracchus, to arraign the conduct of the senate and the class of *property*, of whom so many

many had proved themselves notoriously corrupt. There still however remained unbribed a sufficient number to join in the cause of right and justice with the class of *persons*, whose influence now preponderated. Jugurtha was brought to Rome, under the pledge of public faith; but more effectually ensured by the purchased protection of one of the popular tribunes, whose negative repelled all the interrogatories of his brethren. For the atrocious murder of a prince, also under the protection of the Roman government, he was expelled, or permitted to quit Rome. It was impossible now to countenance him longer, and war was at last seriously determined upon against him.

The tribune Mamilius took the lead in prosecuting the delinquents accused of bribery and corruption. A court was instituted for their trial, and Opimius was among the first convicted, and condemned to banishment (g). According to the representation of the historian of the progress and termination of the Roman republic, this was altogether an oppressive measure, instituted for the gratification of popular resentment against the no-

(g) "Opimius est cité devant l'assemblée du peuple. On lui fait son procès, il est banni de Rome par un décret solennel. Le souvenir de ses cruautés, dit Valérius Paternus, fit qu'il n'y eut pas un plebéien qui eut pitié de sa disgrâce, et il fut obligé, ajoute Plutarque, de passer sa vieillesse dans le deshonneur, et dans la honte que lui attirée son avarice & sa corruption." Vertot, l. ix.

bility (h) ; yet he admits that individuals had been corrupt. Does he mean that the crime itself was venial, and ought not to have been prosecuted or punished?—I wish not to inculcate this doctrine ; doubtless, however, the influence of party-zeal might aggravate these proceedings.

The consul Albinus, commanding the army in Numidia, was foiled by the arts and the address of Jugurtha ; and his brother, who was left as his lieutenant to command in his absence, was completely over-reached by the wary and enterprising Numidian, and reduced to grant such terms as his conqueror was pleased to dictate, and to undergo the ignominy of passing with his army under the yoke. The terms conceded by him were rejected by the senate, and the new consul, L. Metellus, every way qualified for such a charge, was appointed to carry on the war against Jugurtha.

(b) “ The cry of corruption, which had been raised against many of the nobles, on account of their supposed correspondence with Jugurtha, gave an advantage to the popular party, and they determined to improve it, by raising prosecutions to the ruin of persons, either odious to the people, or obnoxious to the equestrian orders, who then had the power of judicature in their hands. Three inquisitors were accordingly named by special commission to take cognizance of all complaints of corruption that should be brought before them, and this commission was instantly employed to harass the nobility, and to revenge the blood which had been shed in the late popular tumults. Lucius Culpurnius, Piso, Bestia, C. Cato, Spurius Albinus, and L. Opimius, all of consular dignity, fell a sacrifice, on this occasion, to the popular resentment.” Ferguson’s Hist. vol. 1. p. 343.

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The ferocious Marius, who had recommended himself, when tribune of the people, by his intrepid despite of the senate, was, through popular influence, sent as lieutenant to Metellus, who, knowing his merit as a soldier, employed him to advantage. Marius had risen from the lowest rank in society, which was his boast, as it was his passion to detest all the higher orders ; he was equally hardy and brave, experienced in war, and qualified to enforce discipline by example ; what the common soldier submitted to from necessity, he underwent from choice ; and he was anxious to appear the fellow of the lowest man in the state, whilst he aspired at the highest offices and dignities of the commonwealth. This rendered him the hero of the class of *persons*, who, while they raised him to authority and command, thought they elevated themselves. On all occasions his merit as an officer and a soldier was conspicuous ; and upon this he founded his ambition, which could only be equalled by his arrogance. The success of Metellus’s operations he attributed to himself, who had a principal hand in the execution of them ; the protraction of the war he imputed to the consul. These reports were circulated among the populace at Rome, and prepared the way for his attaining the consulate, for which he offered himself as a candidate, and was, by their influence, elected, and appointed to supplant Metellus in the command of the army in Numidia.

In raising recruits for his army, Marius introduced a dangerous innovation, which probably

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had considerable effect in forwarding the subsequent disasters of the state. Hitherto legionary soldiers were only raised from among the citizens of some property and character in society: Marius made bodily strength the only requisite, and entered into his rolls the most indigent persons that offered themselves, provided they were qualified to bear arms; by which means his numbers were soon completed, and he was enabled to enter forthwith upon action. L. Cornelius Sylla was appointed questor to his army; a man in most points directly the opposite of himself; he was born of a noble family, addicted to fashionable dissipations, polished in his manners, eloquent, and a proficient in letters, with natural talents equally qualified for military enterprise or secret negotiation. Under Marius he soon became expert in the practice of war; in every other respect he was his superior. Such were the two men destined to unsheath the weapons of the opposing classes of *property* and *persons* against each other, and to give mortal agency to the radical defects of the Roman republic.

Although Marius had the glory of terminating the Numidian war, in the four hundred and third year of the republic, Sylla had the merit of capturing Jugurtha, which was deemed the most difficult enterprise, and the most essential service attending it, and upon which he ever after plumed himself. This circumstance was the foundation of the rivalry and hatred between them, productive

ductive of such dreadful consequences to their country!

In the meantime the Romans, under the impression of terror from the approach of swarms of barbarians, whose multitudes and ferocious manners made them tremendous in the mouth of fame, reposing confidence in the military reputation of Marius, concurred in appointing him consul, although only two years had elapsed since he held that office, which was contrary to the established law, requiring ten years to intervene before the same person could be again chosen consul. The apprehended invasion not having taken place in the course of this year, but still being threatened and expected, he was a third and a fourth time appointed consul. In his fourth consulate he had an opportunity of opposing the barbarians, whom he completely defeated, adding thereby greatly to his military reputation. In consequence of this success he was a fifth time elected consul, and continued in his military command, because another body of barbarians still threatened the dominions of the republic. They were defeated by the combined armies of Marius and his late colleague Catulus, who had at least an equal share with him in the victory.

Sylla served in these wars, where his object probably was to improve his military experience, and establish his reputation and interest with the army. He was at first lieutenant with Marius,

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which situation he quitted, or was obliged to quit, and afterwards served in the capacity of questor with Catulus, where, more confidence being reposed in him, he rendered conspicuous and important services; in particular, through his means, the army of Catulus was plentifully supplied with provisions, while that of Marius was in great want, which is said to have aggravated the hatred of Marius toward Sylla.

During the five years of Marius's consular command, although all parties concurred in confiding the defence of the state to his military capacity and abilities, the class of *persons*, whom he patronised, had the ascendancy in the commonwealth. Not satisfied with fame, Marius became insatiably covetous of power, and stood candidate a sixth time for the consulate, which by his influence with the people he obtained, in the four hundred and ninth year of the republic. The character of Metellus, which so much eclipsed his own, excited his jealousy and enmity: he opposed the election of Metellus as his colleague, and succeeded in getting Valerius Flaccus appointed; he then combined with Saturninus and Glaucia, two violent and unprincipled men, to accomplish the banishment of Metellus, in which they succeeded; by a series of flagitious conduct, beginning in the murder of Nonius, elected a tribune of the people, to make room for Saturninus, who was protected by the sacred law he had violated. An opposition to a string of popular laws, calculated

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by Saturninus to cajole the multitude; and fenced with an obligation on the senate to confirm them in five days, gave occasion to the banishment of Metellus, which Marius displayed some craft, at the expence of character, in accomplishing.

The murder of a successful competitor for the consulate against Glaucia, which was perpetrated at the place of election, and in the midst of the electors, occasioned the destruction of him and Saturninus with their confederates. Marius, as the present consul, was obliged by the senate to act officially against them; and the people, enraged at the atrocity and the repetition of their crimes, executed summary justice upon them, by breaking into the place of their confinement, and putting them to death. This produced the recal of Metellus, and once more gave the class of *property* the ascendancy in the state. Marius feigned a pretence for visiting Asia, and spent some time at the court of Mithridates; in contemplation, it is supposed, of one day leading the Roman armies against him.

During this ascendancy of the class of *property* several laws were passed favourable to their general interests, or detrimental to their opponents; particularly, in the four hundred and eleventh year of the republic, the consuls Q. Cilius Metellus Nepos and T. Didius enacted a law for reviving the custom of giving public intimation for three market-days beforehand (which made in all twenty-seven days) of every intended decree to be submitted

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ted to the suffrages of the people; and also a law enabling the people to adopt or reject partially such decrees as consisted of sundry articles. In the four hundred and fourteenth year of the republic a law was passed by the consuls for the exclusion of aliens from the rights of citizenship, which gave offence to the Italians, who were in the habit of claiming, and sometimes of exercising, those privileges. Two years afterwards Sylla was appointed prætor, without having previously filled the office of edile, which was contrary to custom; and the year following he was sent by the senate upon a respectable commission into Asia.

These several occurrences sufficiently indicate the influence of the senate and the class of *property* during the period in which they happened. In the four hundred and eighteenth year of the republic, the tribune M. Livius Drusus, son of a former tribune of that name who acted in concert with the senate against C. Gracchus, distinguished himself by a variety of laws, calculated in general to cajole the populace, although some of them seemed intended for the gratification of the senate. His popular laws in general were founded upon those which C. Gracchus had enacted; and it is unnecessary to enumerate them, as they were cancelled upon his death (which soon happened) by a convenient authoritative edict of the senate, finding them to have been passed contrary to the auspices. The last law he attempted to enact was also the revival of a measure of C. Gracchus, to extend the rights of citizenship to all the inhabitants of Italy; and

and it claims our particular attention, because it seems to have been the immediate cause of the social war. On the occasion of agitating this important subject before an assembly of the people he lost his life, being stabbed by an unknown hand in the midst of the meeting. The account of his death was received by the different Italian states as a signal to arm, in vindication of what they considered to be their right, the privileges of Roman citizens; and as they now despaired of attaining it in any other way, they determined to have recourse to hostilities.

There is some difficulty attending this subject. It is allowed, that on occasion of the second Punic war, when Hanibal was so formidable in Italy, the rights of citizenship were conceded to the allies of Rome*; but this was a measure prompted by the necessity of the occasion. At other times the consuls and the censors capriciously admitted of the votes of the allies in the assemblies of the people, as the particular magistrate happened to be disposed, or as he might have some particular purpose to answer by it †. The language held by both the Gracchi was, that all the inhabitants of Italy ought to be citizens of Rome; they pledged themselves to this measure; and Caius is supposed by some writers to have established a law to this effect (k), which

* Vertot's Hist. liv. x. † Ferguson's Hist. vol. i. p. 310.
(k) "And, if we may credit some writers, he actually obtained the right of Roman citizenship for the Latins and the other Italian allies" Hook's Rom. Hist. v. ii. b. vi. ch. x. p. 554.

greatly augmented his influence in the popular assemblies. His opposition to the edict of the consul Fannius seems to be founded on the operation of such a law, to which, by Vertot's representation, he refers *; and I am disposed to believe this statement from the extremity to which the Italian states were now driven, who therefore appear to me to have acted from the sense of an injury received by the deprivation of a right acquired, rather than from the desire of attaining a new privilege, which they had not before possessed.

However that may have been, a general confederacy took place among the Italian states, which produced the most formidable war that Rome had ever experienced, and which obliged her to depart from her usual maxim, of never yielding any point but to an enemy subdued. These hostilities commenced in the four hundred and nineteenth year of the republic. As the war was waged by Roman armies, Roman discipline, and Roman commanders on both sides, it was prosecuted with great effect and with various success. Whatever side prevailed, the Roman resources were equally diminished. This suggested to the senate of Rome the expediency of terminating their differences, which could only be done by giving up the point in dispute, and this they determined to do with as good a grace as possible, by first admitting to the rights of citizenship such of the Latins as had

* See page 391. and note.

not

not joined in the confederacy, and by offering the same privileges to such of the other states as would lay down their arms. The effect intended was soon produced by this measure; the different states submitted upon these terms; and the rights of citizenship were conceded to the whole inhabitants of Italy. The policy of Rome suggested that the Italians should not be incorporated generally into the thirty-five tribes, which the inhabitants of the city composed, but be formed into eight additional or supplementary tribes, to rank after them, which was for the present adopted. The social war lasted upwards of two years, in the course of which Marius only acted subordinately, and did not particularly distinguish himself. The activity and gallantry of Sylla was much more conspicuous, and recommended him strongly to the notice of his countrymen.

In the four hundred and twentieth year of the republic, immediately succeeding the termination of the social war, Sylla was elected consul for the first time, and appointed to command the army destined to act against Mithridates king of Pontus, with whom it was now determined to enter into open hostilities. These appointments shewed the ascendancy of the senate and the class of *property*. The disappointed ambition of Marius upon this occasion was roused into action, by seeing the object he had anticipated in hope attained by his rival and enemy. The ascendancy of the class of *property* being the source of Sylla's success, Marius could only hope to frustrate it by gaining to the opposite

opposite interest of the class of *persons* a preponderating influence in the commonwealth, which tribunitian exertion could alone effect. Among the tribunes of the people there was one every way adapted to his purpose. P. Sulpicius, the person alluded to, was rich, eloquent, daring, and the personal enemy of Sylla, and in these respects congenial to the mind of Marius; but the intercourse which took place between them was at first carefully concealed.

Sulpicius began his operations by an avowed opposition to the measures of the senate, an effectual plan for recommending himself to the populace! He is said to have kept three thousand gladiators in his pay, and to have been always attended by a party of retainers secretly armed, whom he styled his *anti-senate*. In the preceding year, or shortly before, a law was enacted by the tribune Plautius, for restoring and enforcing the ancient custom of all citizens remaining unarmed in the city, declaring the offence of wearing any weapon or instrument of death to be capital; but this law it seems was only made to be broken (m). The important point which Sulpicius was eager to carry, and in which he was joined by all the supplementary citizens from the Italian states, was to alter the

(m) Plautius also enacted a law "for the selection of judges [perhaps more properly juries] by which it was enacted, "that each tribe should annually elect fifteen citizens, without any distinction of rank, and that from the whole, so named, "the judges in all trials that occurred should be taken." Ferguson's Hist. vol. i. p. 404.

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form of their establishment, by suppressing the additional tribes altogether, and incorporating them along with the old citizens into the thirty-five original tribes. The effect of this change was obvious, and it was now fully comprehended by the Italians, who were therefore anxious for its accomplishment. A day was fixed by Sulpicius to bring the question to a decision before an assembly of the people, and the new citizens were invited to attend from all quarters. The senate was greatly at a loss how to defeat this formidable attack, which drove the consuls to the procrastinating expedient of appointing by edict a succession of holidays, during which it was unlawful to assemble the comitia. Sulpicius was not of a disposition to succumb under such circumstances; he assembled his partisans, proceeded to the senate house, required the consuls to revoke their edict for appointing holidays, which impeded the business of the people, and upon their refusal his party had immediate recourse to their weapons, which obliged the senators to seek for safety in flight. Sylla was reduced to take shelter in the house of Marius, where he was personally protected upon consenting to revoke the edict in question, which was accordingly done. The assembly in consequence met, and sanctioned the incorporation of the new citizens and freed men into the thirty-five tribes, which so much increased the influence of the class of *persons*, that they now commanded a complete ascendancy in the government. Sylla left the city to join his army before Nola.

Marius

Marius now appeared avowedly to be the confederate of Sulpicius. An edict was passed in the assembly of the people appointing him to the command of Sylla's army, destined to act against Mithridates, and superseding Sylla in that appointment. Two officers on the part of Marius were sent to receive charge of the army from Sylla, which, being the same he had commanded in the social war, was strongly attached to him, and the officers who would have supplanted their commander were by the soldiers put to death. This act of atrocity occasioned Marius to use reprisals in Rome upon some of Sylla's friends there, and the rest fled to Sylla's camp.

In the whole course of the Roman history it clearly appears to me, that the contentions which divided the community, and became latterly the occasion of such violent and sanguinary measures, proceeded uniformly from the same cause, the natural opposition of the classes of *property* and *persons* to one another, unrestrained by any controlling power in the constitution to balance and regulate them. That the feuds between these classes, in the earlier periods of the republic, did not go the lengths of murder and civil war, must be principally imputed to the habit, or the law which custom established, of the citizens never wearing arms of any kind in the city, which was rigidly observed, and which put mischief out of their power, when on many occasions it seemed to be sufficiently kindled in their hearts. After the long tract of foreign war and

conquest,

conquest, following the extinction of the differences between *patricians* and *plebeians* in respect to authority and command, considerable changes in manners were introduced by the influx of wealth and the increase of inhabitants: the dissensions were the same, but the people had become more licentious and violent. Tiberius Gracchus was now murdered, and three hundred citizens were put to death with him in the fray. The number of citizens after this event still continuing to increase, from the admission of aliens and other causes, the disputes between the contending classes added aggravation to precedent, and multiplied excesses. Armed men were now admitted into the city; and upon the occasion of the death of Caius Gracchus, upwards of three thousand citizens were slain. We are still to proceed in the climax: the cause of contention continued uniformly to be the same, the rivalry of the contending classes, which have now gone a step farther, and assumed each to itself a leader and a general: accoutred for war and trained to hostility, they proceed regularly to decide their own civil dissensions by the sword and the javelin, and to deluge their country with the blood of its citizens.

Sylla possessed in an eminent degree the talent of attaching military men: what fortune gave him he never hoarded, but was lavish in generosity, and profuse in benefactions. His cause became the cause of the army he commanded; such officers as were disaffected to him, or averse to his measures,

having

having early quitted it. He directed his march towards Rome. The senate, which was now in the power of Marius and Sulpicius, sent orders to stay his proceedings, which he did not regard, but continued to advance. When within five miles of the city, another deputation was sent from the senate, which Sylla pretended to obey, only to deceive his enemies. In the presence of the deputies, he gave orders to mark out the encampment; but as soon as they had departed, he commanded the army to advance, and followed close upon the deputies with the van of it, so that they were hardly arrived at Rome when his soldiers had seized the gates, and he entered at their head to take possession of the city. Marius and Sulpicius, with what followers they could collect, endeavoured to oppose him, and the populace from the tops of the houses shewed a disposition to side against him, until a general conflagration was threatened, and the means of accomplishing it displayed, upon which they thought proper to desist. The soldiers of Sylla then succeeded in beating off their enemies, and soon made their general completely master of the city, who placed guards at the proper places, and issued the necessary orders for preserving discipline, and protecting the inhabitants.

The first act of Sylla was, with the authority of the senate, to declare Marius and Sulpicius enemies to their country, and to proscribe them and set a price upon their heads. He next summoned an assembly of the people, whom he harangued, to prepare

prepare them for the institutions he meant to establish in favour of the senate and the class of property. All the laws enacted by Sulpicius, after the interruption of the festivals, were abrogated; and it was decreed, that no future law should be proposed to the people until first approved of by the senate. All acts of legislation were interdicted in the assemblies by tribes; and the election of all magistrates, and even of the tribunes of the people, was ordained in future to be made by the comitia centuriata, under such a modification as put the whole powers of the assembly in the first class, composed of the most wealthy citizens. The more effectually to represent the tribunes, it was further enacted, that every person who should hereafter hold the office of tribune of the people, should be thereby disqualified from ever after exercising any other office of magistracy in the state (n).

Sulpicius was seized and put to death. Marius escaped. His adventures have formed a sort of romance in history, which arrests the attention both of writers and readers, and need not be repeated here. Sylla proceeded with his army to prosecute the war against Mithridates, which he was impatient to enter upon. The succeeding consuls were, L. Cornelius Cinna and Cn. Octavius, of whom the former was adverse to the interests of Sylla,

(n) " Ces propositions de la part d'un homme qui étoit à la tête de six légions, et maître de Rome, devinrent aussitôt des lois. Personne n'osa s'y opposer; tout plia sous son autorité, et Rome sous son consulat prit comme une nouvelle face." Vertot, Hist. liv. x.

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who assumed credit to himself for having permitted his election. Cinna, as soon as Sylla was gone, endeavoured to revive the law for incorporating the new Italian citizens into the thirty-five original tribes, which Sylla had rescinded; and Octavius exerted himself to oppose it. Upon this occasion, the two consuls contended against each other in the comitia, not by voices, but by weapons. A bloody battle took place in the forum, which ended in favour of Octavius, who drove from thence, and from the city, Cinna with the whole body of surviving Italian citizens, of whom, according to Plutarch, near ten thousand were slain *. Blessed government, so deserving of being admired and imitated!

Upon the expulsion of Cinna from Rome, the senate considered his consular appointment as forfeited, and elected another consul in his place. Thus abandoned, he set up his standard in Italy, and being countenanced by the states, whose cause he had supported in the city, and strengthened by the junction of some detached Roman armies, he collected a large force, and invited Marius with his friends to join him. This combination soon became too formidable for the ostensible government at Rome, and the city was once more menaced with an hostile attack from its citizens, in arms and under military discipline. Cinna and Marius invested Rome; the supplies of provisions were cut off; the soldiers and the slaves were seduced to

* Plutarch's Life of Sertorius.

join

join the invading army: the senate had no remedy but to solicit mercy, to restore Cinna to his former rank, and to receive him as the chief magistrate, and the head of the republic. Whilst the deputies from the senate were soliciting the re-instated consul to grant protection to the citizens, the stern Marius, who was, in fact, the arbitrator of their fate, stood by as a silent spectator, manifesting, by the unbending ferocity of his look, the deadly vengeance which rankled in his heart.

The gates of the city were opened, and the consul entered, accompanied by a part of his army; but Marius pretending to be withheld by a scrupulous attention to the ordinances of his country, refused to proceed until he was restored to the rights of citizenship. The completion of this farce, however, was too tedious for the workings of his ungratified revenge, which was urgent for its prey; ere the votes of the assembly could be taken, he entered at the head of a band of assassins (p) who dealt death at his nod, or rather wherever he withheld the salutation of safety; and murder strewed the footsteps of the tyrant with her victims. For five days the bloody work of vengeance was unremittingly pursued (q). All the attached friends

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(p) "A band of about four thousand of the stoutest slaves, whom he had chosen to be ministers of his cruelty." Hooke's "Rom. Hist. vol. iii. page 134.

(q) "Among the signals by which Marius directed the execution of particular persons, it was understood, that if he did

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of Sylla, or the promoters of his measures, who had not saved themselves by flight, were slain. His wife and family were eagerly sought for; but they made their escape, with his other friends who proceeded to join his camp in Asia, where they reported the proceedings of his enemies at Rome. The disappointed vengeance of Marius wreaked itself upon inanimate objects; the house of Sylla was razed, and his effects confiscated. The senate, now consisting of such members as Marius had spared, from which their political description may be imagined, were entirely at his devotion, and passed an edict condemning Sylla, and declaring him an enemy to the state. The triumph of the class of *persons* was thus completed, their hero and patron being in the plenitude of power, and having equally devoted their enemies and his own to destruction. All the laws which Sylla had instituted, for establishing the ascendancy of the senate and the class of *property*, were annulled, and the popular system was again revived; but under the authority of masters who were at no pains to conceal their tyranny. Marius and Cinna de-

“not return a salute which was offered him, this was to be considered as a warrant for immediate death. In compliance with these instructions, some citizens of note were laid dead at his feet; and as the meanest retainers of his party had their resentments as well as himself, and took this opportunity to indulge their passions, the city resembled a place that was taken by storm, and every quarter resounded with the cries of robbery, murder, and rapes. This horrid scene continued, without intermission, five days and five nights.”
Ferg. Hist. vol. i. p. 428.

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clared themselves, without any form of election, to be the consuls for the ensuing year, which was the four hundred and twenty-third of the republic, if a fluctuating despotism of the worst kind (as the tyrant of the class of *persons* or the class of *property* was triumphant) could any longer be styled a republic!

In the mean time Sylla carried on the war with vigour and success against Mithridates, supplying himself with resources, increasing his military fame, enriching his soldiers, and rivetting their attachment to his person and his cause. He felt indignant at the accounts he received of the proceedings of his enemies at Rome, and meditated and avowed his intention to prosecute revenge; but he persevered in his present enterprise, by following out the war against Mithridates, which he continued, until by repeated victories the enemy was glad to sue for peace, which he was as much disposed to grant, that he might be enabled to turn his thoughts and his arms towards Rome. The principal object of his detestation, however, escaped his projected vengeance. The hoary Marius, either visited with remorse or haunted by apprehensions, took to intemperance as a remedy against reflection, which engendered a disease that carried him off, on the seventeenth day of his seventh consulate. Valerius Flaccus was appointed his successor, whom Cinna induced to proceed with an army to Asia, to supersede or supplant Sylla in the command against Mithridates. He was killed by his lieutenant, and Sylla had the

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address

addresses to entice the soldiers who constituted his army to join his troops.—The guilty lieutenant, Fimbria, who had killed his general, had recourse to the last refuge of a Roman, by putting himself to death. Thus strengthened by the very means which was intended to supplant him, and plentifully supplied with Asiatic wealth, Sylla commenced his march towards Italy.

Cinna constituted Cn. Papirius Carbo his colleague in place of Flaccus, without the ceremony of election, and they began to take measures for opposing Sylla. Cinna intended to transport an army into Thessaly, to intercept his enemy there; but his soldiers were averse to embark, and in the attempt to compel them a mutiny took place, and Cinna was slain. Carbo continued sole consul until the election for the succeeding year, when L. Cornelius Scipio and C. Junius Norbanus were appointed consuls. In this year Sylla arrived with his army at Brundisium in Italy, after being assured, from a voluntary oath taken by his soldiers before their embarkation, of their attachment to his cause. He was soon after joined by several chiefs, at the head of small armies, in Italy, and attached to the class of *property*, who were therefore obnoxious to the present government at Rome, particularly Metellus Pius, M. Crassus, and Cn. Pompey, afterwards Pompey the Great. But on the other hand the class of *persons* had numerous and formidable armies on foot, under the auspices of the present government, with the two consuls

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at their head. All Italy was involved in this general dispute between the classes of *property* and *persons*, and the Italians were naturally disposed to favour the latter, who had supported their pretensions to be enrolled as citizens in the thirty-five tribes, which made Sylla, in his negotiations with them, engage that this privilege should be continued to them. In this year Sylla, by the intercourse which a truce admitted between his soldiers and the army of one of the consuls, seduced the consular army to his interests, and by that means got possession of the person of Scipio, whom from motives of policy he released. The other consul, Norbanus, attacked him, but was defeated. The rest of the year was spent by both sides in negotiations to strengthen their parties, in which Sylla surpassed his opponents.

For the next year Papirius Carbo and young Marius were appointed consuls, at the head of the class of *persons*. Early in the campaign the army of Marius engaged that of Sylla, and after an obstinate action, was completely defeated. Marius took refuge in Præneste, where he was closely besieged. Sylla, at the head of a detachment, made an excursion to Rome, and entered it unopposed. He made but a short stay, adopted some hasty measures, and returned to his army. The sequel of the war was spent in fruitless attempts to relieve Præneste, which the generals under Sylla always repelled. Carbo and Norbanus, at the head of separate armies, were each of them defeated; the

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former

former was afterwards killed, and the latter was reduced in despair to kill himself. An army of Samnites under Telifinus, whom Sylla and Pompey expected to have engaged near Præneste, deceived them both, and proceeded directly to Rome, in expectation of pillaging and destroying the city, which he had nearly effected; but Sylla came in time to engage him before he could gain admission. The event of this action was for some time doubtful: Sylla was worsted in the wing where he commanded; but the battle was decided in his favour by M. Craffus, who commanded the other wing. The Samnite general was killed, and the victory became complete, and was decisive of the fate of the war. All the partisans of the class of *persons* were after this in rapid succession overcome. Præneste was taken, and a dreadful vengeance wreaked upon its defenders. Marius and a brother of the Samnite general Telifinus, that they might not fall into the hands of their enemies, killed each other; and Sylla, at the head of the class of *property*, was now completely triumphant.

We have seen how the tyrant of the class of *persons* conducted himself; we are now to see how the tyrant established by the class of *property* was to conduct himself. Sylla entered Rome at the head of his army. The senate was summoned to meet him in the temple of Bellona, adjacent to the Circus; and while he was haranguing them, a dreadful and unexpected yell from eight thousand victims, whom his army was massacring in

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the Circus, struck the senators with consternation, horror, and dismay.—“Be not surpris’d,” said he calmly, “it is but the cries of some wretches I have ordered to be executed;”—and he proceeded in his speech with perfect composure. It is curious to remark the different colouring in which this action is represented by different writers, in respect to the people who suffered (r); to me it appears sufficient that they were men. The ministers of his vengeance were after this let loose, and not only those whom he devoted met their death, but such as were obnoxious from other causes to the despite, the resentment, the avarice of these miscreants. The work of death, which was executed by his order, did not fix or occupy the attention of Sylla; he was recreating with festive companions, while murder and pillage rioted at the discretion of unprincipled assassins. Some individuals of the senate were so hardy as to interpose—not to attempt to stay the vengeance of their ty-

(r) “The three thousand men formerly mentioned, who, after massacring many of their companions, had surrendered themselves to him upon promise of their lives, he caused to be shut up in a public place, together with some other prisoners (the whole number amounting to six or eight thousand) on pretence of enlisting them in the legions. He then assembled the senate in the temple of Bellona,” &c. Hooke’s Hist. vol. iii. page 159.

“About six or eight thousand of those who were supposed to be the vilest instruments of the late usurpations and murders, being taken prisoners in the war, or surpris’d in the city, were, by his direction, shut up in the Circus, and instantly put to death.” Ferguson’s Hist. vol. i. p. 444.

rant—but humbly to implore he would condescend to inform them how far he meant it to extend. This question he could only answer for the moment; he published a list of eighty persons whom he doomed to death, and whom it was the forfeit of life to attempt to save. The next day he published another list of two hundred and twenty more. Forty senators and sixteen hundred knights followed them. His mandates of destruction spread over all Italy, and not only individuals, but cities and nations, were proscribed.

Thus despotism, wearing a form the most hideous and detestable, became the immediate offspring of the Roman republic! The contests between the classes of *property* and *persons* being now no longer decided by voices in the comitia, but by arms, the influence of tribunes and civil magistrates was superseded, and gave way to the absolute authority and command of generals; and the event which gave victory to either side elevated the leader to arbitrary power, and raised to Rome a master, a despot, or a tyrant. Nor could the system once established ever be changed, until it ended in the total subversion of the government. The labours of the learned historian, who writes the history of the progress and termination of the Roman republic, might here have stopped, for henceforth the republican government was at an end; the forms of it, which were kept up, serving only as a nursery for rearing a succession of tyrants.

Sylla,

Sylla, aware of the general prejudice against royalty, was fearful that his despotism might be mistaken for it, and therefore wished to give the tyranny he exercised a constitutional name: the office of dictator suggested itself, which, when unlimited in regard to time, became an arbitrary establishment to his mind. Not only all his personal, but all his political enemies, being, if not out of existence, at least out of Rome, he was safe to leave the city and join his army, that the senate, apparently uninfluenced by him, might elect an inter-rex for restoring a constitutional form of government. He had, however, intimated the sort of government he thought necessary, and he had offered his own services, which were sufficient hints for Valerius Flaccus, who was chosen inter-rex, and who named Sylla dictator for an unlimited time (s). This happened in the four hundred and twenty-eighth year of the republic. The dictator ordered consuls and the customary magistrates to be chosen, to act under his authority. Among the candidates for the consulate appeared Lucretius Ofella, a distinguished officer of his army, who had rendered him essential service, but whom Sylla interdicted to stand for that appointment; notwithstanding which Ofella

(s) “ Valerius, having convened the people, proposed and passed a law, which not only constituted Sylla dictator for an unlimited time, but likewise ratified every thing he had formerly done, and gave him a full and uncontrollable power over the lives and fortunes of his fellow-citizens.” Hooke’s Hist. vol. iii. p. 162.

One hundred and twenty years had now elapsed since the last nomination of a dictator.

continued

continued to solicit the votes of the comitia, which the dictator observing, sent a centurion to put him to death, who executed his commission. The people seized the centurion, and brought him before the dictator for punishment. "He acted by my order," exclaimed Sylla, and gave them to understand, that thus all should perish who dared to disregard his instructions.

This example answered the purpose of a commentary, fully and completely to explain the nature of the government he had established, which, under republican names, was a finished despotism, and which but to murmur at was to be deemed a capital offence. With the lands which had been confiscated he rewarded his army, who were thus transformed from soldiers into opulent landholders. He added ten thousand new citizens, from the slaves of persons proscribed, to the city rolls, mixing them into all the twenty-five tribes under the name of Corneli, which indicated the family to whom they owed their freedom, and served as a pledge of their future attachment. He filled up the vacancies in the senate, and augmented the number of this body to five hundred, "taking the new members from the equestrian order, but leaving the choice of them to the people*." From the present state of the equestrian order (sixteen hundred of whom had been proscribed) he ran little risk in giving way to a popular election

* Ferg. Hist. v. i. p. 451.

of

of senators, which this circumstance strongly indicates to have been considered as constitutional (t).

Having adopted these measures, which had principally a reference to the preservation of his own authority, his next step was to establish the complete ascendancy of the class of *property*, which had protected and supported him in his successful usurpation, by restoring to them the full extent of their original influence in the state, to the humiliation and depression of their rivals and opponents the class of *persons*. All the powers of legislation he confined to the assemblies by centuries. He appropriated to the efficient members of the senate all juridical authority, by restricting to their body the appointment of judges, or juries, for deciding causes tried before the prætor. He confirmed the executive powers of the senate in the destination of officers on command; and he confined such narrowly to the limits which were assigned them. But above all he directed his attention to render the tribunitian appointment, which had been so active in extending the authority of the class of *persons*, non-effective in the state. He reduced the whole privileges of the tribunes to their original veto against any measure that might be deemed oppressive to the people. He took from them the right they had acquired to harangue the people, and to pro-

(t) This conduct of Sylla appears to me a strong presumption, that when any number of new senators were appointed, they were named or chosen by the people. See pages 170 & 171.

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pound laws; and he instituted a restriction altogether new, which obliged the people to elect their tribunes from among the members of the senate. This was not all: he further ordained, that the appointment of tribune of the people should disqualify every person who held it from ever after exercising any other office of magistracy in the state. In addition to these, he made regulations respecting the succession to offices, and increased the number of prætors and questors. In particular he instituted a law, making it penal to be found in the city with deadly weapons of any sort.

The succeeding year Sylla chose to be elected one of the consuls, continuing to retain his dictatorship; and in the third year he might have been again elected consul, but he declined it. What was still more extraordinary, he chose of himself to resign his despotism, by giving up the dictatorship, and becoming again a private citizen. This is certainly one of the most uncommon occurrences that is recorded in history. It has completely reconciled Sylla to the good opinion of some historians, by converting his tyranny into patriotism, and his murders, proscriptions, and assassinations into necessary severity for the restoration of good government! my explanation of whose measures is, that as the republic of Rome afforded no means of restraining the mutual encroachments of the classes of *property* and *persons* upon each other, and as the prevalence of the latter was more intolerable than that of the former, therefore Sylla applied the only practicable

practicable remedy, by cutting off one half of the society, that the other might exercise the powers of government unmolested. Such was the patriotism of Sylla! which he exhibited by means of so dangerous a weapon as despotism, the efficacy of which he displayed to the ambition of his countrymen, inviting the grasp of the first hand that had strength to wield it.

But, say the advocates for the ascendancy of the class of *property* and the depression of the class of *persons*, he restored the constitution to its pristine vigour, by lodging the powers of government in the hands which ought to possess them. Even granting this to be the case, what means did he use to render it permanent?—Edicts and institutions!—And what had edicts and institutions before availed against a defective constitution? He furnished the vessel with sails and with rigging; he stopt up the leaks, and made her buoyant; she floated, and in a smooth and unruffled sea she might attract the admiration of a superficial beholder; but he neither provided her with a rudder, nor an anchor, to guide her course, or to secure her from danger. When the storms arose, and the ocean became tempestuous, she was left at the mercy of the elements, and could not fail to be wrecked, or to founder.

A considerable time elapsed before the class of *persons* began to recover the shock they had now received, which was by far the severest they had yet experienced. When the influence of the class of *property*

property had, by a long-continued and successful tract of war, become established, the intermission, or the abatement, of foreign hostility, at last enabled the class of *persons* to rise into consideration, to make encroachments on their rivals, and by the influence and the guidance of Tiberius Gracchus, almost to overpower them, when a convulsion of the state, which ended in the death of the tribune, with three hundred of his accomplices, restored the ascendancy again to the class of *property*. For some time the class of *persons* were depressed; but it was not long when they once more began to revive, and to assume, under Caius Gracchus, an ascendancy still more threatening to their rivals than the former. Another convulsion of greater effect than the last proved fatal to the demagogue and three thousand of his abettors. The class of *property* were thereby re-instated in a decided superiority, which, however, they held but for a stated time. Like the fabled hydra, the class of *persons* again reared its many heads, and through the changes introduced by time, began to arm its numerous hands. Each of the classes now put on the habiliments of war, and assumed a general for its leader; and the success of either party established equally a tyrant over their country; slaughter followed in the train whichever side prevailed! but Sylla, at the head of *property*, was ultimately victorious. Dreadful was the desolation that took place among his opponents: the vigour of the class of *persons* was totally cut off, and the refuse only left. Satiated at last with the abuse of arbitrary power, after establishing the

the class of *property* in full possession of the whole authority of the state, the tyrant of his country resigned his superiority, and retired to a private station. Praised by all for his forbearance, and by some for the transitory system he had established (which was but the triumph of the division of the community he espoused) the example which his conduct exhibited proved fatal to his country, the success of his enterprise raising in the minds of many the desire to occupy the situation he had quitted; but few were equal to the undertaking.

It is unnecessary to say any thing here of the many military enterprises which were about this time carried on with success, and which produced distinction to individuals; intestine divisions in the state had now become independent of them. Nor is it necessary to say more about Sylla, but that in the year which followed the resignation of his power, and which was the four hundred and thirty-first of the republic, he died. Lepidus was his first unsuccessful imitator, or, more properly, the imitator of Marius, for he attempted to re-establish the ascendancy of the class of *persons*, by the abolition of Sylla's laws; but he had neither judgment nor discretion for so great an enterprise. Even the party which he pretended to support distrusted him, and he was easily crushed by the power of the class of *property*, and the abilities of its leaders.

The death of Sertorius in Spain, and the easy conquest of his betrayer Perpenna, were events by which

which good fortune elevated the reputation of Pompey; and as he was returning, the nominal conqueror of Spain, he fell in with the wreck of the army of Sparticus the gladiator, which Crassus had completely defeated with the loss of its general, and claimed the merit of terminating this war also, because he had put to the rout a body of fugitives whom he accidentally encountered, without a leader; and the people, dazzled with his successes, were disposed to favour his pretensions. This created jealousy between Pompey and Crassus. They were both competitors for the consulate; but the latter perceiving that Pompey at this time was equally the favourite of the senate and the people, chose to apply for his support, which the other, whose leading passion was vanity, readily granted; and Crassus and Pompey were appointed consuls, in the four hundred and thirty-ninth year of the republic. It is to be remarked, however, that by this election of Pompey to the consulate, who had never filled the office of questor, the laws of Sylla were infringed. A contest soon took place between the two nominated consuls on the delicate and eventful subject of disbanding their armies, which occasioned dreadful apprehensions among the citizens of all descriptions. The matter was at last accommodated; and after having triumphed (in breach of a constitutional regulation, that no general should be entitled to a triumph after entering the city) they mutually agreed to disband their troops.

Pompey

Pompey and Crassus had both been generals under Sylla, and were supporters of the class of *property*; but they were now rivals for power, and they had recourse, each of them, to the class of *persons*, to turn the balance in his favour. Crassus was the wealthiest man in Rome, and he availed himself of his riches to cajole the multitude (v). He feasted the whole city, and distributed among the poorer citizens as much corn as would support them for three months. Pompey could not vie with this profusion, but he did not hesitate to sacrifice the interests of the division of the society he had all along supported, and the laws of his patron Sylla for preserving the ascendancy of the class of *property*, to gratify his own private ambition. He propounded and enacted laws which restored to the tribunes of the people all the privileges and powers they had formerly enjoyed (w); and he removed from the body of the senate to the equestrian order, the right of judging causes in the prætor's court, which the former had rendered shame-

(v) ——"he was found to possess seven thousand and one hundred talents, or about one million three hundred and seventy thousand and three hundred pounds sterling." Ferguson's Hist. v. ii. p. 38.

(w) In vindication of this act of Pompey, Cicero observes, that it was not possible to avoid this repeal of Sylla's law, which the people were so much bent upon. This declaration seems at once to establish the insufficiency of his institutions to cure the radical defects of the Roman republic, and of course it exposes the futility of Sylla's system of reformation, for which he has obtained so much credit with some historians. Cicero de Leg. iii. 26.

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fully venal (x). In consequence of these popular institutions Pompey was, at the instance of the tribune Gabinius, and by authority of the people, appointed to command in the war against the pirates, in the four hundred and forty-second year of the republic, with absolute authority, both by sea and land, to raise what troops, and to fit out what armed vessels he chose, to draw what money he might deem necessary from the public treasury, and to employ fifteen lieutenant-generals under his orders, where he could not in person command.

The pirates were defeated in a naval engagement, and the object of that war accomplished; but Pompey had established an interest with the tribunes of the people and the class of *persons*, which now supplanted the influence of every other person in the state. The tribune Manilius proposed, in the following year, that the command in Asia against Mithridates and Tigranes should be transferred from Lucullus to him, and that he should still continue to exercise all the powers with which he was invested for the suppression of the pirates. This was to render him completely absolute, and to invite him to the assumption of despotism. The dreadful vengeance which Sylla

(x) Upon this subject all writers are agreed, even those who favour most the senate and the aristocracy.

“The judges sold their votes, without hiding their shame, and it was grown (says Cicero) to an established maxim, that a wealthy man, how criminal soever, could not be condemned.”
Hooke's Hist. vol. iii. p. 204.

had

had exercised against those who had dared to oppose his measures seemed to congeal the patriotism of the senators on this occasion, and to deter them from opposing this grant, which originated with the class of *persons*. Cicero displayed his oratorical powers in support of it. Hortensius and Catulus were the only senators who had the courage openly to condemn it. As far as the defects of the constitution of the government went, the rights of the republic were by this act once more surrendered; but the moderation of Pompey, or his disinclination at this time to assume arbitrary power, saved to the Romans yet a little longer the semblance of a republican government.

The attempt of Cataline and his associates violently to seize upon the government, was literally the conspiracy of a band of ruffians, without support or countenance from either of the classes which naturally divided the community; it was a combination of wicked and dissolute men, suggested by the successful usurpation of Sylla, and headed by a principal actor in the atrocities which his despotism had sanctioned. The particulars of this conspiracy have been so fully detailed by the magistrate who had the merit of suppressing it, and after him so minutely repeated by every succeeding historian, that there can be little occasion for insisting on the subject here. Such a treason as this was cannot be considered as the legitimate offspring of the Roman republic, excepting so far as it was a consequence of Sylla's usurpation, be-

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cause

cause it might have occurred under any government, and therefore the probability is, that if it had taken effect, the classes of *property* and *persons* would have united to vanquish and avenge it; but doubtless it must in the mean time have produced dreadful havock in the city, which Cicero's vigilance and susceptibility of apprehension happily prevented. The share which is imputed to Cæsar in this plot, I do not think well supported; it seems chiefly founded on his endeavours to mitigate the punishment of the guilty, for which both a natural and a political reason may be assigned: Cæsar was of a compassionate disposition, and his attempt in favour of these people would have the effect to augment his influence, by conferring an obligation on their friends. My principal reason for supposing him to be unconnected with the undertaking, is its want of solidity, by not resting on the natural divisions of the state, which does not tally with the sagacity and wisdom of Cæsar.

The attempt of the tribune, P. Servilius Rullus, by means of an agrarian law, to establish a decemvirate, and to place himself at the head of it, is an additional proof with me, that the republic at this time was considered as completely disjointed, and tottering to its fall. This demagogue meant to have carried his measure by the influence of the class of *persons*, whom the address and eloquence of Cicero undeceived, by a luminous exposition of
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the dangerous tendency of his impudent and daring project (y).

I come now to the decisive measures of C. Julius Cæsar, compared to whom his competitors and his cotemporaries were but as children. His predilection for the class of *persons*, as the foundation and prop of his future elevation, early manifested itself. Not long after the death of Sylla, he restored the statue of Marius, crowned by victory, which the temporary tyrant had removed, in a style of magnificence and beauty that delighted the multitude, and when questioned on this subject in the senate, he defended the measure, and successfully vindicated his own conduct. He obtained the repeal of Sylla's implacable law, which rendered the children of the persons he had proscribed ineligible to hold any appointment under government; and by correcting this cruel act of despotism, he added greatly to the strength and numbers of his own friends and supporters in the state. He soon reaped the fruits of this popularity, and had an op-

(y) The purpose of this law was, "to create a decemvirate, or ten commissioners, with absolute power, for five years, over all the revenues; to distribute them at pleasure to the citizens; to sell and buy what lands they thought fit; to determine the rights of the present possessors; to require an account from all the generals abroad, excepting Pompey, of the spoils taken in their wars; to settle colonies wheresoever they judged proper, and particularly at Capua; and, in short, to command all the money and forces of the empire." Hooke's Hist. vol. iii. p. 287.

portunity of estimating the extent of his influence, by obtaining, through the favour of the people, in opposition to Catulus and other formidable competitors, the office of high pontiff. In the four hundred and forty-seventh year of the republic he was appointed prætor, and in consequence succeeded to the command in farther Spain, where he had an opportunity of exercising his military talents, and of recruiting his exhausted finances, which paved the way to his attainment of the consulate, in the four hundred and fiftieth year of the republic.

Pompey at this time, having returned and triumphed for his conquests in Asia, was living with pompous reserve and dignified superiority in Rome; opposed to him as a rival for the favour of the senate was Crassus, whose great wealth counterbalanced the elevated character and splendid reputation of Pompey. These patrons of the class of *property* Cæsar had the address to convert into tools for his own aggrandizement, while he continued to cultivate the confidence of the class of *persons*. The opposition of the senate to his elevation to the consular appointment was overcome through their influence, and by the same means he carried a popular law, which destined the Campanian and other public lands as a provision for Pompey's soldiers, and other needy citizens who had families. The establishment of this act came to be a trial of strength between the classes

classes of *property* and *persons*, and it was not carried without open violence in the comitia, where Cæsar's party was triumphant, in contempt of the institution of a permanent fast, adopted by his colleague and opponent Bibullus on purpose to thwart it. The device of Marius and Saturninus was on this occasion resorted to, compelling the senators to swear to the support of this law, under the pain of exile or death (z). In the violence of these proceedings Pompey and Crassus divided the odium with Cæsar; but the whole merit of the measure towards the class of *persons* rested solely with himself.

Having established this permanent foundation for his popularity, he proceeded to follow the example which had been set by Pompey in attaining unprecedented authority and command †, by having his appointment to the province of Cisalpine Gaul for five years proposed by one of the tribunes, and ratified by the people; and if at this

(z) “ Pour prévenir se que ses successeurs dans cette dignité
 “ pourroient entreprendre contre la disposition de cette loi, il
 “ en fit passer une seconde qui obligeoit le senat entier, et
 “ tous ceux qui parviendroient à quelque magistrature, de faire
 “ serment de ne jamais rien proposer au prejudice de ce qui
 “ avoit été arrêté dans les assemblées du peuple pendant son
 “ consulat. Ce fut par une précaution si habile qu'il seut
 “ rendre les fondemens de sa fortune si sûrs & si durable, que
 “ dix années d'absence et tous les mauvais offices de ses en-
 “ vieux & de ses ennemis, ne la purent jamais ébranler.”
 Vertot, Hist. liv. xiii.

† See page 434.

time his intention was to seize upon the government of his country, he improved upon the conduct of Sylla, by possessing a province so much more at hand, and employing his army on a service better calculated for forming hardy soldiers. What he had more immediately in view was, to acquire military renown and riches, which were at this time essential to pre-eminence at Rome, whether as a distinguished citizen or a ruler. For the attainment of his purposes he formed the league, which has been called the triumvirate, with Pompey and Crassus, those rivals for power, whom he was at pains to reconcile to each other; but his reliance was chiefly upon Pompey, to whom he gave his daughter in marriage as the bond of a more intimate connection.

Cæsar began his operations in Gaul in the four hundred and fifty-first year of the republic, in which he very soon distinguished himself by brilliant victories and conquests. Pompey in the mean time attained and exercised extraordinary powers at Rome (A), which re-kindled the jealousy

(A) "In the year 696 [of the city] he was invested, on the proposal of Cicero, whose motion was approved of by the senate, with an absolute power for five years over all the public stores and corn rents of the empire, by which means all those who were concerned in the naval, the commercial, and landed interest, became his tributaries and dependants. Another law, proposed at the same time by the tribune Mestrius, gave him the additional power of raising what fleets and armies he thought fit, with a greater command through all the provinces, than their proper governors had in each." Hooke's Hist. vol. iv. page 1.

of

of Crassus, whose enmity against Pompey again broke forth. An interview of the three took place at Lucca, in the four hundred and fifty-third year of the republic, where matters were accommodated, and a plan of measures resolved upon. Pompey and Crassus obtained the consulship for the succeeding year; and in consequence the following allotment of provinces was carried: Spain and Africa were assigned to Pompey, and Syria to Crassus, each for five years; and Cæsar's command in Gaul was confirmed to him for an additional period of five years (B).

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(B) As a picture of the state of the republic at this time, I beg leave to subjoin Doctor Ferguson's account of this transaction in the comitia.

"On the day that this motion was made in the assembly, Marcus Cato, by means of the tribunes Atteius Capito and Acquilius Gallus, obtained leave to address the people. He endeavoured to disappoint the purpose of the meeting, by occupying so much of their time as to prevent their coming to any decision. Being commanded silence, and persisting to speak, he was ordered by Trebonius into custody. In this manner, however, the first day was spent, and the assembly adjourned to the next morning.

"The tribunes Atteius and Gallus, suspecting that means might be used to exclude them from the assembly which was then to be held, took measures to secure their admission. For this purpose Gallus remained all night in the senate house, which fronted the comitia or place of assembly. But this device was turned against himself, the opposite party having placed a guard to confine him in that place during the greater part of the following day. His colleague Atteius, with Cato, Favonius, and some others, eluded the parties that were placed to intercept them, and found their way to the place of assembly. When the question was put,

"Cato,

The military exploits of Cæsar, the battles, the sieges, the negotiations, the difficulties overcome, the dangers escaped, the conquests acquired and confirmed, have been recorded by his own pen, and have established his military reputation above that of all preceding commanders, and beyond the hopes or the expectations of all who have followed or may hereafter follow him. His renown elevated the hopes of his friends and his party, and occasioned jealous apprehensions to the members of the senate and the class of *property* in general, and to Pompey in particular, whose laurels were withered by its effulgence. By this time two events had happened, which greatly changed the relative situation of Cæsar and Pompey. Julia, the daughter of Cæsar and the wife of Pompey, had died; and Crassus had likewise fallen in the war he carried on

“ Cato, being lifted up into view by those of his friends who
 “ were about him, gave an alarm that it thundered, an inti-
 “ mation ever held by the religious customs of the Romans to
 “ be ominous, and sufficient to suspend their procedure in any
 “ business of state. He was, however, on this occasion forced
 “ from the comitium with the slaughter of some of his friends,
 “ who resisted the force that was employed against them.
 “ About the same time the tribune Aquilius was wounded in
 “ forcing his way from the senate house, and a great concourse
 “ of people was forming round him as he stood bleeding in
 “ the streets. Violence to the person of a tribune was still
 “ considered with religious horror, and the consuls, in whose
 “ behalf this tumult had been raised, fearing the consequence
 “ of suffering such a spectacle to remain in the view of the
 “ people, ordered the multitude to withdraw, and removed
 “ the tribune, still bleeding of his wounds, from the public
 “ view.” Ferguson’s Hist. vol. ii. p. 233.

with

with the Parthians. The two quondam friends, whom the superior address of Cæsar, for his own purposes, had united, being now separated into distinct and opposite interests, soon became irritable rivals and implacable enemies. The senate and the class of *property* adopted Pompey, the class of *persons* placed their reliance upon Cæsar. Such, without entering into the minutiae of the contest, was its general result, depending upon the constitutional defects of the Roman republic, and the examples which had been recently exhibited in the successful tyrannies of Marius and Sylla, to whom, and particularly the last, and not to Cæsar, must principally be imputed the subversion of that most imperfect of all civil governments, the Roman republic.

The events of the civil war are minutely unfolded and detailed in the elaborate page of history; there is no occasion for a repetition of them here; success attended the side where superior talents and capacity appeared; and Cæsar, at the head of the class of *persons*, became the master of Rome. No cruelty, no proscriptions followed; forgiveness to enemies was the policy of this humane and accomplished conqueror. To me it appears evident, that clemency and magnanimity were attributes of his nature, notwithstanding the allegations of the historian of the progress and termination of the republic, who makes all his virtues to have been artificial and assumed. Cæsar must have exercised a very extraordinary command of temper indeed to

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have upheld for so long a time, and upon so many trying occasions, with such uniform constancy, this affectation of humanity and generosity! After the suppression of the war in Africa, this historian remarks, "that, having sufficiently provided for the reputation of clemency, he now made a freer use of his sword," and "he dipped his hands with less scruple in the blood of his enemies."—He goes on to observe, that Cæsar made a speech, "in which he thanked the colony of Utica for their faithful attachment to his cause, but spoke of three hundred Roman citizens who had contributed to support the war against him, in terms which sufficiently shewed that he was no longer to court the reputation of mercy. Appian says, "that as many of them as fell into his hands were by his order put to death. Hirtius relates, that he only confiscated their effects, and that this sentence was afterwards changed into a limited fine, amounting in all to two hundred thousand sestertia, or about a million and a half sterling, to be paid in three years at six separate payments *." This story seems to be told in confirmation of the historian's preceding assertions about the free use of Cæsar's sword, and dipping his hands in the blood of his enemies. But if the circumstances so particularly stated by Hirtius were true, the Roman merchants were not put to death, as reported by Appian; and the cruelty of Cæsar in this instance is reduced merely to the words he

* Vol. iii, page 3.

made use of in his speech, which, by the report of the historian, must have been of tremendous import! No blood was shed on this occasion, unless money, by the historian, be deemed the blood of merchants. The death of Afranius and Faustus Sylla, who were killed in a mutiny or riot of the troops, which is supposed to have been sanctioned by Cæsar, is the only other specialty condescended upon by the historian in support of his allegation, which in other respects is left to rest upon the general assertion contained in the following statement:—"Many who surrendered themselves were spared; but most of those who, in their attempt to escape, fell into the enemies hands, either killed themselves, or by Cæsar's order were put to death *." The general assertion of Cicero upon this subject I apprehend to be much better founded, "that the citizens which the republic lost were carried off by the common chance of war, and not through any resentment of the conqueror (c)."

All writers on the subject of the Roman republic have observed, that the state was divided into two opposing parties contending for ascendancy, which they have distinguished in different periods of the history by different names, but which were at all times essentially and uniformly the same, viz. the classes of *property* and *persons*. The supposition of these writers is, that the rights of government

* Ferguson's Hist. vol. iii. page 3.

(c) "Quos amissimus cives, eos martis vis percussit, non ira victoriæ." Cicero pro Marcello.

must belong exclusively either to the one or the other of these parties; and after having made their election, and fixed their creed, they manufacture characters and circumstances to quadrate with their political opinions, affixing the idea of liberty and good government unalienably to that party which their prejudice favours (D). I hope the reader is prepared to go along with the observation, that both opinions are nearly in the same degree erroneous, and that truth and justice lies in the middle state between them. If the principles laid down in the work, to which this review is an appendage, be just, and if the reasoning contained in the preceding pages be well founded, the maintenance of civil liberty (combining the security of property and the preservation of personal freedom) can only exist where the classes of *property* and *persons* have an equal sway in the enactment of laws for the government of the community; and I think it must appear very clearly, that for the establishment and preservation of such an equipoise, hardly any constitution of government could be worse calculated than that of the Roman republic,

(D) "It is curious to contrast the representations of the historian of the progress and termination of the Roman republic with those of Mr. Hooke, the author of the most extensive Roman history in the English language; each styles the division of the state which he favours the legal government, and stigmatises the opposite party with the appellation of a faction. The language of abuse, which is applied by the one to the popular party, is often expressed in the very same terms by the other against the senate and the aristocracy.

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from its want of a superior regulating and regulated power.

The prejudice of the historian of the progress and termination of the republic in favour of an aristocracy, has disposed him to pardon Sylla's atrocities, because he resigned his despotism, and established the senate and the class of *property* (his own party) in full possession of the government; but the nature of the Roman republic would not admit so crazy a structure to stand; we have the opinion of Cicero, that the people, or the class of *persons*, would prevent it, who therefore vindicated Pompey (a creature of Sylla's) for being the first to overturn this system of his patron, by restoring all the privileges and powers of the tribunes of the people. Yet after this, and after the successful usurpation which Sylla had exhibited to the imitation of his countrymen, the republic is treated by the historian as if actually existing in full vigour and perfection, that he might impute the whole guilt of its subversion to Cæsar. The truth is, that the republic, which was at best a most defective system of civil government, having a natural tendency to destroy itself, received its mortal wound from Marius and Sylla. After their successful usurpations, the ambition of any individual, who had the capacity and the inclination, was invited to subdue it by the same agency of its contending classes which they had employed. Cæsar and Pompey were exactly circumstanced like Marius and Sylla. Cæsar became completely victorious;

rious; but he did not, like Marius or Sylla, murder all his opponents. His disposition or his policy led him to spare and to forgive them (E).

When we read the account of Cæsar's transactions, and compare them with the transactions of Marius and of Sylla before, and of Augustus and Anthony so immediately after, we can hardly imagine that the same age, the same country, and the same people, are the subjects of the historian's pen, so different is the complexion they display!—In the one, compassion, urbanity, forgiveness of injuries, and all the meliorations of civilized life, seem universally prevalent; in the others, the utmost rage of savage ferocity, unbridled licentiousness, unsated revenge, proscription, and murder, deform and disgrace the human species. It must be conceded, that the merit of this mighty difference depended singly upon the character of Cæsar; who then can judge of the unaccomplished intentions of such a man?

Cæsar was received at Rome with gratulations from all orders of the state. The senate vied with

(E) "The measure which of all others contributed most to the honour of Cæsar, did we suppose him entitled to the powers he assumed, was the general indemnity which he granted to all who had opposed him. Some he even employed in the administration of government."—"To the widows of many who died in opposition to himself he restored their portions, and gave their children part of their patrimony. He replaced the statues of Sylla and Pompey which the populace, in flattery to himself, had thrown down." Ferg. Hist. vol. iii. p. 30.

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the people in conferring honours and dignities upon him. Like Sylla, he was appointed dictator; he was also appointed censor, under the designation of *præfectus morum*; and he was allowed to nominate some officers of the state, who had formerly been elected by the people. The eloquence of Cicero was employed to give expression to that adulation which disgraced the Roman character, and marked the people who could use it as only fit to be governed by a tyrant*.

The admirers of Sylla's character opposed to that of Cæsar say, Why did not Cæsar, like Sylla, resign the government he had assumed, and re-establish the republic? If he had done so, and acted upon Sylla's principles, he must have vested all the powers of government in that party to which he owed his elevation, which would not much have gratified the admirers of Sylla. Indeed, whatever may have been his intentions, it is clearly my opinion, that he could not possibly have established a worse or a less secure system of civil government than the republic was at this period of its existence. There might have been hopes of a better establishment from his life; by his death, as it was accomplished, there could be none. But it would be well upon this occasion to reflect what time was left to Cæsar for the manifestation of his intentions. In the four hundred and sixty-first year of the republic, the battle of Pharsalia was fought. In the three following years Cæsar was employed in

* Cicero pro Marcello.

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subduing

subduing his enemies in Egypt, in Africa, and in Spain; and he was not of a disposition to leave any undertaking unfinished. In August of the year four hundred and sixty-four, he returned from Spain. Some time was spent in triumphs and festivals for his victories, the senate having voted a supplication of fifty days. On the ides of March, in the following year, he was murdered. Only seven months were allowed for Cæsar to act or to resolve. Had Sylla ended his existence before the resignation of his dictatorship (which was as sudden as it was unexpected) how would his character have blackened the page of history.

With Cæsar, clemency departed from the dominions of Rome; the conspirators manifested themselves to be the claimants for power and domination; the spirit of Marius and Sylla revived, and their example of murders and proscriptions was followed, until the self-destroying republic settled at last, by a very natural progression, into an unresisted and permanent despotism.

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