COMMON CONSENT,

THE BASIS OF THE

CONSTITUTION OF ENGLAND;

OR,

PARLIAMENTARY REFORM

CONSIDERED AND TRIED

BY THE TESTS OF

LAW AND REASON.

Miserable nation! that from so great a height of glory is fallen into the most-despicable condition in the world, of having all its good depending upon the breath and the will of the vilest persons in it. — In all preceding ages parliaments have been the palace of our liberty; the sure defenders of the oppressed: they who formerly could bridle kings, and keep the balance even between them and the people, are now become the instruments of all our oppressions, they themselves led by a few interested persons! — Alg. Sydney.

Inheritus rei arceetur per reductionem ejus ad principia. Regula est in physicis; eadem valet in politicis (ut recte notavit Machiavelius) cum illa quæ intentum rerum publicarum maxime prohibent, nihil alium fere sint quam reformatio earum et reductio ad antiquos mores. — Bacon.

Bendòrás chasénno secondo il grado e la vocazione sua, procurar il remedio; chi non può altresí colle crazíone; e chi può impedire il male, con ovviare e opporsi agli abusi. — Fra. Paolo.

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1817.
TO

THE RIGHT HONOURABLE

THE

MARQUIS OF TAVISTOCK,

&c. &c. &c.

MY LORD,

In the early periods of our history, it was the peculiar happiness of this country, that the noblemen and gentlemen, the Magnates et Proceres Regni, were ever prompt and determined in the defence and support of freedom. They were bold and strenuous, and brooked no encroachments on their rights: they were wise and just, and sought no advantage for themselves, which they did not secure to the whole commonalty of the land. Let those who consider the value of the plain and homely words of Magna Charta—Nullus liber homo—pay their just tribute of applause and gratitude to the nobility and gentry who in those days headed the valour of the people, and in the result of whose counsels the rights of the lowest freeman were established on the same foundation with those of the highest.
In modern times how different the scene! The rights of the people have been invaded and usurped. The groans of distress are everywhere heard. The distress cannot be removed without political exertion: but the Magnates et Proceres Regni are sunk into apathy. When the people cry aloud for effectual aid, the weak hand of charity is offered to alleviate, and the cause of misery is left untouched. The natural leaders of their countrymen in every glorious enterprise, cherishing inglorious ease, leave mischief at large, and turn a deaf ear to the names of common right and liberty which roused their ancestors to deeds of heroism and patriotic devotion, almost unparalleled in the annals of the world.

This neglect of the gentry has permitted the growth of the vilest usurpation that ever sneaked and grovelled into power: and hence the ruin which now crushes the once free and happy England. If the higher orders of men be entirely degenerated, if the luxurious sloth in which they have indulged be incorrigible, if they resolve to continue their utter abandonment of the people at large, God and the national courage will be our only refuge. But if their inactivity has proceeded only from modern delusions, which have clouded the remembrance of their country's rights, the foundation of their forefathers' glory, if the hearts of Englishmen still live in their breasts, we may hope for a less awful termination of our miseries. A necessity of acting or suffering is come, and cannot be avoided. Such is the wide-spreading desolation, that without vigour
the gentry can no longer repose in safety. Common calamity demands the common consultation to which the constitutional law entitles us; and the momentous experiment is now making, whether a consideration of the rights and the policy which ought to govern freemen, will win the gentlemen of England to the performance of their duty, and place them at the head of their countrymen, in a fixed resolution to regain their lost freedom and comfort. The personal safety of us all hangs on the issue. Delays cannot be long protracted. Men driven to last resources and first principles are not to be trifled with. The most wretched of the people are already seen to perish by starvation in the streets and highways. The classes next above rapidly approach the same miserable fate: all are threatened. The soothings of charity are partial, inadequate, and though well-meant, demoralizing: but the friends of parliamentary reform have hitherto preserved the peace, by holding out the prospect of a remedy. Amidst unutterable distress, hope now animates and consoles and represses, but without the support of the gentry its foundation is frail and its continuance cannot be long.

Humiliating as is the confession and hard to be made, the truth requires me to acknowledge that a great proportion of the English gentlemen have so long deserted the people, so long slept in indolent security that they seem not to know their own power, or the real sources of their own danger. The crown has often been thought the key-stone of our
social compact, yet with the help of the gentry, the crown was removed from one head to another, without the slightest inconvenience—the law of succession was abrogated and a new law made—the government established by law was for a time absolutely unhinged—a foreign army, than which nothing can be more irritating to a free nation, traversed the land—yet the good disposition of the people and their confidence in the gentry prevented any infraction of the peace; and now, when no thought is entertained of disturbing the executive power, shall it be pretended that the unlawful usurpation of a few individuals cannot be removed, nor a pile of crude election laws repealed without danger? that the people, who are most distinguished in the world for respect and obedience to the laws, cannot receive the restoration of their undoubted and long contemplated rights, of which they have been unlawfully deprived, without hazard? No; this is not the hazard to which we are exposed. But there is danger—danger lest the people should lose their hope, and become entirely alienated from the gentry, from those who possess the greatest property and natural influence—from those who have it in their power to insist upon and obtain a speedy and peaceful remedy and yet refuse to interfere. "When any rising," said Fortescue, "hath been made in this land before these days by commons, the poorest men thereof have been the greatest doers therein—and thrifty men have been loth thereto, for dread of losing of their goods, but oftentimes they have
gone with them, by menacing, or else the same poor men would have taken their goods; wherein it seemeth that poverty hath been the sole and chief cause of all such rising. The poor man hath been stirred thereto for to get good; and the rich men have gone with them because they would not be poor by losing of their goods. What then could fall, if all the commons were poor? Truly it is like that this land should be like unto the land of Boeme, where the commons for poverty rose upon the nobles, and made all their goods to be common!!" The words of this old author are portentously applicable to the present time, and the reason why the natural consequence of universal poverty has not already ensued, is that a legal, peaceful, and sufficient remedy has been sedulously and virtuously offered to their consideration, on grounds so simple and convincing that they could not be mistaken or misunderstood. What more obvious than that affairs must go to ruin, when those who pay the reckoning have no means of controlling the account? What more evident than the cause of desolation, when the people without any effective guardians or stewards, appointed by themselves, have their lives, liberties, and property disposed of by men who have nothing but their own passions to impel or control them? What then more evident than the remedy for the mischief which has thus been created. Thank God, these principles have sunk deep into the hearts of the people, and the hope of the remedy will have a constant tendency
to check the violence which is so strongly urged by overwhelming distress. But if the gentry instead of promoting that remedy should obstinately oppose it, no man can foresee the progress or the termination of the transactions soon to ensue. Here then is the danger, and it is imminent. The remedy will not, cannot be abandoned or neglected. If a spark of freedom, if a manly and generous compassion glows in the bosoms of our English gentlemen—if they duly consider their own situation and their own interest, they will shake off the yoke of the ignominious factions which trouble the state, and stand forward lawfully and peaceably to guide the honest and necessary exertions of their injured countrymen: if they refuse, leaders inferior in rank and prudence, but more brave, zealous, and patriotic, will doubtless be chosen: no power can prevent it. And let the result be contemplated by those who have courage to dare the encounter. But surely I am justified in hoping better of our English gentlemen. Embarrassed, and pestered, and overborne as we are by a new and counterfeit aristocracy of servile wealth, there yet remains a sufficient number of the old race, who remember the glory of their fathers, and desire only to imitate their virtues. Let them now stand forward: delay can no longer be endured. We must revive the old law, and the old principles, or we must certainly perish.

My Lord, in any cause but that of our suffering country, I should have thought that I was taking
an unwarrantable liberty in appealing to your Lordship in this public manner; but I know the importance of my subject, and the virtues of the man I address, and with confidence I call upon your Lordship by all that is holy and just, by the honor and patriotism which have made your own family for ever illustrious, and by the necessity which works in every honest bosom to do good in the right season, to stand forward the asserter and supporter of our antient freedom, and by holding your just rank among the foremost leaders of the nation, to save us from intolerable slavery on the one hand, and from the dangerous necessity of adopting rash counsels, which may end in confusion and bloodshed on the other.

My Lord,

I have the honour to be,

With respect not withheld from your rank but bestowed on your character,
Your lordship's most obedient humble servant,

THE AUTHOR.

Jan. 23, 1817.
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COMMON CONSENT,
&c. &c.

Among the various subjects claiming public attention at this time of misery and alarm, none appears so worthy of immediate consideration as those which relate to the real construction and proposed reform of the Commons House of Parliament. The members of this powerful and exalted convention undeniably style themselves the Commons of England in parliament assembled; and they rigorously maintain their title of legal representatives of the people, whose common will they always pretend to express, and in whose name they perform all the functions and exercise all the powers given by our constitution to the whole commonalty of the land. In these lofty and important distinctions they are supported by many celebrated writers on our laws and constitution, who have vied with each other in detailing the numerous advantages which this favoured land derives from the fame of our polity, by which it is admirably and effectually contrived, that the interests and the will of all ranks of persons shall be combined in every legislative enactment.

In the mean time there has been a constant murmur of discontent and complaint among the people concerning the inequality of their representation. Amid the praises so deservedly bestowed on our happy constitution, some reservation has generally been made on account of its rotten or shameful parts, which have been said to deface the beauty and diminish the value of the whole. "To what gross absurdities," said Locke at the time of the
revolution, "the following of custom when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheep-cote, or more inhabitants than a shepherd is to be found, sends as many representatives to the grand assembly of law-makers, as a whole county numerous in people, and powerful in riches. This strangers stand amazed at, and every one must confess needs a remedy; though most think it hard to find one." The same subject was frequently commented on by writers of inferior note; and the growth of corruption, occasionally drew observations of the like kind from parliamentary orators: but it was not before the stupendous increase of debts and taxes in later times, and the manifest dependance of every House of Commons upon the minister of the day, that the irregularities in the distribution of the elective franchise excited any very general attention or alarm. The result even of the enquiries of Browne Willis failed to make a deep impression. The profligate maxims and conduct of Sir Robert Walpole discovered the real grievance to only a few individuals. But as heavier burdens pressed upon the people, as ministers became more presumptuous, and parliamentary elections more flagrantly corrupt; above all, as the practice of selling seats in the House of Commons became more impudently notorious, the curiosity of the nation was painfully and actively aroused: and at length the important and interesting discussions arising out of the disputes with America, and the accumulating history of the small boroughs, extorted from many distinguished persons an unequivocal declaration—that the House of Commons did not represent the people. This declaration, which in its consequences involved the proposition, that Englishmen, instead of being freemen, enjoying security of property, were slaves, submitted to the
capricious will and absolute disposal of a legislature, in the appointment of which they had no effective concern; and which implied that our government, instead of being a free commonwealth with an hereditary monarch, was an arbitrary oligarchy, with an hereditary pageant, was received by some with astonishment and dismay; by others with an angry incredulity which disdained the suspicion that our ancestors had not guarded against every political evil. Reform, however, became a subject of general discussion, and it was earnestly demanded by many illustrious persons, whose exertions met with no more opposition than might have been reasonably expected from the various opinions of men, and the conflicting interests of the parties concerned. Under these circumstances, the society calling themselves the friends of the people, published their celebrated report and petition. Many who before doubted were then enlightened; and a great proportion of the people at large became convinced, not only that their vaunted legal, or as it is sometimes called, virtual representation, was a mere delusion; but that such a change ought to be effected, as would restore to the commonalty their ancient right of expressing their common will in parliament. These opinions resounded through the land, and if they had not been checked by the terrific ingratitude of Mr. Pitt's administration, it is probable that some reform must have taken place. But that able and unprincipled state tactician, contrived both to terrify and delude the people on the subject of reform, and by his exertions the cause was for a time oppressed. It has since been deserted by some of its most ostentatious supporters, who are now only conspicuous by their distinguished apostasy: but it still remains dear to the hearts of the people who again loudly declare their sentiments. Our ancient and invaluable laws have left the traces of freedom deeply engraved in our
hearts, and with us the season of calamity is still the season of inquiry and action. Englishmen have not yet so far accommodated themselves to the abject condition of slaves as to sit down with folded arms lamenting their misfortunes, without a thought of exertion to remove them; but every man, according to his understanding and his means, considers how he may aid his afflicted country. Some exert themselves in acts of benevolence endeavouring as far as their power extends, to relieve individual suffering: others, duly appreciating the advantage of even a temporary and partial alleviation of evil, but seeking for a more lasting and general remedy, track the grievance to its sources, and remount to the first origin, without a removal of which they reasonably conclude that no permanent benefit can be gained, nor a recurrence of the same mischief prevented. Let each have honour in his sphere: it is a subject of just pride to belong to a country composed of men who so actively sympathize with one another. Among such men I flatter myself that I need not offer any apology for presenting to the public the following discussion on the question of parliamentary reform, which is regarded by so many of my countrymen as the only measure which can restore to us our suppressed rights, and with them our lost happiness. I may presume that neither the importance nor the utility of the discussion will be denied by any party. To the friends of reform, who consider themselves to be in pursuit of an effectual remedy for national grievances, it may be useful to shew the legal foundation of their demand, and to collect their principal arguments together. Even its enemies must feel some anxiety to discover the strongholds of their opponents, that they may consider of the manner in which they are to resist the general expression of popular will. In the course of my enquiry I shall endeavour to keep reason and the law for my con-
stant guides. I disclaim all connexion with any faction or party; and if it shall be shewn by fair argument that any of my positions however carefully considered are erroneous, I shall hold myself ready to retract on conviction. Let the adversaries only remember, that neither invective nor any appeal to corrupt practice can invalidate principles founded on the broad basis of established law against which no bad custom can prevail.

§ I. Laws made by the common consent of the governed can alone confirm the safety of their persons and the security of their property.

The happiness of a nation depends upon the laws by which it is governed, and more especially upon such as relate to personal safety and security of property. To ensure protection which is the grand office of political power the actions of the government must be in obedience to the common will of the governed; that is, the rules or laws according to which the government exercises its power must be made by the common consent of the people; for if it were otherwise, if the laws were made without the common consent of the governed, in such case the subjects whose assent had not been demanded, and who therefore had no voice in the preparation of the law, would have no protection but that which they derived from the will and pleasure, the caprice, interest or fear of those persons who had conspired to make the laws; which might indeed be an occasional and temporary but not a constant and assured protection, which alone can confirm the public happiness.

Again, laws which are not made by common consent, are made by only a part of the nation who can only have an arbitrary and despotic power to govern the other part. Force must be constantly employed
to obtain obedience; and if that force should be in
the hands of a minority it will of necessity beget re-
sistance, and both public and private safety will be
endangered by the efforts of the oppressed majority
to throw off the yoke.

Lastly, laws made without common consent are
devoid of the only moral sanction which laws can
possess, and writers of our own country have affirmed
that they are not to be considered as laws at all.
Hooker says, "The lawful power of making laws to
command whole politic societies of men belonging
so properly unto the same entire societies, that for
any prince or potentate of what kind soever upon
earth to exercise the same of himself and not by ex-
press commission immediately and personally re-
ceived from God, or else by authority derived at
the first from their consent upon whose persons
they impose laws, it is no better than mere tyranny.
Laws they are not therefore which public approba-
tion hath not made so." And Locke says, that
"without a sanction from that legislative which the
public has chosen and appointed, the law could not
have that which is absolutely necessary to its being
a law—the consent of the society, over whom no-
body can have a power to make laws but by their
own consent and by authority received from them."

§ I. By the English constitution the laws of England
ought not to be made without the common consent of
the people.

The constitution is the system of those immemo-
rial rights and antient laws which have reference to
the sanction of laws, to the form of government, the
powers and duties of the governors, the protection,
immunities and duties of the governed, and the
means of preserving due order between them. I
am now to establish that common consent is the
constitutional sanction of our laws; and for that purpose I shall resort to the old writers upon the English laws and government, to the declaration of judges from the bench and to the statute book.

Bracton, who wrote in the time of Henry III. in the first chapter of his first book of the laws of England thus expresses himself:—"That which is justly defined and approved of by the counsel and consent of the lords, and the common agreement of the commonwealth under the authority of the king or prince, hath the force of law;" and in the 2d chapter of the same book he says, that "the laws and customs of England sometimes command, sometimes forbid, and sometimes avenge and punish wrong doers by the authority of the king; but these laws and customs as they were approved of by the consent of those who use them and confirmed by the oath of the king, can neither by changed nor revoked without the common consent and counsel of all those, by whose counsel and consent they were made."

Fortescue, who wrote during his exile in the time of Edward IV. in the 9th chapter of his book in praise of the laws of England says, "the King of England cannot change the laws of his realm at his own pleasure, because he governs his people by a limited and not by an absolute power. Neither can he change the laws without the consent of his subjects, or burden an unconsenting people with strange impositions, because his people freely enjoy their possessions; they are governed by laws of their own liking, and cannot be pillaged by the king, or any other." In the eighteenth chapter of the same book he says, "the statutes are not made at the will of the prince, but by the assent of the whole realm, whence they cannot injure the people or fail to do them good;" and he adds, that if the statutes should not be effectual, they may very quickly be reformed, but not without the consent of

The consent of...
the commonalty and of the lords of the realm, by which consent they were first made." And in the thirty-sixth chapter he says, that "the King of England cannot by himself or his ministers impose taxes subsidies or any other burdens upon his people; neither can he change their laws or make new laws without the grant and consent of the whole realm, expressed in his parliament."

St. German, who wrote in the time of Henry VIII. in his book called the Doctor and Student describes the different grounds of English law, among which are the statutes made as he says "in parliament by the king and his predecessors, the lords spiritual and temporal and the commonalty of the whole realm."

Sir Thomas Smith, who wrote about the beginning of the reign of Elizabeth, in his work called the Commonwealth of England, book 2d, chapter 2d, expresses himself thus: "The parliament of England representeth and hath the power of the whole realm, both the head and the body. For every Englishman is intended to be there present either in person or by procuration and attorney, of what preeminence, state, dignity, or quality soever he be, from the prince to the lowest person of England. And the consent of the parliament is taken to be every man's consent."

Crooke, Justice in the time of Charles I. in his argument in the celebrated case of ship-money has these words: "The common law of England settleth a freedom in the subjects in respect of their persons, and giveth them a true property in their goods and estates, so that without their consent or implicitity which they consented unto by a common assent in parliament, it cannot be taken from them nor their estates charged.

Lord Hardwicke when Chief Justice of the Court of King's Bench, in the time of George II. said "the binding force, and acts of parliament arises from that prerogative which is in the king as our sovereign liege lord, from that personal right which
is inherent in the peers and lords of parliament to bind themselves their heirs and successors in their honors and dignities, and from the delegated power vested in the commons as the representative of the people, and therefore Lord Coke says, fourth Inst. I. “These represent the whole commons of the realm, and are trusted for them: by reason of this representation every man is said to be party to, and the consent of every subject is included in an act of parliament.”

In this manner is the common law declared by authority, which cannot be denied, and the same doctrine is frequently acknowledged in a less solemn manner. The preamble to a parliamentary writ issued in the 23d year of Edward I. is thus expressed:—\textit{As the most just law established by the provident wisdom of sacred princes exhorts and establishes that what concerns all shall be approved by all, so it plainly intimates that common dangers shall be obviated by common remedies.} This writ is directed to the prelates and clergy, and requires them to meet at Westminster to consult with the lords and other inhabitants of the realm, upon the dangers which then threatened the country. But I shall now proceed to cite some of the statutes which support the proposition placed at the head of this section, especially in its application to laws made for the imposition of taxes, as to which the danger of encroachment has always been greatest.

I only refer the studious reader to the great chapters 17 John c. 12. and 9 Henry III. c. 37; for although these immortal statutes clearly imply the doctrine now under consideration, yet cavillers have been found to contest the plain meaning of the words, and I could not satisfactorily refute their errors without entering into an argument which would interrupt my present subject. The meaning of the statutes hereafter mentioned cannot be disputed.
\* Confirmation of the charters, 25th Edw. 1. c. 1. 5, 6. Know ye that we to the honour of God, and of holy church, and to the profit of our whole realm, have granted for us and for our heirs, that the great charter of liberties and the charter of the forest, which were made by common assent of all the realm in the time of King Henry our father, shall be kept in every their points, without any breach. And for as much as some people of our realm are in fear that the aids and taxes which they have given to us before time towards our wars and other business, of their own grant and good will, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found on the rolls; and so also the prises which have been taken throughout the realm by our ministers in our name, we have granted for us and our heirs that we will never draw such aids, taxes, nor prises into a custom, for any thing that hath been done, or that may be founden by roll or in any other manner. Moreover, we have granted for us and our heirs to the archbishops, bishops, abbots, priors, and other folk of holy church; and to the earls, barons, and to all the commonalty of the land, that never for any business will we take such manner of aids, taxes, nor prises of our realm, but by the common assent of the realm, and for the common profit of the said realm, saving the antient aids and prises due and accustomed.

34 Edw. 1. st. 4. c. 1. 4. No tallage or aid shall be imposed or levied by us or our heirs in our realm, without the good-will and assent of the archbishops, bishops, and other prelates; earls, barons, knights, burgesses, and other freeman of the land: also, we will and grant for us and our heirs, that all clerks

\* As the statutes are variously arranged in the different editions, I think it necessary to notice, that I refer to the last edition by Mr. Tomlyn.
and laymen of our realm shall have all their laws, liberties, and free customs, as freely and wholly as they have been used to have the same at any time when they had them best and most fully; and if any statutes have been made by us or our ancestors, or any custom brought in contrary to them, or to any manner of article contained in this present charter, we will and grant that such manner of statutes and customs shall be void and frustrate for evermore.

15 Edw. 2. st. 5. The things which are to be established for the state of the king and his heirs, and for the state of the realm and of the people, shall be treated, accorded, and established in parliament by the king, and by the assent of the prelates, earls, and barons, and by the commonalty of the realm, as hath heretofore been accustomed.

14 Edw. 3. st. 2. Know ye that whereas the prelates, earls, barons, and commons of our realm of England, in our present parliament, have granted to us of their good grace and good will, in aid of the performance of our great business which we have to do, as well on this side the sea as beyond, the ninth sheep, the ninth fleece, and the ninth lamb to be taken for two years next coming after the making of the same; and the citizens of the cities, and the burgesses of the boroughs, the very ninth part of all their goods; and the foreign merchants and other which live not of gain nor of store of sheep, the fifteenth part of their goods lawfully to the value; We, willing to provide for the indemnity of the said prelates, earls, barons, and other of the said commonalty; and also of the citizens, burgesses, and merchants, aforesaid, do will and grant for us and our heirs, to the said prelates, earls, barons, and commons; citizens, burgesses, and merchants, that the same grant which is so chargeable, shall not another time be drawn into example nor fall to their prejudice in time to come; and that they shall not be from henceforth charged nor grieved to make
any aid or to sustain any charge if it be not by the common assent of the prelates, earls, barons, and other great men and commons of our said realm of England, and that in parliament.

In the recital of the first statute which was passed in the reign of King James the First, it is declared that there can be no means so fit to acknowledge obedience to his majesty, "as in this high court of parliament, where all the whole body of the realm, and every particular member thereof, either in person or by representation, (upon their own free elections) are, by the laws of this realm, deemed to be personally present."

Petition of Rights, 3 Car. 1. s. 10. No man shall hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by act of parliament.

And the stat. 12 Car. 2. c. 4. s. 6. recites, that no rates can be imposed upon merchandise exported or imported by merchants or aliens, but by common consent in parliament.

If the reader pleases to turn over our old law books and statutes, he may easily add to the above authorities; but it is already manifest, that common consent is the constitutional sanction of English law; and the importance of the people at large may be understood from the remark of Sir Martin Wright, who, though afraid of seeming to trifle, concludes the appendix to his book on Tenures by saying, that he "cannot help observing, from the language of the old statutes, la commune, tole la commune d'Engleterre, le commonaltie, tout le comminaltie, et communautie de la terre, communitas regni, common, commen de tout le royaume, commen assent, commen accorde, &c. how tenacious and fond our ancestors were of the word commune, and that the commons and commonalty of Great Britain retain and glory in it at this day."

It is very material to establish, as I think is suf-
ficiently done by the authorities above cited, that long before the revolution settlement, it was the constitution of England, that laws should be made not merely by act of parliament; for in that case any assembly convened by the king and called a parliament, might have made laws binding on the people: but they were to be made with the common consent of the whole commonalty of the land by act of parliament; and then they had the only constitutional sanction of any law, not tacitly adopted and acquiesced in by the people themselves, and by general use and approbation become an indisputable custom. Bearing this in mind, we may better understand the celebrated declaration of the rights and liberties of the subject, which has often been called the foundation and main support of our constitution, although, in fact, it was but an imperfect recital of previously established laws, which had in former times been more explicitly and unequivocally declared.

Bill of Rights, 1 Will. and Mary st. 2, c. 2. The lords spiritual and temporal, and commons (after noticing that they were assembled in a full and free representation of this nation) declare “That the pretended power of suspending of laws, or the execution of laws by regal authority, without consent of parliament, is illegal;” and “That levying money for or to the crown by pretence of prerogative, without grant of parliament for longer time, or in other manner than the same is or shall be granted is illegal.”

The framers of this bill in their anxiety to maintain the power of parliament against the then late assumptions of prerogative, left the common right of the whole people, in some instances to the precarious issue of inference and implication: but the lords and commons (with what truth let the historian judge) declared that they lawfully, fully, and freely represented all the estates of the people of this realm, and they afterwards called themselves a full
and free representative of the nation; and as it is certain that the nation could not intend to abandon the old principle, it is clear that notwithstanding the imperfection of the Bill of Rights, it still remains an essential part of the English constitution, that laws ought to be made with the common consent of the whole realm, and that such common consent ought to be expressed in parliament.

§ III. *The legislature of England is representative, and the common consent of the commonalty ought to be expressed by a fair and equal representation of the people in the House of Commons,*

The proof of the latter part of this proposition has been in a great measure anticipated but it will be useful to consider it in its connexion with the former, and to treat the subject somewhat more at large than could conveniently be done in the last section, which was principally confined to an enumeration of authorities. It is necessary also to say a few words on the nature of representation and common consent.

When one man is authorized or empowered by another to act on his behalf, he who is appointed is indifferently called an attorney (one who stands in the turn or place of another) or a representative (one who has authority to represent another). In like manner when a multitude of men authorize or elect one to act for them, he is called the representative of the multitude, and an assembly of such representatives appointed by the several multitudes which make up a whole people is called the representative of that whole people. To represent therefore, when we treat of politics, is to act for others in consequence of their appointment; and the representation is not of greater extent than is comprised in the number of persons who contribut-
ed or might have contributed their votes to the appointment. Such is political representation.

When the members of any society meet together for the purpose of making laws to regulate their conduct and preserve peace, whatever may be the variety of their opinions when they assemble, they must of necessity either commence with or after debate and attempts to dissent, arrive at an unanimous agreement or submission, that the decision of a proportionate part shall bind the whole; and by virtue of this unanimous agreement or submission, when a law is voted, the actual assent of the part agreed upon is justly held to be the common consent of the whole. Upon this principle it is the common law and custom of England, that the actual assent of the majority of any society capable of making rules or orders, shall be held to be the common consent of the whole society. So also when a multitude of men assemble for the purpose of electing a representative, there must of necessity be a previous agreement, that the appointment of a proportionate part shall be held to be the appointment of the whole; and by virtue of this previous agreement, when one man is appointed, the appointment actually made by the part agreed upon, is justly held to be the election of the whole multitude; and the representative thus chosen is justly said to represent the whole; that is, he represents those who voted for him by reason of their actual appointment, and he represents those who voted against him by virtue of their previous agreement, to abide by the appointment of a proportionate number who voted for him.

I hope that the reader will pardon these elementary statements which I should have omitted, if the various errors which have prevailed in recent times had not appeared to make it necessary for me in the course of this essay to use my best endeavours to fix the meaning in which I employ important
I proceed to the particular purpose of this section.

Although a political representative is one who has authority to act for others, in consequence of their appointment; yet may the appointment be remote or immediate, according to the different circumstances of the case under consideration.

One of the king's ancestors was appointed by our ancestors to hold the royal authority of the nation; and it was ordered that the same authority should descend from him to his heirs in a course of succession, directed by law for that purpose. There is no immediate appointment by ourselves—the king receives no authority immediately from us; but because we recognize and are bound to abide by the appointment of our ancestors—because he received his power from his ancestors, one of whom was appointed by ours, and because he acts for us by virtue of that appointment, and by no other lawful right—"potestatem a populo efluxam ipse habeb," says good old Fontescue, "quo ei non licet potestate alia suo populo dominari." For these reasons the king is not improperly called the representative of England to the whole extent of his political power, as first magistrate and one branch of the legislature. In the latter capacity the king has an undoubted constitutional right to appear, or to appoint commissioners to appear for him, and declare his assent or dissent to any proposed legislative enactment. That his assent given by himself or his commissioners is absolutely necessary to the making of a law, and that his dissent absolutely defeats any proposed law is not disputed by any one. His declaration must however be made either by himself, or by persons immediately appointed by himself for that purpose; and if any peer or great man of any rank were to shew himself to the houses of parliament, and pretending that he knew a great deal more of the matter in question than the
king did, should insist that therefore he ought to decide instead of the king, there is no doubt that, although the statute 13 Car. 2. st. 1. c. 1. s. 2. had never been made, the impertinence of the intruder would be justly scorned or punished. No distinction is made between the actual consent of the king and any other imaginary legal declaration of his will. Observe then, that the common consent of the people is equally required for the constitutional enactment of a law. If the people have not, for their common consent, a protection equal to that which the king has for his personal consent, what constitutional reason is there for the difference?

The members of the House of Lords have derived their power and dignity not immediately from the people, but mediately from the king, or his predecessors, in consequence of the power conferred upon them in the way before mentioned. But, because all the powers and privileges they enjoy did originally spring from an appointment on the part of the nation at large, and because they continue to act by virtue of that appointment, not for themselves alone, but also for the whole nation; because, as Lord Chatham said "the privileges of the House of Peers, however transcendant, however appropriated to them, stand in fact upon the broad bottom of the people," we may without impropriety call the lords representatives of the nation to the whole extent of their political power, individually as hereditary counsellors of the king, and collectively as the highest court of law, and one branch of the legislature. In their latter capacity they have an undoubted constitutional right to appear collectively and by themselves, or their proxies, to declare their assent or dissent to any proposed legislative enactment. That their common consent given by themselves or their proxies is absolutely necessary to the enactment of any law is not dis-
puted; but the declaration of each individual must be made either by himself, or by another lord specially appointed by him for that purpose. It often happens that many lords are absent during the debate, and at the decision of a question; but it was never heard of that one lord who was present and had not been duly appointed proxy for the absent lords, might, on pretence that he knew more of the matter than the absent lord did, insist that he had a right to vote instead of them, and count their votes in his favour. This case is open to no ambiguity or cavil. Actual consent is not distinguished from that which is legal. If the people have not equal security that their common consent shall be included in every legislative enactment, I may again be permitted to ask what constitutional reason can be given for the difference?

The constitutional right of the whole commonalty of the land to declare their common will in parliament has been before proved. It is manifest that the people cannot personally and collectively appear; from whence it follows, by necessary inference, that in order to exercise their constitutional right, they must appoint a select number to appear for them—to represent them in the legislature—to act with their authority in their name and on their behalf. The manner in which the representatives ought to be appointed is deducible from the first principles of the constitution. The common consent of the whole people is the thing required—the object to be obtained. It cannot be had without an election of representatives by the people. The right of election is, by the constitution, left in the hands of the people; and the law, instead of providing for any such remote appointment as has been traced in respect of the king and lords, has declared that elections shall be free, and has directly forbidden the interruption of their freedom by any individual whatsoever as King Richard the Second.
too late discovered. Moreover no separate part of
the people has any right to be better or more faith-
fully and fully represented than any other part, and
therefore there ought to be a fair and equal repre-
sentation of the whole. And as the House of Com-
mons is the only legal assembly in which the repre-
sentatives of the people can exercise the power, or
declare the will of their constituents, I conclude
that by the constitution of England, the members
of the House of Commons ought to be freely and
equally elected by the whole people; and that if
they are not the constitution is violated.

But I am now traversing the field of controversy,
and must notice objectors in my way.

Some affirm that the practice of government is the
law of the constitution, and that the people are not
intitled to a fair and equal representation; because
they have not enjoyed it. To this I answer by ad-
mitting, first that in the absence of any positive
rule, long continued and unquestioned practice will
make law; and secondly that when the meaning
of a positive law is doubtful, it is good to explain
it by unquestioned cotemporary practice. But
when the law is clear and explicit, I must be ex-
cused for insisting that it cannot be invalidated by
any practical violation. Whether elections were, or
were not free, at the several times when the com-
mon consent of the whole realm was declared to be
the constitutional sanction of law, is a question of
historical investigation, and subject to more doubt
than I can easily resolve. "If people will have the
utmost of antiquities, and the very original of the
wisest and justest government in the world; they
must be content to read with letters that are some-
what worn:" thus said the patriotic Samuël John-
son; and no part of history is more obscure than that
which relates to parliamentary elections. But this
is certain, that the elections were ordered to be free,
and by common consent; and in many instances,
the knights, citizens, and burgesses, were jointly elected and returned together in the county courts, which were attended by very great numbers of persons, all of whom claimed and exercised the right of voting. That elections shall be free is still the acknowledged law of the land; and in obedience to it, the persons who elect may be represented; but the representation does not extend beyond the number of electors; and it is disputed who ought to be electors, and in what proportion for every one or two representatives. The constitution requires that the whole commonalty shall be electors, and that each representative shall be elected by an equal number of them. And although numerous modern statutes and decisions of the House of Commons have disfranchised whole masses of the people, and created a complicated and partial system of representation, under which the common consent of the whole realm cannot be obtained, yet I shall remain of opinion that the sanction of common consent, and therefore a fair and equal representation is a popular right, until a constitutional reason is given why some parts of the commonalty should be less represented than others, and why any part should not be represented at all.

Others admit that a free and equal representation may be proper enough in theory; but in practice they say representation must be differently understood: it may be virtual though not actual, in effect though not in fact; — if some parts of the people elect the intention is answered; a few individuals may assume the power of acting for the rest: and then they tell us that all the people are virtually represented, and have their common consent virtually given in making laws. And thus they would persuade us that the constitution would be virtually inviolate, though many members of the House of Commons might obtain their seats without any free election. This is the modern version of a subtlety.
employed by the long parliament. "They pretended," says Hobbes, "that the king was always virtually present in the two houses of parliament, making a distinction between his person natural and politic, which made the impudence the greater; besides the folly of it: for this was but an university quibble, such as boys make use of in maintaining (in the schools) such tenets as they cannot otherwise defend." Certainly the quibble against the representation of the people is not less frivolous than that against the presence of Charles the First. But as too many have been deceived by it, some explanation may not be thrown away. When representation is not the result of an immediate and direct appointment, it may be truly called virtual, if it takes place by virtue of some previous law or compact directed to that end. The king is the virtual representative of the nation by virtue of the legal appointment under which he possesses his power. The lords are the virtual representatives of the nation by virtue of their legal appointment by the king in execution of the office to which he was appointed. A member of the House of Commons is the representative of all who were or might have been his constituents—he is the virtual representative of those who interfered not in the election, or who voted for another candidate—virtual because constituted by virtue of the previous compact sanctioned by law, that the result of the election shall be determined by a proportionate number of votes. Each representative when elected serves for the whole realm, but he represents only his own constituents, actual or potential, and the notion of virtual representation can never be applied to any case, in which the representation is not what it is pretended to be by virtue of some specific law or fact which makes it so. We have therefore an easy test to discover, whether the phrase has any meaning in a proposed application. Ask the question by virtue of
what it is virtual, and if no constitutional answer can be given, we may safely agree with Sir William Jones, that in such case "virtual representation is actual folly." Before I leave this subject, I request the reader to treat virtual representation as applied to the House of Commons, in the same manner that Lord Hardwicke treated the argument of a Doctor Andrewe, who contended that the minister of every parish in England had the care and was the representative of his particular parish in matters spiritual, and therefore concluded that there was an implied representation constituted by law, of all the laity in the convocation of the clergy, and therefore that the ecclesiastical canons made by the convocation were binding upon the people. To this Lord Hardwicke answered, "It is quite a new notion, unheard of in the law books or in any writer upon the constitution, that the rector or vicar of a parish is the representative of his parish in voting for conviction men. Who chose this representative of theirs? not the parish themselves, but the bishop of the diocese or the lay patron. Could this bishop of the diocese or the lay patron delegate a power for the parishioners to bind them in any act of legislation? Surely it had never entered into any body's head that they could do it. But not to dwell upon this novelty, it is contrary to the very writ issued to the metropolitan to summon his convocation. It is contrary also to the preminitory clause in the writ of summons to every bishop. The words and common sense import, that only the clergy are called, and have their powers from them and for them, without so much as an implication of any thing further." These words are to be found in the second volume of Mr. Atkins' Reports, page 655; and they may deserve the consideration of the lawyers, and perhaps induce them to refer to the writs of election to the sheriffs and of summons to the peers, prepara-
tory to the assembly of a parliament. It must be confessed that Lord Hardwicke rather contradicted and evaded than satisfactorily answered an observation which was made by Dr. Andrews, in respect of an implied representation of all the people of the land in parliament. But the folly of supposing that the patron of a borough can appoint representatives of the people, to bind them in acts of parliament, is not less than the absurdity of the imagination that the patron of a rectory can delegate a power to bind the parishioners in a convocation of the clergy.

The word representation has been turned in another manner. It is said that the different modes in which an assembly of men may be collected will make no difference whatever in their character or conduct. If they are taken out of the different classes of the people, their opinions will coincide with and represent the opinions of the people, and then it is inferred that the members of such an assembly however appointed, are the representatives of the people. This nonsense deserves no argument. In the case supposed there may possibly be an occasional and casual coincidence of opinion between the people at large and the assembly; but there is no representation without election and appointment by the people, and at any moment there may be not only a difference of opinion but a complete misrepresentation, if the assembly pretend to declare the will of the people.

§ IV. A parliament ought to be helden every year once, or oftener if need be.

I suppose that every dispassionate inquirer, who will take the trouble of examining our English histories and records, may satisfy himself that at all times the parliament or common council of
the realm was the only constitutional legislature; and that the commons always were by law an essential part of the parliament: but amidst the tumult of civil war, and the changes of property, the practice of government for a long succession of years after the accession of William I. was extremely irregular. Parliaments were occasionally held, but neither in due manner nor with the frequency which the law required. The power of the sword prevailed and the constitution was too often suppressed, but the law was not forgotten. Andrew Horne, who is supposed to have written his book called the Mirror of Justices, in the time of King Edward I. informs us that “for the good estate of the realm, King Alfred caused the counties to assemble and ordained it for a perpetual usage, that at two times yearly or oftener if need were, in time of peace they should assemble at London to sit in parliament, for the guidance of God’s people, how the nation should keep themselves from sin, live in quiet, and receive right by certain usages and holy judgments. By this estate were made many ordinances by several kings, down to the king that is now (Edward I.) which ordinances are disused by some that are not so wise, and for want that they are not put into writing and published in certain.” We learn from other sources that a few years before Horne wrote, that is, in the 42d year of Henry III. an extraordinary committee of lords and great officers, who were appointed to rectify and reform the state of the kingdom, had ordained that “there may or shall be three parliaments in the year—the first on the octaves or eight days after St. Michael, the second on the morrow after Candlemas day, and the third on the 1st of June, that is three weeks before the feast of St. John.” This regulation, as well as the former law, was very often disregarded, and the king and his council without any right, frequently
took upon themselves to make laws without holding a parliament; but Horne was so far from reasoning in the manner adopted by some moderns who, without any sense of candour or decency, cite violations of law as evidence of what the law was that he expresses, declares that "it is an abuse of the law, that whereas parliaments ought to convene for the salvation of the souls of trespassers and this at London, and two times in the year, now a-days they meet but seldom, and at the will of the king, for aids and gatherings of treasure; and whereas ordinances ought to be made by the common assent of the king and his counties, now they are made by the king and his clerks, and by aliens and others that dare not contradict the king, but desire to please him and to counsel him for his own profit, though it be not counsel which is convenient for the commons of the people, without applying to the counties and without following the rules of right: whereupon there are several of the present ordinances that are rather founded upon will than upon right." In the 5th year of King Edward II. a committee of lords was appointed to make ordinances for the good government of the king's household and kingdom: they accordingly made several ordinances which were afterwards confirmed in parliament, and the 29th was thus expressed: "Inasmuch as many people are delayed of their demands in the king's court, because the parties allege they ought not to answer the demandants without the king's consent; and also many of the people are grieved by the king's officers, against right of which grievances they can have no redress but by common parliaments, for remedy hereof be it ordained, that the king hold a parliament once every year, and twice if there be need, and in convenient place; and in those parliaments the pleas which have been so delayed, and those wherein the justices shall be of divers opinions,
shall be recorded and determined; and in the same manner bills shall be delivered and ended in parliament as heretofore according to law and reason."

About ten years afterwards (in the 15th year of the same king, stat. 5,) these ordinances were repealed on the alleged ground that they were against the royal power of the king, and it seems also to have been objected to them that they were made without treaty in parliament, where they had only been confirmed; for it was enacted that no ordinances of that kind should be made by the subjects of the king by any commission, and "that the things which were to be established for the state of the king and his heirs, and for the state of the realm and of the people, should be treated, accorded, and established in parliament by the king and by the assent of the prelates, earls, and barons, and by the commonalty of the realm, as hath heretofore been accustomed."

I have thought it proper to give these historical notices for the purpose of shewing that the frequent calling of parliament was a subject of discussion and consideration before the time of King Edward III. in whose reign we find the following laws:

4 Edw. III. c. 14. It is accorded that a parliament shall be holden every year once, and oftener if need be.

36 Edw. III. c. 10. For maintenance of the articles and statutes, and redress of divers mischiefs and grievances which daily happen, a parliament shall be holden every year as heretofore was ordained by statute.

We may understand the importance attached to these laws by observing the attention which was afterwards paid to them. In the 50th year of Edward III. the commons petitioned the king, "That it may be established, by a statute made in this parliament, that a parliament be holden every year; and that the knights of the shires for those parlia-
ments be chosen of the better people of the counties by common election, and not certified by the sheriffs alone without due election, under a certain penalty." To which the king answered, "As to a parliament every year, there are statutes and ordinances made; let them be duly kept and observed; as to the choice of knights, the king wills that they be chosen by the common assent of the whole country." Again, in the 1st year of Richard II. the commons petitioned "That a parliament may be holden once a year at least, in convenient place to redress delays in suits and to end such cases as the judges doubt of;" to which the king answered, "As to that a parliament shall be held every year, let the statutes thereupon be kept and observed; but as to the place where the parliament shall be held the king will therein do his pleasure." And in the following year the Bishop of St. David's, declaring the causes of the parliament, expressed the second cause to be "For that it was enacted that a parliament should yearly be holden."

The reader may already be convinced that it was the ancient law of the land, and an immemorial right of the people, that a parliament should yearly at the least be holden. In the plain construction of plain words, the holding of a parliament clearly meant, the meeting convened and continued for the dispatch of business until a dissolution. At the time when the laws were made, prorogations or adjournments for any considerable length of time had never been heard of: they lasted for a few days or at most for a few weeks when public convenience required it. But the parliament and the session ended together, and being "once determined," says Prynne, "they (the members of the House of Commons) presently ceased to be knights, citizens, burgesses, barons, in any succeeding parliaments or councils, unless newly elected and returned to serve in them by the king's new writs; as our law books
and experience resolve, &c." In subsequent times however the law was evaded—in some years no parliament was called—at other times the same parliament was prorogued from year to year—several successive sessions of the same parliament became common. When this practice of successive prorogations from year to year was first introduced cannot perhaps be exactly ascertained; probably the foundation of it was laid in the time of Henry VII. It is certain that Henry VIII. after the 21st year of his reign, continued his parliaments by prorogation as often as he thought fit; but the law was not repealed, and I have already observed that no clear and explicit law can be abrogated by a violation of it in practice. Nevertheless the cause of the government, however variant from law, gave rise to an opinion that any meeting of parliament, in which an act had been passed, was a parliament holden; and it has been said, that "every several session of parliament is in law a several parliament," and therefore that the statutes of Edward III. are obeyed if there be a session of parliament in every year. If this were only the opinion of some of our recent pretenders to constitutional knowledge, I should pass it over in silence and leave the reader to discover that it had no foundation. But the name of Whitlocke deserves respect, and in deference to his authority I think it not unnecessary to refer to unquestioned cotemporary practice for an explanation of the true meaning of the statutes. We are to learn the practice from history and the parliamentary records and writs which are still extant; and from these we find that during the whole of the reign of Edward III. and for a long time afterwards, a parliament with a fresh election of the members of the House of Commons was regularly (I do not say always without exception because the proof does not go quite so far, but regularly) and in the usual and lawful course, held
at least once in every year, and it appears that fresh elections of the House of Commons sometimes took place two, three, or even four several times in the same year. The practice was in conformity with the law according to the construction, that the holding of a parliament meant the meeting convened after an election, and continued till the dissolution. Such therefore was the law; and setting aside higher considerations, the shortness of parliaments was a convenience to the members who could not have the writs for their wages till the parliament was at an end. I may further observe that if it had not been intended that new elections should be made whenever a parliament was held, it is probable that the language of the statutes would have been different. The general title or preamble of the statute made in a parliament in Edward III's time, was "in the parliament holden at a certain place on a certain day;" the holding having reference to the first day of the meeting as was afterwards the custom in respect of a session. But the general title of the statutes made in the 22d year of Henry VIII. was thus: "statutes made in a parliament holden by prorogation at a certain place, &c." If prorogations or any thing but new elections had been in contemplation in the time of Edward III. is it not likely that the case would have been provided for? Would it not have been declared that a parliament should be holden by original writs, or by prorogation every year, once or oftener if need be. Besides the writ of election after stating the time when the parliament is to be holden, commands the sheriff of every county to cause the representatives to come in such manner that they for themselves and their constituents may have from them full and sufficient power, to do and consent to those things which then and there shall happen to be ordained upon certain arduous, and urgent affairs concerning the
king, the state, and defence of the kingdom and the church. In obedience to this writ, the return is made; and the constituents, or some of them on the behalf of themselves and the rest execute an indenture whereby they give and grant to the representative such power as the writ requires. I need not point out the many important deductions which may be drawn from this proceeding; but surely it is most obvious that the writ and the return were framed in the contemplation only of such affairs as were urgent, and of such things as were to be ordained then, at the time when the parliament was to be holden, that is in the session to be commenced on the day expressed in the writ. It could not be intended to include the affairs which might become urgent or the things which might have to be ordained at any time during a term of three or seven years. If it were so, the writ and return instead of being a wise and prudent proceeding, would have been the most absurd and improvident transaction that can be imagined. In private life a man may appoint an arbitrator or constitute an attorney in the most solemn manner; but however formal and effective the instrument of appointment may seem, it is still a revocable instrument; and if any individual were so mad as to grant unto another a disposal of his property or affairs for a term of years, the courts of law or equity would on the first complaint relieve him from the pernicious effects of his own folly. Can it then be pretended, that in the highest of all affairs in which every man's liberty, property, and life are concerned, our ancestors intended to grant to their representatives an indefeasible power of acting as they pleased in transactions to arise during three or seven years? The bare idea of such a thing is absurd; and the absurdity appears not only by reference to the instrument of appointment, which expressly alludes to affairs urgent, and things to be
done then, when parliament shall assemble pursuant to the appointment, but also by a consideration of the first principle of the constitution, which requires the common consent of all to be included in every act of parliament. When a multitude of men have given an absolute and indefeasible authority to one to act in their name and on their behalf for the space of three, or seven years; and during that time he is exposed to many temptations to act for his own benefit against their interest, what security can they have that he will faithfully express their common will? None whatever: the people can only be assured that their representatives will express their common will by one of these two regulations; either the representatives must be chosen by very frequent elections; or they must be under a legal obligation to follow the instructions of their constituents: the last would defeat one of the principal ends of parliament—treaty and consultation; the first ought therefore to be adopted, and the law of annual or more frequent parliaments is constitutional, because it alone can give the people an adequate security for the enjoyment of the constitution; that is, for their common consent being expressed in parliament.

Another circumstance is to be observed: every Englishman of twenty-one years of age is by law *sui juris*. The constitution entitles him to a share in the legislature; but if parliaments continue for three or seven years he may be twenty-four or twenty-eight years of age before he has an opportunity of exercising his right. Can any good reason be given why the young men should be so long disfranchised?

On the whole I conclude, that by the constitution as shewn by the old law and practice of England and confirmed by the reason of the case, a parliament ought to be holden every year once, and of-
tener if need be: and that no parliament ought to have continuance for more than one year. And having arrived at this conclusion I proceed to notice the subsequent statutes, which have been made in relation to this matter.

The gross attempts which were made by Charles I. to govern the kingdom without calling any parliament led to the statute 16 Car. 1. c. 1, which after reciting the old laws and directing that they shall be duly kept and observed, contains a long and complicated enactment which I think is in substance as follows:—That in case there be not a parliament summoned by court, and assembled and held before the 10th day of September, in the 3d year next after the last day of the last meeting and sitting in parliament before that time assembled and held (the beginning of the first year to be accounted from such last day); then the parliament shall assemble in this manner: viz. 1. In case any parliament should be assembled or held by writ, or under the authority of this act, and the same were continued by prorogation until the 10th day of September in the 3d year after the last meeting, such parliament so continued by prorogation should be dissolved, and in six days after the 10th day of September, the Chancellor without warrant from the king should issue writs of election for parliament to be held on the second Monday in November next ensuing, 2. If the Chancellor neglected this direction, the lords were to assemble on the third Monday in November, and they or any twelve of them were to issue writs of election for a parliament to be held on the third Monday in the month of January next ensuing. 3. If the lords failed in obedience, and no parliament was held before the 23d of January, the sheriffs were ordered without writs to issue precepts and cause elections to be made on the last day of February for a parliament to be held on the second Tuesday in March
next ensuing; and 4. if the sheriffs failed in obedience, the people were of themselves to proceed to elections, and the members chosen were ordered to serve as if they had been elected by virtue of writs; under this law the king might have continued the same parliament by successive prorogations for any length of time. A distinction is made between parliaments held by writ and by prorogation, as I conceive the old laws would have done, if different sessions of the same parliament had then been in use: but the distinction is only in the expression—it is not made for any useful purpose, and this first legislative countenance given to the abuse of prorogation, is by no means the only mischief we have to ascribe to the puritans, who thus early began to display their oligarchical ambition.

In the year 1664 the above act was declared to be in derogation of the king's just rights and prerogative, and the stat. 16. Car. 2. c. 1. after repealing it, and reciting that "by the ancient laws and statutes of this realm, made in the reign of Edward III. parliaments are to be held very often," enacted, "that hereafter, the sitting and holding of parliaments shall not be intermitted or discontinued above three years at the most; and that from time to time, within three years after the determination of any parliament, or if there be occasion, more often, the king do issue writs for calling, assembling, and holding another parliament, to the end there may be a frequent calling, assembling, and holding of parliaments once in three years, at the least." By this act, as well as the former, the king was left at liberty to continue the same parliament by prorogation as long as he pleased; he had only to take care not to intermit the assembly above three years at once.

After very numerous instances, in which the king's discretion had been scandalously abused, the Bill of Rights, 1 Will. and Mary, sess. 2. c. 2. left this
discretion untouched. It was declared by that bill, "that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently."

Next came the stat. 6 and 7. Will. and Mar. c. 2. which recites, "that by the ancient laws and statutes of the kingdom frequent parliaments ought to be held," and, "that frequent and new parliaments tend very much to the happy union and good agreement of the king and people," and then enacts, 1. "That from henceforth a parliament shall be holden once in three years at the least. 2. That from time to time, for ever, within three years at the farthest from, and after the determination of any parliament writs shall issue for calling, holding, and assembling another new parliament. 3. That from henceforth no parliament shall have any continuance longer than for three years only, at the farthest, to be accounted from the day on which by the writs of summons the said parliament shall be appointed to meet!" With reference to the former abuses of prorogation, the third clause of this act was an enactment of some value; but I am at a loss to account for the affection with which some persons regard this statute as a constitutional law: seeing that the provision for annual parliaments was passed over, and the king was left at liberty to intermit parliament for three years together. This statute is, as far as I have observed, the first in which the word new is applied to parliament; and I agree with Samuel Johnson in hating, "the word new applied to a parliament; for a parliament is a parliament, and our ancestors would no more have dreamed of a stale or old parliament, than of an old moon cut out into stars."

The last act relating to this subject, is the stat. 1. Geo. 1. st. 2. c. 38. which recites the third clause of the former act, and that, "it has been found by experience that the said clause hath proved very
grievous and burdensome, by occasioning much greater and more continued expenses in order to elections of members to serve in parliament, and more violent and lasting heats and animosities among the subjects of this realm, than were ever known before the said clause was enacted, and the said provision, if it should continue, may probably at this juncture, when a restless and popish faction are designing and endeavouring to renew the rebellion within this kingdom, and an invasion from abroad be destructive to the peace and security of the government." Such is the preamble, and the alleged motive deserves attention. It is then enacted, "that this present parliament, and all parliaments that shall at any time hereafter be called, assembled, or held, shall and may respectively have continuance for seven years and no longer, to be accounted from the day on which by the writ of summons this present parliament hath been, or any future parliament shall be appointed to meet, unless this present, or any such parliament hereafter to be summoned, shall be sooner dissolved by his majesty, his heirs and successors."

The sum of the law, as it now stands, seems to be that the meeting of a parliament cannot be intermitted for more than three years, and that a parliament when summoned, may have continuance for seven years and no longer. In practice, a session of parliament is held every year, or oftener, for reasons very obvious.

The policy and justice of the existing law is left to the consideration and judgment of the reader. I shall only observe that the statutes of Edward III. have never been formally repealed; and that if these four laws, viz. 16 Car. 1. c. 1.—16 Car. 2. c. 1.—6 and 7 Will. and Mar: c. 2. and 1. Geo. 1. st. 2. c. 38. were repealed, the old laws would be in full force; and that the security of the people would only require a cautionary statute of one line to
guard against the abuses of prorogation by enacting—That no parliament shall have any continuance longer than for one year only.

§ V. The present state of the representation, and its consequences.

Having as I hope established that common consent is the basis of the constitution of England; and that the common consent of all the commonalty of the land ought to be expressed by a fair and equal, and (at least) annually renewed representation of the people in the Commons House of Parliament; I next proceed to consider the present formation of the house, and the effects which appear to me to flow from it by inevitable consequence. Under all the circumstances I see no reason to lay personal blame on any particular faction or party of men. The foundation of the evils we endure was laid before any man now living was born: and such is the frailty of mankind in general, that candour almost tempts us to palliate the endeavours which individuals, who profit by an usurpation long since acquired and acquiesced in, may use to preserve even an unjust power which they think their own. But the subject of discussion cannot be understood without enquiring into the facts of the case, and shewing their tendency; and I must not refrain from doing so, because some individuals may possibly apply to themselves the observations which I shall have occasion to make.

The House of Commons consists of 658 members, of which 513 are allotted to England and Wales, 45 to Scotland, and 100 to Ireland. The first question to be answered is, how the majority or effective number of these members obtain their seats? For the minute details I refer the reader to the report and petition of the society called the
friends of the people, and to the late publication of Mr. Oldfield, and shall content myself with stating the general results of their inquiries in answer to the above question.

The friends of the people in their petition said, and offered to prove, that 84 individuals did by their own immediate authority send 157 members to the House of Commons; and that in addition to the 157 members above mentioned, 150 more, making in the whole 307, were returned to the house, not by the collected voice of those whom they appeared to represent, but by the recommendation of 70 powerful individuals, in addition to the 84 before-mentioned, and making the total number of patrons 154, who returned a decided majority of the house, which at that time contained only the 558 members for Great Britain. When the petition was written Ireland was a separate kingdom, and the state of the representation there is not mentioned.

Mr. Oldfield's book was published in 1816, and the result of his investigation is stated to be, that 257 powerful individuals, either by their own immediate authority or by recommendations which cannot be withstood, return 471 out of the 658 members for the united kingdom; and that 16 members, in addition to the 471, are returned by the Treasury.

Adopting a medium between these two statements we may perhaps conclude in round numbers, that 400 members of the House of Commons obtain their seats by the appointment of 200 individuals; and if this be at all near the truth, it must be confessed at once, that the house is not fairly chosen by the people, and however respectable a decision of the house may be, the people can never be assured that it involves their common consent.

But those who are unacquainted with the mode in which members of the House of Commons are appointed and recommended, may imagine that it
can only be through the fault of the people themselves that a few individuals have obtained this extraordinary power. In answer to any insinuation of this kind, I refer again to the petition of the friends of the people, which contains the following statement:—"The elective franchise is so partially and unequally distributed, and is in so many instances committed to bodies of men of such very limited numbers, that the majority of the house is elected by less than 15,000 electors, which, even if the male adults in the kingdom were estimated at so low a number as 3,000,000, is not more than the two hundredth part of the people to be represented. The right of voting is regulated by no uniform or rational principle. Seventy members are returned by thirty-five places where the right of voting is vested in burgage, or other tenures of a similar description, and in which it would be trifling with patience to mention any numbers of voters whatever, the elections of the places being notoriously a mere matter of form. Ninety more members are elected by forty-six places, in none of which the number of voters exceeds fifty. Thirty-seven more members are elected by nineteen places, in none of which the number of voters exceeds 100. Fifty-two more members are returned for counties in Scotland by less than 100 electors each, and ten for counties in Scotland by less than 250 each. Thirteen districts of boroughs in Scotland not containing 100 voters each, and two districts of boroughs not containing 125 each, return fifteen more members. And in this manner 294 members are chosen." It appears from Mr. Oldfield's book that the elective franchise is not less unequally distributed in Ireland. Now, however base and corrupt those persons who are electors may be supposed to be, it cannot after this statement be pretended that such
corruption is in the people at large, who ought not and cannot justly be charged with faults committed by a very small part of them. If we were to suppose every inhabited house in Great Britain to contain one elector, the number of electors for that part of the United Kingdom would be 2,101,597; which contains the number 15,000 (by the agency of which the majority of 558 members is appointed) more than 140 times: so that if we admit the whole 15,000 to be the most abandoned of men, the result is, that we only condemn one man in 140 of those who ought to be the electors.

But the baseness and corruption of many of the individuals who have obtained an unlawful power of appointing or influencing the return of members of the House of Commons, are sufficiently obvious. For no man can live so retired as not to have the means of knowing, that they go with their commodity to a shameless and (notwithstanding Mr. Curwen's act) almost an open market: they sell, not only their unlawful power or influence, but even the attachment of their friends and neighbours to the highest bidder for dry and sordid gain; and the way to the House of Commons is thus open to any adventurer, who either has or expects to gain money to pay his seat-selling patron. A man who had been reading the good old laws of common consent, might startle as our ancestors would have done with indignation at the mention of this fact: but the practice in these days, and in the House of Commons itself, has been avowed and justified;—as the reader will find by referring to a speech delivered by the Speaker on the first day of June, 1809.

After this statement it is easy to account for the heats and animosities, the tumults disorders outrages and perjury, which are the attendants on contested elections. We need not resort to the causes signified in the preamble of the Septennial
Act, but I proceed to notice consequences of still greater importance.

It is evident that the individuals who appoint the majority of the members may command the proceedings of the whole house; and, that the people who return a small and divided minority can have little influence on any occasion and none whenever the separate interests of these individuals, or any considerable number of them, are concerned. But the men who have thus obtained a property in the House of Commons, differ very materially in the amount of their power and influence. Some of them nominate or influence the return of one or two members only; others have the same power over eight or more. By uniting together in different numbers it would appear, that they might procure the return of from ten to even four hundred followers of different degrees of subserviency perhaps, but all of them willing if not bound to vote with their leaders on a particular request. But among two hundred persons differing in rank power wealth talents and pretensions, it is impossible to avoid conflicting private interests. With very few exceptions, political power in the independent possession of private individuals will always be employed for the purposes of ambition or emolument; and the result is that the principal dealers in the borough traffic have consolidated themselves into two great factions, combining their efforts and concerted their measures in direct opposition to each other. The less powerful have united in smaller confederations, and in the warfare which is carried on between the principal parties, they obtain some consideration by affecting and even observing some degree of impartiality. The inherent strength of the antagonists is not evenly balanced but when the weaker is assisted by the crown, and supported by those who think that on all ordinary occasions the executive government ought to be supported,
its authority is commanding, and its power irresistible if diligently exercised and faithfully supported.

I need not trace the effects of this system into its minuter ramifications. When it is considered that forty members constitute a quorum of the House, and that business is usually transacted by a number not exceeding one hundred, very little trouble will enable us to analyse the jarring elements of our political atmosphere. Can we wonder that the factions are always endeavouring to defeat each other in matters which do not touch their common interests; that grants of money in which each may hope to share are easily voted; that petitions and remonstrances are vilified and the complainants stigmatized with contempt? Have we reason to be surprised that the voices of the few representatives of the people who dare to express the public opinion are drowned in the turbulence of factious promoters of their own aggrandizement; that some of the less constant tempers are forced into silence by weariness disgust and despair; while others, suffering themselves to be gradually decoyed, at length join the standard of one of the hostile factions and desert their first obligation to serve the people.

In this scene the king's ministers have to play their parts. Though stronger than their opponents they hold their offices by a tenure which is often very uncertain. Their adherents bound to them by ties of very different strength, require to be constantly watched and managed. Intrigues explanations and defences, must be incessantly employed. Affairs even must be so planned and conducted as to admit of unavailable defence against the interested assailants; and important inquiries must be checked and even abuses protected, lest these assailants should gain any advantage in the course of proceeding. Their rivals meanwhile are powerful and active; they maintain an air of defiance, make harassing and vexatious objections, and use
all means in their power to collect discipline and give a party spirit to their friends. If the ministers have fallen into any extraordinary difficulty, no one inquires whether the cause was misconduct or misfortune; no one proposes a remedial measure to aid the suffering country, but all the fault is imputed to the men, and every effort directed to their exclusion from place. The opposition bring forth their whole strength and the mighty war begins. The minor parties may now shew their importance: floating between the hostile legions, and uncertain upon whom victory may smile, they resolve to share in the glory. In this suspense, the fickle train, unused to peril, may doubt the issue; some of them may desert, and at length an idle fear may induce the ministers to resign. Then the triumph of their assailants is complete. The king has no choice of new ministers but from among them, and if they refrain from shewing their insolence too soon, they take the places of their adversaries, who retire to the other side of the house to renew a similar contest with the same spirit and with very nearly the same views; the only material difference arising from the different persons of the party leaders, their occasional coalitions and quarrels, and the deaths of particular men.

Under this system the royal power and prerogative of the king has been reduced almost to nothing. Instead of being really and substantially at the head of a consenting nation where the constitution has placed him, his station there is only nominal. The factions in the House of Commons interrupt the high road between him and the hearts of the people. Instead of being able to choose his ministers from among all those who appear worthy of his confidence, he is compelled to resort to the leaders of those factions, because by their means only his administration can be supported. He cannot even choose the lords of his bedchamber without the
consent of some of the borough usurpers, and to escape absolute subjection he unavoidably attempts to balance the factions against each other and make the influence and power he still retains necessary to the support of any one.

Under this system the House of Lords has ceased to be the assembly of those brave and noble barons who indignantly exclaimed that the laws of England should not be changed—who lifted up their voices and their swords against every violation of public liberty—who were constantly engaged in vigorous and extensive plans to increase the honour, the power, and the profit of the realm. The factional war in the lower house has been carried on with so much heat and noise that it has drawn to itself almost the undivided attention of the king and the nation; and the Lords have dwindled away in comparison. Good sense, honour, dignity, and spirit being no longer of avail in public transactions, the weight of a politician being no longer estimated by the number of votes which are likely to be influenced by his wisdom and virtue, but by the number of votes he can command without assigning any reason, many lords to avoid losing all their power, have been led to interfere in the concerns of the other house, and the borough system has enabled them by means unfair towards the people, to attain the ends they cannot reach by fair and open exertions in their proper places. It is useless to complain of their conduct in this respect. A great proportion of any assembly of men under the same circumstances would have acted in the same manner, and the rest, like our silken peers, (as Lord Chatham called them) would have sunk into neglect and apathy, and all the frivolous dissipation which is the disgrace of these times. On the 21st day of April, 1812, Lord Grenville declared "his firm belief that the ministers acted upon a fixed intention to annihilate the consequence of the House of Lords,
and he founded his belief upon their uniform plan of delaying to bring the most important political measures before their lordships till it was notoriously impossible to give them their due consideration." I do not suspect that the ministers ever acted upon any such deliberate intention; but I am fully persuaded, that under the present system they do and must act in such a manner as to give rise to Lord Grenville's belief in the mind of every man who has not duly considered the subject.

Under this system the people suffer more than I shall attempt to describe. An enormous national debt—a crushing weight of taxes with a fluctuating paper currency—parish paupers amounting to a large part of the whole population—numerous violations of public liberty—obscurity and contradictions in the laws—tedious and expensive forms of judicial proceedings, and a thousand consequential grievances rise in dreadful array to condemn the system of rule which has at length brought the happiest nation in the world to the lowest gulph of misery. The dreadful calamities which invade and afflict every private family in the kingdom require no illustration. The man who affects to deny the miseries which he cannot help contemplating; or whose heart does not bleed at the contemplation, must be possessed of a nature which it would be vain to attempt to soften.

Such then are the baneful effects of the destruction of our balanced government—of the usurpation of popular rights by a few individuals—of adding to an hereditary king and an hereditary House of Lords, in place of a fair representation of the people, a third branch of the legislature, in form elective, but in practice and effect hereditary and saleable—an assembly appointed and governed by 200 masters, divided into factions, and in their turn ruled by a few chieftains, who share among themselves all the efficient legislative power of the state,
And shall we sit down bewailing the effect without endeavouring to remove the cause? Shall we accede to the bold assertions made by the usurpers themselves, that no assembly can be more wise and virtuous—that no avoidable calamity has been brought upon the country under their provident dominion? No no by their fruits we know them, and adhering to the rules of just reason we ascribe the continuance and aggravation of grievances, which have long been notorious and oppressive to the leaders of that branch of the legislature whose office it is to redress them, to which the constitution has given power adequate to that end, and which has nevertheless sanctioned every measure which has led to the present ruin. The inference is inevitable. When we have found the cause of mischief, it becomes our duty to remove it; and therefore the usurpers of the common right of the people ought to be deprived of their unlawful power; and the last consequence of the present state of the representation is, that the House of Commons ought to be reformed.

§ VI. Practical observations and suggestions.

In considering the practical methods by which a reform in the Commons House of Parliament is to be effected, the constitution may be compared to an ancient road or high way, with a firm and immovable foundation, leading precisely in the right direction, but now covered and defaced by the impediments and nuisances of private encroachments, and in many places wholly blocked up and appropriated to the separate use of particular individuals without any regard to the rights and convenience of the public. If these usurpations and nuisances were abated and removed, we should indeed repossess the ancient way; but we should find it without the necessary divisions accommodations and directions. The
old stations are obliterated and forgotten, or not well suited to these times, and new stations adapted to present use, would have to be established. Before this can be done, we are compelled to resort in some degree to speculation and invention, for a discovery of the accommodations and directions by which the way can in these times be made most convenient and valuable for public and common use. But the old road is the foundation and guide of our progress, and while we resolve not to deviate from it, we are sure of the object we pursue.

It is a peculiar hardship upon the people, that while they have no proper assembly, in which the reasons for and against any particular proposal can be discussed and decided, and while therefore they have no means of coming to a common agreement, it is required of them to specify the details of an important law for the establishment of their common rights and interests. We may justly disregard the foolish perverseness which calls for an unanimous agreement before there has been any opportunity of voting, or even of fair and open discussion; but the practical enjoyment of right is the very life and being of law; and we do not propose to change one condition of the people into another, even by restoring the efficacy of undoubted ancient right, without being prepared to add to a demonstration of the right, an explanation of means by which the change may be made with ease safety and advantage. The subject ought properly to be treated in an assembly of representatives or delegates of the people; and, till that is attainable, all that can be done by an individual, is to offer his private sentiments to the discussion of his countrymen. In the following suggestions I have neither avoided nor implicitly followed the proposals of other men: they are offered only for examination, and my principal intention will be answered if I succeed in stating the circumstances most important to be considered in any plan of reform.
The object to be obtained is a fair and equal representation of the people in an assembly of representatives freely chosen by the whole commonality, who have a right to the expression of their common will in parliament. Two things are to be shewn; first, what regulations if made would establish such a representation; and 2dly, what are the legal means of procuring the establishment of these regulations.

1. The regulations proposed to establish a fair and equal representation of the people constitute what is usually called a plan of reform; and the merits of any particular plan will depend upon the answers given to these four questions, 1. who shall be electors? 2. In what proportions they shall vote for each representative? 3. How the elections shall be conducted? 4. What shall be the qualifications and powers of the representatives? The number of representatives to be chosen might give rise to a question of considerable importance, and I think that it might be reduced to less than one half of the number of the present House of Commons with advantage to the country; for in the first place each representative would be chosen by a greater number of electors, whereby bribery and corruption would be more securely obviated; and secondly it seems that an assembly of 300 men, is better calculated for the purposes of debate and consultation than an assembly of 658, which number does not I presume possess any peculiar virtue: it has grown up by frequent additions in the course of our history. Nevertheless I have no desire to depart from the present practice any farther than the principles of the constitution require; and proceeding therefore on the supposition that the House of Commons is to consist of the same number of members, I shall confine myself to the other questions above stated.

1. Who shall be electors?

The constitution requires the common consent of all the people; and according to law and reason the
words all the people in the consideration of this subject mean all adult males except men of unsound mind, or convicted of some criminal offence, or who are paupers habitually receiving parish relief. In strictness therefore all adult males with these exceptions only are by the constitution of England intitled to be electors, and whilst the old laws remain their right cannot be denied. But on principles of policy and convenience, it has been proposed by some most respectable friends of reform to exclude all who are not householders, and by others to exclude all who are not householders paying direct taxes. The reasons offered in support of these exclusions, I presume to be—first, that they would not be productive of any disadvantage, either to the country at large, or to the persons excluded, which I think extremely probable; secondly, that without the exclusions elections would be attended with great disorder, and the representatives would be of worse quality, which I think extremely improbable; and thirdly, that universal suffrage, however unreasonably is nevertheless in fact so alarming to those persons by whose means only a reform can be peaceably effected, that it is wiser to limit the popular demand than to run the hazard of their decided hostility. The first and third of these reasons taken together appear to me to have great weight; and although I found my argument upon the constitutional right which goes farther, yet I shall be well content to see the right of voting established in and exercised by all householders paying direct taxes.

2. In what proportion the electors shall vote for each representative?

In requiring the common consent of all the people the constitution has not declared that any separate part shall have more weight than any other part, and the words of the old laws imply the contrary. Whence I conclude that representation, or the means of giving consent ought to be distributed
among all the people fairly, that is, with as much equality as can be attained in practice. But this conclusion is combated by a host of objectors, some of whom talk of the separate interests of England, Ireland, and Scotland, whilst others, clinging to some mistakes of our own, and adopting the frivolous distinctions of some modern Frenchmen, employ all the subtlety they are masters of in dividing the interests even of Englishmen into a landed interest, a trading interest, a monied interest, a colonial interest, and many other interests down to the separate interests of wool dealers, and barley growers, and cotton spinners, tanners, distillers, &c. It seems that they would engraft these subtilties upon a system of representation and thus do all they can to perpetuate the jealousies they have already too much encouraged between the men of different callings. I know too well the tendency which the dreadful burden of taxes has to deprive the people of the United Kingdom of their fair chance of competition in the markets of the world; and the taxes being imposed we have no reason to wonder that protections, checks, and encouragements, and a complicated financial machinery have been contrived sometimes with an honest intention to prevent or delay the ruin of particular classes of the community, and at other times under that cover to bribe one part of the people at the expence of another. But I can never accede to the proposition that an Englishman is not an Englishman to all intents and purposes, whatever may be his calling or honest employment. The various classes of men are all subjected to the same obligations and intitled to the same rights: and in the great national concern of law making all have a right to be heard, because all are compelled to obey with perfect equality—*quod omnes tangit, ab omnibus approbetur*, was a maxim held in veneration long before the introduction of this distinction of interests; and standing on the old road, I
discard the whole of that frivolity. And I have not thought it necessary to enter into a separate examination of the original, or early constitutional law of Scotland or Ireland, because I conceive that all the people of the United Kingdom are entitled to the same constitutional rights; I speak not of the particular regulations of the acts of union which can just besaid not to have prevented the union of interest and sentiment which now exists: but I say without fear of contradiction, that we are all brethren embarked in the same ship, that one common interest affects us all, and that the greatest rights which any of us are entitled to, cannot in justice be denied to any other.

On these grounds it appears to me that the electors of each county or shire in the United Kingdom, ought to elect a number of representatives proportioned to the population of the county in which they live.

To vote for a representative is both a right to be exercised and a duty to be performed. A real and efficient choice ought always to be made. But experience has shewn that even among numerous bodies of electors where two representatives are to be returned, a few persons of great fortune may by a compromise among themselves utterly deprive the people of any right of voting. I need not explain the cause of this mischief, nor will any candid opponent of reform impute the fault to the bodies of electors who are injured by it. The fact is notorious—and when two members of the House of Commons are returned by compromise they constantly vote against each other upon every general political question—the vote of one is set off against the vote of the other, and the result is that the county loses the voice of the electors altogether.

To prevent this inconvenience it seems absolutely necessary that no more than one representative should be elected by one body of electors; and as
no reason can be given why any one body of electors should be more or less numerous than another, it follows that, throughout the United Kingdom, and as far as can be in convenient practice, each representative ought to be chosen by an equal number of electors.

In practice, the classification of the electors will require a subdivision of each large county into as many districts as it is to have representatives, each district containing an equal population, or nearly. Some of the very small shires in Scotland might be united together or added to the adjoining shires. The population returns afford every facility for this arrangement and the process might be intrusted to the grand jury, or to the magistrates of each county. The subdivision or (in the case of small shires in Scotland) the addition would be for the purposes of election only; and no legal jurisdiction would be disturbed.

3. How the elections are to be conducted?
Here the principal object is that the votes may be taken with facility and dispatch, without tumult or disorder, and only from the electors of the district; the mode of taking votes, the presiding officers, and the expenses of the elections are all to be considered, and I shall answer the question proposed by stating the mode in which an election might be conducted so as to attain the object in view.

Let a convenient number of poll stations be appointed in the hundreds, wards, parishes, or townships of each district, and let the electors who are to vote at each station be distinctly notified by a description of the limits within which they reside. Three weeks before the day of election let a list of the electors made out in the alphabetical order of their surnames be posted up in some fixed place of general resort, and let it be the duty of a proper officer who may be called the warden of the list, to
correct any error, or supply any omission which may be indicated to him. A week before the election let the list be taken down and divided into four parts nearly equal, the first beginning with the alphabet, the second with the letter at which the first leaves off, and so on. Let the names contained in each part be copied near the margin of broad pages of paper, each of which is to be ruled across with faint blue, or green lines, and that part of the page which is not occupied with the names of the electors is to be divided into columns by strong black lines drawn from top to bottom, and at the top of as many columns as may be wanted the names of the proposed representatives or candidates are to be written. On the day of election the four copies are to be given to four officers, or vote takers, who are to sit in a convenient booth or other proper place; the seat of each being conspicuously marked with letters corresponding with those of that portion of the list which he holds. At the time of voting let each elector go up to the seat marked with the first letter of his name, which being announced and found in the list, let the elector name the candidate for whom he votes, and thereupon let the officer or vote-taker make a mark with a pencil of red chalk upon his list paper in the cross line of the elector, and in the column of the candidate he votes for: let the elector see this done and depart. By this method, I conceive that at the four seats not less than 400 votes might be taken in an hour; and supposing 1000 electors to vote at each station, the voting might be finished in between two or three hours. But let four hours be allowed; and at the end of that time let the list papers be given to the inspecting officer or magistrate, who is to superintend the voting: let him immediately cast up the poll and publish the number of votes which have been taken for each candidate at the station. The list papers are then to be given to the warden of the
list, who is to keep them in his possession for future inspection, when duly required, and the inspecting officer or magistrate is immediately to certify the proceedings, at the station, and the number of votes to the returning officer of the district: this might be done in two hours. The returning officer of the district is then to cast up the number of the votes certified to him, and immediately to proclaim the result of the district election: he is to return his precept to the sheriff on the next day at the farthest.

This mode of election would be easy and expeditious in practice, attended with no contest or dispute about the right of voting—no brow beating and perjury—no wrangling of lawyers—no menaces and quarrels originating on the hustings, and spreading through the surrounding multitude with increased tumult and disorder: and by the above simple means the difficulty of practising fraud would be so great, that I presume to think none would take place.

I disapprove of voting by ballot, as it appears to me after considering what has been said for it even by Harrington, that it would be productive of more harm than good. To continue concealments and protections of this nature, is it not to give scope to deceit and falsehood, and to create distrust in those private relations of life in which we must chiefly wish to see harmony prevail?

A few words are to be said upon the presiding officers and the expenses of the elections; and till something better is proposed, I suggest that any one of the magistrates of a district, to whom the sheriff may please to direct his precept, shall be the returning officer of the district; that any of the other magistrates or respectable inhabitants of the district whom the returning officer may please to appoint, shall be the inspecting officers of the poll stations, and that the inspecting officer of each poll
station shall appoint the warden of the list, and the vote takers from among the legal officers of the hundreds, wards, parishes, or townships adjacent to the station, and in which the voters there reside.

The magistrates I presume would ask no remuneration for one day's useful and honourable service to the country; the duties of the inferior officers should be annexed to and form part of the ordinary routine of their other legal offices; a slight additional burden would doubtless be imposed upon them; but in turn it would fall upon all, and I think that no pay should be allowed. The local fund out of which the small expenses incurred ought to be defrayed, would be easily ascertained. The first cost of booths would perhaps be most conveniently paid by contribution, the expense of preserving them is scarcely worth notice.

I do not think it necessary to suggest any remedy for false returns, which would be rendered almost if not quite impossible. But every plan of election must be liable to the possible incidents of two candidates receiving the same number of votes, and of the same candidate being returned by different bodies of electors. In this case of a double return the intention of the electors has failed; they have not chosen: and the matter must be set to rights by a renewed voting, in respect of those two candidates only. Let the returning officer make his double return to the sheriff; and let the sheriff thereupon issue a precept framed for the purpose, and directing the election to be made of one of the two before returned on the 8th day after the former voting. In the case of different districts electing the same person, he must choose which to serve; and if the different districts are in the same country, let the choice be made before the sheriff, and the sheriff thereupon issue a new precept to the void district for a new election, to take place in fifteen days after the former. If the districts are in dif-
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ferent counties, let the choice be made at the crown office, and a new writ issue to the sheriff of the county containing the void district for a new election to take place in a month after the former.

4. What shall be the qualifications and powers of the representatives?

The only qualification of a representative should be, that he is chosen by the electors of his district. The qualifications as to property, and the many disqualifications of various kinds which have been from time to time enacted have done no good. Not only men without any property, but sharpers and swindlers have become legislators; sham qualifications have been invented and used—frauds and perjuries have been commonly practised, and the avowed purpose of the restrictions has been entirely defeated. It is upon the certain experience that the most solemn oaths, the strictest regulations, and the most severe penalties have entirely failed in securing any qualification, that I support the opinion which the reason of the case affords, that the electors ought to be at liberty to choose whom they please without any control. If there be no higher motives, pride will make them look out for respectability; and the shame of electing a mean representative will always save them from that misfortune.

It is the office and duty of a representative to do and consent to those things which are to be ordained in the great council of the realm upon treaty and consultation; and therefore the constitution and common law of England require that he should have power and authority, which as to their extent are without any defined limits. A representative is wiser and better if he from time to time consults and advises with his constituents; but he must have power and authority to act without immediate communication with them; or otherwise common consent arising from votes influenced by reasons shewn in common consultation could not be obtained.
The representative ought to bring with him the interest, the inclinations, and the sentiments of his constituents; this is his duty towards them: it is his and their duty to the country that his mind should be open to what is said for the rest of the community, and that he should yield somewhat which may be peculiar to them, for the sake of the common good; and how far he shall yield on particular occasions, must in all reason be left to his own discretion, in the performance of his trust, and subject to his conduct being reviewed by his constituents: but if his power is great and generously bestowed, it should be of short duration. His judgment is free; but as a representative he is good for nothing, either to the country or his constituents, unless his feelings and inclinations are the very image of theirs; and this can only be secured by frequent elections. I have already spoken of annual parliaments, which should be provided for by a general law: and as an additional security moving from the electors themselves, I suggest that the indentures of return should contain a distinct clause, expressing that the power and authority of the representatives are given to them by their constituents for one year only.

Having now completed my remarks upon the regulations by which a fair and equal representation might be obtained, I shall collect the principal results into distinct propositions, again repeating that I offer them only for discussion and examination. When the subject is properly investigated, I have no doubt that better suggestions may be made by the superior discernment of others. The propositions are as follow:

That the electors in each county return a number of representatives bearing as near as may be the same proportion to the whole number of representatives for the United Kingdom, that the population of the same county bears to the whole population of the United Kingdom.
That each county be subdivided into as many districts as shall equal the number of representatives which the electors of that county are to return.

That the electors inhabiting each district elect one representative.

That a convenient number of stations be appointed for taking the votes in the hundreds, wards, parishes, or townships of each district.

That writs of election be of course issued to the sheriffs in a sufficient time before a certain and fixed day in every year. That the sheriffs upon receiving the writs issue their precepts to one of the magistrates of each district. That the magistrate to whom the precept is directed be the returning officer of the district; and that he immediately give notice of the day of election, and of the respective stations where each division or community of the electors is to vote.

That each returning officer appoint inspectors of the stations within his district; and that each inspector appoint proper officers to make out lists of the electors, and to take the votes at the elections.

That all the elections take place on the same day.

That the voting at each station commence at eight o'clock in the morning, and be terminated at noon. That the inspectors forthwith ascertain and publish the number of votes taken at each station, and for whom, and immediately afterwards certify the number of votes to the returning officer. That at three o'clock in the afternoon the returning officer proclaim the result of the election; and that on the next day at the latest he make a return of his precept to the sheriff.

That it be expressed in the indenture of return that the power and authority of the representative are conferred upon him for one year only.

II. "Good thoughts," said Lord Bacon, "though God accept them, yet towards men are little better.
than good dreams, except they be put in act; and it is in vain to investigate our rights, to shew the urgent necessity of reform, or consider plans for that purpose, except with a view to practice and operation. Knowing what we want, the next consideration is how we are to get it—by what authority the regulations we require are to become established law, and how that authority is to be induced to act. On observing not merely the reluctance which might be expected, but the petulant and insulting disdain with which all general plans of reform have of late years been received in the House of Commons, I have sometimes been tempted to look towards the king's prerogative for a remedy. In old times the king had a discretionary power to summon or not to summon the burgesses of particular boroughs; and this power was exercised by him (or derivately from him) by the sheriffs, in a manner to prevent one of the principal mischiefs we now complain of. I have never heard of any positive law by which this branch of the prerogative has been limited; and I pay little attention to the unreasonable inference which has been drawn from the act of union. If the prerogative remains, the king might by his own immediate authority abate the nuisances at Gatton, Old Sarum, Medhurst, Haslemere, &c. and give representatives to Birmingham, Manchester, Sheffield, Leeds, &c. Might he not also make additions to the representations of the large counties? In short, might he not grant to his people a very extensive and valuable reform? Surely he might: and this was the way in which Locke intimated his opinion that a reform ought to be effected. Nevertheless, the piles of statutes which have been accumulated on this subject make the king incompetent to establish a fair and equal representation throughout the United Kingdom; and unless we could be assured that an assembly summoned by him would repeal all the wild modern
innovations, we could not by his means only attain our object. We are therefore under the necessity of aiming at remedial statutes—statutes for which the concurrence of the king, the House of Lords, and the now House of Commons, is required: and the question is, how we are to proceed to obtain that concurrence?

In my view of the subject, the king, the House of Lords, and the people, have one common interest. The power of the king is fixed by the law, congenial to the constitution, and universally acknowledged by the people, among whom there is no dispute or even difference of opinion, as to the lawfulness or utility of his office. The lords also have their power by virtue of the old appointment. The constitution requires, the law confirms, and (if the House of Commons was properly constituted) the people would experience the benefit of their authority. Seeing therefore that the people ascribe not their grievances to the king and to the House of Lords, whose lawful, useful, and in our constitution, necessary powers, are universally acknowledged and maintained; seeing also that there is a common suffering of the king, of the House of Lords, and of the commons at large, in consequence of the unlawful usurpations of a few lords and commoners, may we not hope that when this great question is properly considered and understood, the king and the House of Lords will be found united with the people? True it is that several lords are among the usurpers we seek to de-throne—so also are several of the people; for these commoners domineering in their borough authority are after all a part of the people, and the lords in general are injured by the very same pestilence which is consuming the people, and only in a less extent, because of their limited number, their wealth and their personal capacity of voting. A lord who holds the wires and check-strings which
govern votes in another place, has an unjust and unlawful advantage over his compeers, and fair competition or parity of influence, by reason and character, cannot exist in a system which constantly supports and supplies an unequal pressure of dominion. The transactions of late times, and the mere circumstance of possessing exalted rank, may naturally make the possessors cautious of a change even probably tending to their benefit; and love of ease does not spontaneously admit the thought that any change is necessary. But the times now present and soon to come will of necessity compel all men both to think and to act; and those who are highest in position cannot be unconcerned spectators of the scene: they must take a part with or against the usurpers. We know that the usurping lords are a minority of the whole, and if it shall appear that the resolution of the people is founded on established constitutional law, immutable reason, and policy which would unite all ranks of men in harmony together, why should the people fear the want of supporters and advocates in the House of Lords? To lead and not to follow in acts of patriotism is doubtless the proper office of the peers of England; but if luxury and sloth disable them from doing all they ought, let us at least hope that when the right road is shewn, they will not be the last to use and maintain it.

It is within the walls of the House of Commons that the cause has to encounter the greatest difficulty: for there is the concentration of all the interest and power, all the activity and abilities of almost all the usurpers. To reason with men who presumptuously assume to themselves the dignity, patriotism, and honesty of the commons of England, who intermingle their self laudatory harangues with unblushing avowals, of what all the world besides calls most glaring corruption, but which they denominate fair influence of property and office—
to reason with men whose chief private interest is contrary to the argument, will generally be found vain. But all the usurpers are not of the same stamp; there are among them men of honest intentions though mistaken views; others who hold their unlawful power only because they have it by purchase or succession; and some who are not unwilling to sacrifice their private dominion for the public good. To such men we offer our reasons, and leave the issue to their own understandings. The rest may too late discover that there are limits to a nation's endurance, and when these are past, that the voice of the people will be heard and ultimately obeyed. Long ago the obstinate usurpers were informed by an authority to which they ought to have attended, that if they would not reform themselves from within, they would be reformed with a vengeance from without. Hitherto the warning has not been heed-ed, and the hope of England rests upon this, that the time is fast coming when it must not be neg-lected.

It is folly to imagine that the House of Commons will ever be induced to vote for reform by any thing but a strong and even irresistible expression of public opinion. The question relates not to mer-cantile ordinances or to an oppressive tax, which even the usurpers themselves find inconvenient, but to the very amount and substance of their own ill-gotten power and distinction; and we must expect them to struggle to the utmost to retain their advan-tage. But by knowing the obstacles opposed to us, we may learn how to overcome them; the people, though deprived of their legitimate organ in the government, are not without legal means of obtaining attention; and the spirit of Englishmen once roused is not easily depressed. Let us hold to the laws—be resolved, and act upon a well-concerted plan; and our exertions will ultimately be crowned with success.
“Hold to the laws, this great body recovers; forsake them, and it will certainly perish,” were the words of honest Judge Jenkins; and they are still more applicable to us than to the people of his time, who were suffering under a less grinding oligarchy: forsake not the good laws of commons and we shall not perish; and if destruction be threatened, we shall at least avoid the disgrace of receiving it from their vile usurpation.

Be resolved; for if your perseverance surpass not that of your interested opponents, where will be the victory?

Act upon a well-concerted plan; for if your efforts be broken and at variance with each other, you furnish weapons to your opponents and destroy your own strength.

The people are entitled by law to hold public meetings for the purpose of framing resolutions and petitions on public affairs. The want of a representation has made it necessary for them frequently to stand forward in their own persons: the law allows them to do so: and in a well-concerted plan meetings to petition for reform will be promoted and encouraged, and again and again repeated throughout the United Kingdom. The friends of the cause will meet together, communicate with others, and by fairly discussing the arguments of all, endeavour by common consultation to come to a common agreement. They will associate and unite in different parts of the country, until at length by a constant and unrelaxing perseverance, and by repeated and strenuous addresses to the legislature, they assume an attitude which cannot be opposed by 200 individuals, with all their train of followers and powerful advantages. In a well-concerted plan there will be no private cabals—no secret plots and conspiracies—no underhand dealings—no risk of falling into the drag net of political combinations, which is spread by the stat. 39 Geo. III. c. 79. (which I
advise my readers to peruse)—no violation of the law as it now stands. The sale of seats, the nomination of members of the House of Commons by individuals, is against law, and destructive of our happiness, and therefore we seek to abolish the practice. The many statutes which, while they condemn the practice, afford the means of continuing it, are against the constitution, and therefore we endeavour to obtain their repeal. We seek also for a new law to secure the enjoyment of our constitutional rights. But if in this pursuit we form a plan of conduct which supposes disobedience to the existing law in our own actions, the plan would not be well concerted: it would be unsafe and unwise, expose our persons to the shafts of the enemy, and give them strength from our imprudence; alarm our friends, and make them reluctant to support the good cause. I hope and see no reason to doubt that the people will avoid this hazard and act upon a plan well concerted. Persevere then and succeed.

§ VII. Observations on the difference between radical and moderate reform.

All the friends of parliamentary reform are agreed upon main principles. They all insist that great abuses arising from and supported by the present state of the representation now exist: that the difficulties of the country are so great as to make it evident that a remedy can only be found in a general council of the whole realm, and that in order to obtain such a council it is necessary to reform the commons house of parliament. But with this essential agreement there are some differences as to the foundation of their opinions; and still more as to the extent of change from the present practice which they would accomplish: and these differences have occasioned them to be distinguished
from each other by the names of radical reformers and moderate reformers. Supposing them to be all serious and honourable in their intentions, it becomes them to be just and candid towards each other. And I hope that a few observations on the principal topics on which they vary, may have a tendency to produce a more general agreement.

Both parties take their stand upon the old constitutional law. But the radical reformers adhere more strictly to the ancient common right of representation, and are less jealous of the other branches of the legislature. The moderate reformers make a resting place at the Revolution; are apt to transfer the jealousies which then prevailed to these times; and in their reasoning they speak more frequently of particular errors of the legislature, of the evils of certain persons having seats in the House of Commons, and of the power and influence of the crown.

The radical reformers think that as a reform is necessary, it is more safe and wise to promote at once a general and comprehensive plan, providing for the whole object in view, and giving no scope for further speculation. The moderate reformers think it better to proceed step by step, gradually removing one abuse after another, until at length the limited reform which they have in view is effected by force of pruning.

The radical reformers seek a change which would cut up the root of the present abuses, and establish a system under which they could not recur; in other words, they would entirely abolish the borough representation. The moderate reformers would destroy, not the system of borough representation which is agreed to be the root of the evil, but the principal abuses which have already sprung from it. They would cut off the representation of boroughs depopulated to a certain extent enlarge the elective franchise in others, create new bo-
roughs, and add to the number of electors in the counties.

From this statement it appears that the radical reformers, although they wish for more, may without inconsistency concur with the moderate reformers to the extent they go; but that the moderate reformers are not yet convinced that they ought to concur with the radical reformers in immediately promoting a more extended plan. Without presuming that I have power to alter the deliberate opinions of independent men who are well informed and accustomed to reflect, I shall take the liberty of explaining to the moderate reformers why I have not adopted some of their reasoning, and on what grounds I differ from some of their opinions.

I have stated what I conceive to be the general results of the present state of the representation, without discussing any particular errors of the legislature: first, because it is open to perpetual dispute, whether a particular measure or decision is erroneous or not; and it is imprudent to rest an important argument on a disputable point: secondly, because every legislature is liable to error; and there could be no settled government if every mistake were a reason for changing it: thirdly, because the whole commonalty, though incapable of persevering in a long course of error, which would lead to their destruction, may err for a time, and during that time their representatives may err without ceasing to represent them. For these reasons it appears to me that the friends of reform ought not to rely on particular alleged errors of the House of Commons as proofs that the reform they propose is necessary.

I have not thought it necessary to support my argument by any inferences drawn from what is called the influence of the crown, but which ought rather to be called the influence of the ministerial faction on the one hand, and of the would-be minis-
terial faction on the other, the crown having very little, if any thing to do with it. If the House of Commons were reformed, the expenditure of the government, and with that the influence alluded to, would of course be diminished. But some of the supporters of moderate reform are in the habit of speaking of the influence of the crown as an operating cause of our misfortunes, and as something the removal of which would of itself bring about a redress of the national grievances. Now in truth, influence of this sort is no more than the consequence of two contending factions, having done all in their power to enhance the prize they contended for. Each faction in place has been guilty of the same extravagance. The vast expenditure has absolutely required a proportionate number of place-men and officers, and it has produced still more place-hunters and expectants. This expenditure has been with perseverance and constancy sanctioned by the House of Commons; the influence arising from it has spread all over the land; when no change is rumoured it preponderates on the side of ministers, but when a change is expected it sets with a strong current to the other side of the house: so plainly does it follow the persons who dispose of the bait. To speak of diminishing the influence without reforming the assembly which has created it, appears to me highly unreasonable and I submit to the candid judgment of reasonable men, whether it is not faction to impute the influence to the crown, which neither was the sole author of it nor is interested to support it, but far otherwise. But suppose it possible to effect a great diminution of the expenditure without a reform of the representation, and let us consider the consequence. There would be a great diminution of taxes, the trains of the factions would be shortened, their circle would be narrowed, and a great number of men would be cast out of the vortex of servile possession and
expectation, and thrown upon their own resources among the people at large: all this would be an undoubted good, but the factions would still remain, and ministerial power would still be an object which the competitors might contend for without control of the people: private dominion would still usurp the place of common consent, and the very same causes which produced the present mischiefs would still exist and be prepared to renew them. We should be placed in the position we were in not many years ago, and as the same motives would be left to operate in the same manner and with at least the same strength, why would not the same imprudent course be pursued?

I have not proposed to exclude placemen, lawyers, or naval and military officers, from the House of Commons. First, because the people are themselves the only proper judges of the persons by whom they choose to be represented; and though reasons might be given at an election why a placeman or a person too much occupied with other affairs should not be chosen, yet if the people think fit to choose him they ought not to be deprived of their common right. Secondly, because it is unjust to lay it down as a general principle, that a placeman can have no due regard to the popular interest or continue an honest man; it is only under the present system that it has been declared that no honest man can continue minister. Thirdly, because if we even suppose placemen to be unduly biassed, yet they would be too few in number to cause any alarm if all the members of the house were fairly chosen by the people.

I have not proposed that the House of Commons should be reformed by successive changes: first, because the present calamities are so dreadful, that if a remedy be not immediately sought for it may be found too late to prevent the approaching horrors. Secondly, because every change in the go-
Government must be attended with great national anxiety, and we ought not to proceed in a manner to prolong that anxiety for a succession of years. It is by no means convenient that the people at large should have occasion to scrutinize their legislature with a view to practical change. That the present necessity exists is not the fault of the reformers. But a plan of reform which cannot be executed for a great length of time, and which during that time must from the circumstances of the case require the perpetual interference and support of the people at large, may reasonably be imputed as a fault to the framers. Thirdly, because no reform of this nature can be effected by slow degrees: to think so, implies a belief that the usurpers are so unwary in the support of their power, as to be led to concede one point after another till they have lost the whole of it. But surely we cannot rely on their imbecility. If any inconsiderable step towards reform were gained, it is probable that the petty advantage would be lost in the struggle for the next: the enemy would be more advanced in foresight than diminished in strength, and we should go on in perpetual agitation and aggravated misery, hoping and failing, till experience forced us into the radical and entire measure which reason already seems to point out as the best and safest.

I entreat the supporters of moderate reform to weigh these considerations which are written without any feeling of hostility towards them. Reflecting also upon the present state of public opinion, and that nothing can be done without the zealous support of the people out of doors, I hope that they will concur in the immediate promotion of a general and effectual plan of reform.
§ VIII. Objections to parliamentary reform.

Parliamentary reform is opposed by persons of such different sentiments and character, and the assertions and arguments they use are so contradictory that it is impossible to arrange them in any tolerable order. It may nevertheless be useful to present the reader with the following catalogue as a specimen of what are called arguments. It is said, that an independant House of Commons expressing the common will of the commonalty of the land, is no part of the English constitution: that the members of the House of Commons as now constituted are all interested in the preservation of the country, unlikely to neglect the common interest and sufficiently influenced by public opinion: that the particular persons by whom a member is elected have no effect on his duty or conduct: that different modes of election would make no difference whatever in the conduct or character of the house: that the house was never more popular or pure than it is now: that more wise and able members are appointed by individuals, than elected by multitudes: that a reformed House of Commons might be more honest but would not be more wise than the present, nor more zealous or effective in the detection and prosecution of abuse: that all the people are now virtually represented: that property and political power ought to go together, and property ought to be the basis of representation—therefore men of large property ought to nominate who they please to be members of the House of Commons: that the inhabitants of the colonies obtain a share in the legislature by persons who have large property there being allowed to purchase seats in the house: that the people elect factious, ambitious, envious, and licentious men, whose influence the minister ought to be able to counteract by appointing members
who may remain under his own command: that the government has been made piece-meal, and by repeated changes gradually adapted to the existing state of things—therefore any future change would be a mischievous innovation: that to begin any reform would of course produce a convulsion ending in anarchy or despotism: that all schemes of reform are Utopian, or chimerical, or factious, or Jacobinical, or any thing else usually esteemed frivolous or odious: that parliament, such as it is, is omnipotent, and ought by no means to be found fault with, but on the contrary ought to be declared perfect: that the people are all corrupted, and if the right of voting were extended there would be less opposition to the crown than there is now: or all the votes would be sold, and the owners of large property would command them: that all the people are rebellious, and if the right of voting were extended the crown would have no influence at all; the monarchy would be as dust in the scale: that all the people are base and contemptible, and no gentleman would condescend to represent any part of them: that in war you ought to think of the enemy; in peace to preserve the public tranquillity; in either time you ought not to reform the House of Commons: that a reformed House of Commons would annihilate the national debt and ruin all the fundholders: that the fundholders are so numerous and active that, if the house were reformed, they would prevail and ruin all the landholders: that the people do not ask for reform, or that the people clamour for reform; in either case you ought not to give it to them, &c. &c. &c.

As it cannot be necessary or useful to discuss the whole of this farrago, I shall confine my observations to those assertions which appear to me to have had most weight with well-meaning men.

1. "The House of Commons never was more popular and pure than it is now." I know not
whether this pretence relates to the construction or to the character and conduct of the house; but in either case it is without foundation, or even the least colour of truth to give it currency. As to the construction, the house is made unpopular and impure chiefly by means of the depopulated boroughs. But Browne Willis states his well-grounded opinion, by him modestly called a conjecture—"That before Edward VI's time there were not 130 cities and boroughs that returned members to any parliament." None of these were depopulated places with "scarce so much housing as a sheepcote or more inhabitants than a shepherd." In those times it was expensive, and as far as money was concerned, a burden to return representatives, and the lot (often determined by the sheriffs) fell only upon the more populous and considerable towns. It is probable that the elections were not conducted in an uniform or regular manner—they were ordered to be free, but the particular regulations which were made to secure obedience to the law are not known. We are however informed, that in some counties the elections of knights, citizens, and burgesses were made altogether in the county court of the shire: and the general purity of the elections in the county courts may be undetstood from the observation of Prynne, who says that, "Sundry persons of eminency, quality, parts and wisdom in most counties were elected knights of the shire, by the unanimous consent of the gentry, freeholders, and people, not only twice or thrice, but four, five, six, seven, eight, nine, ten times, or more, after another to serve in parliaments, without any emulation, polling, feasting, or canvassing for voices; or future complaints, contests about their elections, polls, undue or double returns, which of late times have disturbed the countie's peace and undisturbed the parliament's proceedings: there being not above two or three
elections questioned or complained of from 49 Henry III. till 22 Edward IV. for aught appears by the returns, or parliament rolls, and not so much as one double return or indenture, wherewith all the late bundles of writs are stored, and the House of Commons and late committees of privileges pestered, perplexed to the great retarding of the more weighty public affairs of the king and kingdom.” When elections, made by great numbers of persons were not contested or procured by treating, we may be certain that no private interest were in view. In Prynne’s time the dominion of the usurpers had advanced a long way towards its establishment, whence the mischiefs he describes. Yet a writer in 1716 expresses himself thus: “’Tis not half a century ago since ’twas common for a worthy gentleman, who was famed for his public spirit to be chose in his parlour, and begged to represent his county, city, or borough in the House of Commons;” and speaking of his own time he says, “the case is so strangely altered, that now a gentleman shall exhaust his estate, and spend vast sums to get elected for a pitiful borough.” The evil has gone on increasing from that time to this, and when we hear of a gentleman being calmly invited to represent a city or borough, we stare at the prodigy, and all the factions cry out jacobinism. The nomination of members by individuals and the sale of seats were utterly derogatory to the old law; and when the practice was first detected the delinquents were punished. What we know of the course of elections convinces us that no private dominion was formerly established, and therefore it is false to assert that the construction of the house was never more popular and pure than it is now. We may be puzzled to account for the extraordinary return made by Dame Dorothy Packington, for Aylesbury, in the reign of Elizabeth; but we shall be still more perplexed if we attempt to reconcile her proceed-
ings to what was then or at any time the law of the land.

As to character and conduct, we may observe, that in former times the representatives of the people in the House of Commons were respectful, and somewhat submissive in their ordinary demeanour to the king and the lords; but that they were free and explicit in the declaration of grievances. They sometimes granted large supplies, and at other times refused to grant any. Some of the best laws we have were made upon their petitions, and generally they served as an effectual shield and protection to the people they represented. They did not assume power under the name of privilege, nor ever pretend that they had any interest distinct from that of the people at large. Hence it is false to assert, that in character and conduct, the House of Commons was never more popular and pure than it is now.

Upon this subject too many have been led astray by the modern historians. Dr. Brady, who had contended against the friends of liberty, in the time of Charles II. afterwards wrote serious history with a view to depreciate parliaments, and support or restore the absolute power of James II. Mr. Carte followed in the same course for the benefit of the Pretender; and when Mr. Hume had published his Enthusiasm of the English constitution, we may conceive, that he was not displeased to find that those learned writers supplied him with opinions which might have a probable tendency to reconcile his readers to the blessing he had provided for them; and we cannot be surprised that with so much partiality and so little regard to truth, he used his utmost endeavours to shew that freedom only began to be thought of in England in the time of the Stuarts. But the independent and dispassionate inquirer will find that the contrary is proved by the whole course of the fair and true History of England, and by the undeviating testimony of all the
old writers on our laws and government, and the result of the particular instances of arbitrary power, which may be adduced is, that in those cases the laws were violated. To prove the violation lawful, is a task which no man can accomplish.

Before I leave this objection I must notice the strange inconsistency of those who use it. The very same persons tell us at one time, that a reformed parliament would, from its independence and the disposition natural to bodies of men freely chosen by the people, act like the last parliament of Charles I. and overturn the government; but at other times they say, as above, that the present House of Commons is as popular as any ever was; from whence we must conclude, that it is as popular as Charles's parliament was, and consequently as likely to overturn the government. Hence, according to their own notions, the present House of Commons is as bad as the worst; and it is obvious how little the objectors understand the subject upon which they argue.

2. "Individuals are more likely to appoint, than multitudes to elect men of great talents and abilities." This assertion is blindly made against the evidence of all history, ancient and modern, foreign and domestic; and against the opinion of the most respectable writers on government. I might therefore content myself with denying it. But suppose that it was founded in truth: "Abilities," said Sydney, "can simply deserve nothing, for if they are ill employed they are the worst of vices, and the most powerful instruments of mischief." The question therefore will be whether multitudes are more likely to elect, than individuals to appoint honest members? and the answer is ready when we know that the appointing individuals notoriously sell their appointments to the highest purchasers. Will it be contended that these purchasers are likely to be distinguished for their honest fidelity? Grant then that
a purchaser, or an appointee without purchase, may be both wise and honest: how can the appointment of his patron give him a right to interfere without my consent, in my public business? He may pretend to know more of it than I do, but on the same pretence he might claim a right to meddle with my private affairs; nor is it easy to discover where his officiousness would stop, if it were not resisted.

3. "Great differences prevail among the reformers; grant that a reform is necessary and they will never agree upon the measures to be adopted." The state of an argument which requires support like this, is almost too degraded to deserve notice. No political subject can be mentioned, on which men of reasonable and independent minds do not in many respects differ, and in all common cases there is an easy method of reconciling the differences, by assembling and putting the several propositions in question to the vote, the whole agreeing to abide by the decision of the majority. Great numbers of the friends of parliamentary reform have frequently done so, and no difficulty has been found in coming to an agreement upon the points under consideration. But all the friends of reform throughout the country have never been able to resort to this method; and they are precisely in the situation of all other persons who are discussing a question previous to its being put to the vote. They are, I believe, prepared for decision—give them the means and they will decide; not unanimously, but the minority as in other cases will yield to the majority: while the means are refused it is folly or want of decency to upbraid them for not performing an absolute impossibility. The differences have been advantageous to the cause; for they have promoted discussion, and however embarrassed that discussion has been by the dread of power, the subject has thereby become well understood, which it might not otherwise have been.
4. "England under Charles I. began a reform which led to a civil war and the death of the king. — America began a reform which ended in a factious, turbulent, and dishonest democracy. — France began a reform which proceeded through bloodshed, anarchy, despotism, and foreign conquest to the government we now see: therefore, if we begin a reform, must suffer the same results." The respective governments here noticed attempted to continue arbitrary power after reform was justly demanded. The demand was resisted until the people had no alternative but to submit as slaves or to meet force by force. They bravely chose the latter, and the consequence was, the destruction of their tyrants. But the objectors who are in general very little aware of the conclusions to be drawn from their own arguments, forget how easily the change may be rung the other way. Charles I. resisted reform, was beaten, and lost his life. — England resisted a reform in America, was beaten, and lost her most flourishing colony. — The court of France resisted reform, was beaten, and perished or fled. And there are examples not attended with bloodshed. James II. resisted reform, was beaten, and although England had the humiliation of being assisted by a foreign force, yet the resister of reform was expelled from his throne and country without tumult or disorder. The opponents of reform had better not resort to history: in them, it would be wiser not to tell us how often oppressors have been punished, and I advise them to consider their examples more carefully.

Charles I. made an unlawful and resolute attempt to govern all men and all things by prerogative alone. He was justly opposed by a parliament in some respects free, but in other respects strongly verging towards an oligarchy. During the civil war, the parliament from necessity assumed the executive power. The long continued possession of
power gave the oligarchs the ascendancy; and when the king was beaten, they had the command of the state. They proposed a settlement, contrived to destroy the lawful power of the king, and to establish their own dominion, paying very little if any regard to the interests of the people. In the meantime an agitated and debating army drawn from the body of the people had become political observers, and being justly dissatisfied with the propositions of the oligarchs, they framed others, and proposed that the king should keep his lawful power; but that civil and religious liberty should be secured by a fair and free representation of the people in parliament. Noble conduct at that time pursued in vain! The king, pleased with the dissentions of his opponents, hoped that fear of each other would make both parties submit to him. At first he openly preferred the proposals of the army; and if he had frankly accepted them he might have been saved: but soon afterwards he grossly insulted the officers, rejected their propositions, and attempted an escape—in the expectation of a speedy return after his enemies had mutually destroyed one another. All this was before Cromwell is known to have aimed at the dominion he afterwards reached; and the opponents of reform may consider whether it would not have been wiser for the unfortunate and misguided Charles to have consented to a reformed parliament, which would have placed his fate in the hands of the people.

The Americans succeeded in obtaining a greater object than they contemplated when they first resisted arbitrary power; and they live free and happy. What defects there may be in their legislature I leave to the observation of those who are better informed than I am. But the example of their government can be no beacon to us, until it is shewn that the king and the House of Lords are no efficient parts of our legislature, and possess neither
wisdom to advise nor power to control the counsels of the Commons.

The severe oppressions of France had planted revenge and cruelty deep in the hearts of that people. The daring interference of all the courts of Europe aggravated the baneful tendency which already existed; and the long protracted resistance to reform among such materials produced scenes of horror unparalleled elsewhere: but still the oppressors were punished and the condition of the people has been ameliorated almost beyond computation. Our attention is directed to the calamities they have endured. It is a poor argument addressed to a starving people; and the example can have no weight until it is shewn that we have been enslaved so far as to have forgotten all thoughts of our rational and constitutional freedom; that our constitutional laws have been so long neglected and are grown so obsolete that we no longer look up to them with respect, or consider them as our rules of conduct; and that we have no guide but the metaphysical speculations of fanciful men, not anxious to recover the old constitutional road, but to lead us into unknown countries through untried ways. Surely the usurpers will not pretend that such have already been the effects of their power!

5. "The people are all corrupt—if you extend the right of voting, there will be so many more votes to be bought and sold." It is admitted that few men are without a disposition to buy and sell articles of value. And while seats in the House of Commons are capable of being used to support private dominion; while they are vendible or obtained by the intervention of a small number of voters, experience shews that no restrictive laws nor any religious obligation can prevent corruption. It is further admitted, that no scheme of election can be imagined in which the purchase and sale of votes may not be possible. Nobody proposes to new
model human nature. But there are indirect methods by which the probability of corruption may be reduced almost to nothing—and these methods are furnished by reform. Take away the private dominion and contract the duration of a parliament to one year, and there will scarcely be a purchaser: on the other hand, increase the number of electors, and if a purchaser be found, the bribe he can offer to each will be so small that there will scarcely be a seller: divide the poll and limit its duration to a few hours, and even if there should be a disposition to party agitation there will scarcely be any thing to rouse it into action.

6. "Property and political power should be united; and property should be the basis of representation." This supposed objection requires explanation rather than argument. Property is the power of persons over things. Political power is the power of making laws to regulate the conduct of persons. Representation is the assemblage of a select number of persons appointed by multitudes to exercise their political power. And these things are in their nature incapable of separation. No man can have power over things, that is, property, unless he has the means of preventing the encroachments of others. Nor can he have those means without the strength of government, acting according to laws made by common consent. Nor can common consent be obtained without representation. Property therefore implies political power and representation.

The fallacy of those who imagine that some state trick is required to unite property and political power arises from two sources which deserve some notice. First, they make no distinction between that precarious property which would be better named a possession connived at and permitted by the condescension of other men, and which may and does exist in the most despotic governments; and that fixed property attended by right and security
which can only exist among nations whose laws are made by common consent. If the legislative power of any nation be usurped by a few individuals, who without common consent, may pass edicts depriving the people of any part or the whole of every thing they possess; then, I say, the people have only a bare possession and no property. The mercy or the fears of the usurpers are their only protectors. Secondly, no just distinction is made between the things (the land and goods) over which the power called property is exercised and the power itself: and laws regulating the conduct of persons inhabiting certain houses or districts are absurdly said to confer local rights upon those houses or districts. The inhabitants of various boroughs now depopulated had the right of electing members of parliament. This right was the direction of the law as to one part of their conduct: but the inhabitants being gone, the law and the right resulting from it are gone, because they have no subject; and the writ and precept which order the non-existing inhabitants to elect two of their number, who are most discreet and able and who may have full power to act for themselves and the commonalty of the borough, would be a mere nullity, if a fraud were not employed to convert them into a cheat. The true and honest return would be "there are no burgesses." But sham electors are fraudulently appointed, sham elections are carried on, and the proceeding is defended on the ground that the right of electing was so entirely attached to the places, that the owner of the land, on which the former inhabitants dwelt, has succeeded to or obtained the joint and several rights of all the inhabitants, and ought to exercise all the power which those rights were intended to secure; and however absurd this defence may be, we have been gravely told by philosophers from Edinburgh and Cornwall, that the case described is a case of the fair influence of property!
The king's writ however commands an election, and the stat. 1 Hen. V. c. 1, (which was not repealed till the year 1774) provided that the election should be made by resident voters, and of members who were also resident. To this day there is no law, and there never can be any reason to authorise the appointment of a member of the House of Commons by an individual. The appointment is made by means sometimes of illegal and fraudulent consequences, at other times of the grossest and meanest bribery. The man who makes it is a daring usurper of the political power of the people; and the degraded nominee, though sometimes left at liberty to pursue the low career of an adventurer, is too often employed as the instrument of his patron's factious ambition:—and this is the way in which property loses the only safe protection it can have.

But the connexion between property and political power, and the common consent of the people is a subject too important to be disposed of in mere explanation to the objectors; it deserves a larger illustration. In every civilized nation there are and must and ought to be governors and governed, richer and poorer men; the territory must be unequally divided among a part only of the inhabitants; and the wants of all, the introduction of the arts, and the division of labour necessarily give rise to the various employments of the farmer, trader, manufacturer, artizan and servant, all of them possessing different kinds and degrees of property, different means of acquiring knowledge, different chances and means of obtaining and cultivating independence of character. An inconsiderate observer of this variety, seeing that the poor and less intelligent members of the community are too often the most numerous, wonders to hear of their common consent, and fears nothing but danger from giving every man a vote at elections: he forgets that the rich live by the labour of the poor, the poor by
the store of the rich, and that all are mutually de-
pendent. To enable every man to vote would not
induce every man to bestow his vote with equal in-
dependence, but would create a bond of union be-
tween the rich and the poor, which would not only
be a constant check upon disorder, but tend to en-
courage every virtue, which would give property,
political power, and honour to the rich, the able,
and the intelligent; property, protection, and secu-
ritv to the poor, the weak, and the ignorant. Con-
sider only the situation of the landlord and his te-
nants, the estate of the landlord is not more neces-
sary to the farmers than the industry and skill of
the farmers are to the landlord, they are mutually
dependent on each other; and as the farmers may
offer their services to any landlord who may also
make his choice from among many farmers, it
usually and almost necessarily happens that the
farmers have landlords most likely to contribute
to and protect their interest, and that the landlords
have farmers most likely to be useful to them or to
be guided by their will; length of time confirms and
increases the connexion between them. The land-
lord becomes acquainted with the character and
disposition of his tenantry, and acquires honour
and satisfaction from their prosperity. The farm-
ers grow attached to the places where they have
long lived, are grateful for benefits often received,
and are pleased with the rank and estimation of
their landlord: the bond of union between the
farmer and his labourers is scarcely less; and if
each person might act and vote as he pleased, it
would generally happen that on political subjects
(with which the farmer may have little acquaintance
while he has fair ground for believing that his land-
lord is well informed and disposed to act for the
best), the will of the landlord would not be follow-
ed by all or the great majority of the persons who
dwell on his estate. In a similar manner the influ-
ence of a merchant or trader would be in a considerable degree proportioned to the number of persons they respectively employed; this influence being created and cemented by good treatment and gratitude, prompted by interest and natural feeling. It would be endless to trace the various relations and connexions which bind together in one common interest the different classes and orders of men; but it is clear that those who have the greatest means, may if they please attach to themselves the greatest number of followers, and if each man's vote tells, they may have the greatest share in the legislature; and hence I say that in the most free nations, persons of large possessions, of whatever description they may be, must have great influence over those of less; not a corrupt and mercenary influence, but an influence arising from the choice they have made of persons likely to conform to their will, from the gratitude of those whom they have served and protected, and from the respect paid to their opinions by those who feel their own inferiority and have little knowledge of the subject in question. Such then is the influence of large proprietors, such the tendency of opinions even in a free state, that the greatest share of political power falls naturally into the hands of the great and the nominative authority of all become the real authority of a few. If therefore all men were virtuous, there would not be much reason for saying that the poor ought to have a share in elections: but the same reason which makes it necessary to have any government, or to control the arbitrary power of kings makes it also necessary to distribute the elective franchise as widely as possible. Occasions too often arise when men think that their own interest may be promoted by trampling upon the interests of others. The government verges fast towards an aristocracy, and then to an oligarchy, the worst of all governments; and against this course
we can only guard by allowing all men a full liberty to act for themselves in the choice of their representatives. We must take care that the few who must govern the many shall not be a fixed and permanent set of particular men, but a set of men liable to be changed, whenever they deviate from useful conduct, by those whose interest they have deserted. If a change be in the power of the electors, the large proprietor who sees the effect which the laws produce on those he employs, and hears their complaints, will be engaged to redress their grievances; and however great may be their apparent submission to his opinion, in return that opinion will be in a great measure founded on their feelings, practice and experience. Election votes, if given by every man, would of course add to the power and influence of men of large property, so long as they proved friends to their inferiors; and afterwards so long as a sense of kindness, gratitude and respect, for former services and virtues, was superior to the sense of present suffering—but no longer: for if the large proprietors were to shew that they despised those who were poorer; if they disdained to meet and be useful to them; or if they did meet and serve them, but in an insulting manner, then the protection, kindness, respect and interest, which held the two parties together would be impaired, and the bond of union would be soon dissolved. The poorer men would at first doubt to whom or by whose advice they ought to give their votes—justly hating to support the men who continued to injure or insult them, they might for a time fear or dislike to oppose him, but resentment would at length prevail; and when they had departed from their old guides, it might be a matter of chance whether they gave their strength to an useful or to a rash and injurious opposition: in this situation, however, the large proprietors must either return to a more just and dangerous conduct or lose the political power
of which they were possessed. The bond of union would not be easily broken, and if it were broken it would have a constant tendency to reunite—since to lead the lower orders and thence derive consequence, the great must consult and be known to consult their interest.

I willingly admit that we have in England very many examples of this good understanding between the rich and the poor: but it is too apparent that we have far deviated from the right course. Numbers of our great men have been seduced by power at first voluntarily given; they have wished to possess it absolutely, and independent of the favour or affection of their countrymen. A great number of the people have been disfranchised—many others have been corruptly tempted and bribed—money given and received has succeeded to the mutual services which held together the different classes. The mutual ties, which compelled the great to consult the interest of those, without whose support they could have only a small share of power, have been successively unloosed. Instead of free choice and confidence, we have qualifications, restrictions, checks, and controuls—instead of respect and protection we have suspicion on the one hand, contempt and disregard on the other—instead of a free and manly obedience, we see an apparent obsequiousness, beneath which rebellion and hatred lurk in the former place of affectionate and devoted service; while on the other side there is every earthly pretence of religion, patriotism, quiet and good order, to mask the existing and intended tyranny.

But to sum up all in a few words, the only difference lies between a voluntary assent and a forced submission. In a free and uncorrupted state the common consent of all will always be the common consent of the great who protect and support the happiness and freedom of their inferiors. It is not,
and I may venture to say, cannot be any thing more, and will not be any thing else if the great are attentive to the interest of themselves and their country. In a state which is corrupted, and has lost its ancient freedom, the condition of the people will for a while be tolerable, by reason of the good old laws and customs; but as the alienation of the several orders increases—as one party grows more powerful, haughty, and contemptuous, and from a mistaken security, at length more negligent, idle, and luxurious, while the other becomes more degraded, oppressed, and suspicious, and at length urgent for relief, and from superior activity, information, and zeal, growing contemptuous in their turn, violence must ensue—unless the catastrophe be prevented by a timely resource to the ancient principles.