

past is furnished out with sweetmeats and flowers.

The luxury of dress presents us also with similar differences. In climates, where the change of the weather is sudden and violent, the people wear better and plainer clothes; while in those where the inhabitants dress only for ornament, brilliancy is more consulted than use. Even clothes themselves are an article of luxury. Thus at Naples, you will daily see gentlemen walking about in laced clothes, without stockings. It is the same with regard to buildings: magnificence only is consulted, where nothing is to be feared from the inclemencies of the weather. At Paris and London, people are desirous of warm and commodious apartments. At Madrid, they have superb saloons, but no shades nor casements; and their beds lie open to the rats that harbour in the roof.

The aliment is also more substantial and nourishing in hot countries than in cold; this is a third difference that cannot fail to have an influence over the second. Wherefore is it that the Italians eat such a quantity of vegetables? Because they are good, and of an excellent flavour. In France, where they are themselves nourished chiefly by water, they are less nutritive, and are held of little consequence. They occupy nevertheless as much ground, and cost as much pains to cultivate them. It hath been experimentally proved, that the corn of Barbary, in other respects inferior to that of France, gives a greater quantity of meal, and that the French corn yields still more than that of the North. Hence it may be inferred, that a similar gradation is carried on in the same direction from the line to the pole. Now, is it not an evident disadvan-

rage to have, in an equal produce, a less quantity of aliment ?

To all these different considerations I may add another, which arises from, and serves to confirm them : this is, that hot countries require fewer inhabitants than the cold, and yet afford subsistence for more ; a circumstance that causes a two-fold superfluity, always to the advantage of despotism. The more the same number of people are distributed over the face of a large territory, the more difficult becomes a revolt ; as they cannot meet together so readily or secretly, and it is always easy for the government to cut off their associations, and ruin their projects. On the other hand, the more a numerous people are collected together, the less can the government assume over the sovereign ; the chiefs of a faction may deliberate as securely at their meetings, as the prince in his council ; and the mob are as readily assembled in the public squares, as the troops in their quarters. It is the advantage of a tyrannical government, therefore, to act at great distances ; its force increasing with the distance, like that of a lever*, by the assistance of a proper center. That of the people, on the contrary, acts only by being concentrated ; it evaporates and loses itself when dilated, even as gunpowder scattered on the ground,

* This doth not contradict what is advanced in Chap. ix. Book II. concerning the inconvenience of great states ; the matter in question there being the authority of the government over its members, and here of its influence over the subjects. Its members, scattered about in different places, serve as points of support to enable it to act at a distance on the people ; but it hath no such props to assist its action on its members themselves. Thus in one case the length of the lever is the cause of its strength, and in the other of its weakness.

ground, takes fire, particle by particle, and is productive of no effect. Countries thinly inhabited are the most proper places for tyrants; wild beasts reign only in deserts.

CHAP. IX. *Of the marks of a good government.*

WHEN it is asked, therefore, in general terms, What is the best form of government? the question is as indeterminate as unanswerable; or rather it may be reasonably answered as many different ways as there are possible combinations of the absolute and relative circumstances of a people.

But if it be asked, By what signs may it be known whether any given people are well or ill governed? this is quite another thing; and the question, as to the fact, is to be resolved.

This question, however, is never actually resolved, because every one is for doing it after his own manner. The subject cries up the public tranquillity, the citizen the liberty of individuals; the one prefers the security of property, the other that of his person; the one maintains the best government to be the most severe, the other affirms that to be best which is most agreeable; the latter is for punishing crimes, the former for preventing them; the one thinks it a fine thing to be dreaded by his neighbours, the other thinks it better to be unknown to them; the one is satisfied if money does but circulate, the other requires the people should have bread. Were they even agreed also on these and other similar points, they would not be much nearer the end of the dispute. Moral quantities are deficient in point of precision; so

that, were men agreed on the sign, they would still differ about its estimation.

For my part, I am astonished that a sign so very simple should be mistaken, or that any should be so disingenuous as not to acknowledge it. What is the end of political society? doubtless the preservation and prosperity of its members. And what is the most certain sign or proof of these? certainly it is their number and population. Let us not look elsewhere, then, for this disputed proof; since it is plain, that government must be the best, under which the citizens increase and multiply most, supposing all other circumstances equal, and no foreigners naturalized or colonies introduced to cause such increase; and that, on the contrary, that government must be the worst, under which, *cæteris paribus*, the number of people should diminish. This being admitted, the decision of the question becomes an affair of calculation*, and as such I give it up to the arithmeticians.

CHAP.

* It is on the same principle that we ought to judge of the several periods of time that deserve the preference, in being distinguished for the prosperity of mankind. We have in general too much admired those in which literature and the fine arts have flourished, without penetrating into the secret cause of their cultivation, or duly considering their fatal effects; *idæque apud imperitos humanitas vocabatur, cum pars servitutis esset*. Shall we never be able to see, through the maxims laid down in books, the interested motives of their authors?---No; let writers say what they will, whenever the inhabitants of a country decrease, it is not true that all things go well, whatever be its external prosperity and splendour: A poet possessed of an hundred thousand livres a-year, does not necessarily make the age he lives in the best of all others. We should not so much regard the apparent repose of the world, and the tranquillity of its chiefs, as the well-being of whole nations, and particularly of the most populous states. A storm of hail may lay waste some few provinces, but it seldom causes a famine.

Tem

CHAP. X. *Of the abuse of government, and its tendency to degenerate.*

AS the particular will of the prince acts constantly against the general will of the people, the government necessarily makes a continual effort against the sovereignty. The greater this effort is, the more is the constitution altered; and as in this case there is no other distinct will to keep that of the prince in equilibrio, it must sooner or later infallibly happen, that the prince will oppress the sovereign, and break the social compact. This is an inherent and unavoidable defect, which, from the very birth of the political body, incessantly tends to its dissolution, even as old age and death tend to the dissolution of the natural body.

• There are two general methods according to which

Temporary tumults and civil wars may give much disturbance to rulers; but they do not constitute the real misfortunes of a people, who may even enjoy some respite, while they are disputing who shall play the tyrant over them. It is from their permanent situation that their real prosperity or calamity must arise: when all submit tamely to the yoke, then it is that all are perishing; then it is that their chiefs, destroying them at their ease, *ubi solitudinem faciunt pacem appellant*. When the intrigues of the nobility agitated the kingdom of France, and the coadjutor of Paris carried a poignard in his pocket to parliament, all this did not hinder the bulk of the French nation from growing numerous and enjoying themselves in happiness and ease. Ancient Greece flourished in the midst of the most cruel wars; human blood was spilt in torrents, and yet the country swarmed with inhabitants. It appears, says Machiavel, that, in the midst of murders, proscriptions, and civil wars, our republic became only the more powerful; the virtue of the citizens, their manners, their independence, had a greater effect to strengthen it, than all its dissensions had to weaken it. A little agitation gives vigour to the mind; and liberty, not peace, is the real source of the prosperity of our species.

which a government degenerates; viz. when it contracts itself, or when the state is dissolved. The government contracts itself, when its members are reduced from a great number to a few; that is to say, from a democracy to an aristocracy, and from an aristocracy to a royalty. This is its natural tendency*. Should it make a retro-

* The slow formation and progress of the republic of Venice, present a notable example of this succession; and it is very surprising, that in the space of 1200 years the Venetians should be got no farther than to the second term, which began in the year 1198. With regard to the ancient dukes, with which their constitution is reproached, it is certain, whatever some writers may say, that they were not sovereigns.

The Roman republic will, doubtless, be made an objection, as having taken a contrary route, in its progress from monarchy to aristocracy, and from aristocracy to democracy. I am, however, far from thinking this was the real case.

The first establishment of Romulus was a mixed government, which degenerated presently into despotism. From very particular causes the state perished before its time, as a new-born infant before it attained the age of manhood. The expulsion of the Tarquins, was the true era of the rise of that republic; although it did not assume at first a determinate form, because the work was but half done in not having abolished the order of patricians. For hence, an hereditary aristocracy, the worst of all administrations, acting in opposition to the democracy, the form of government remained indeterminate; not being fixed, as Machiavel observes, till the establishment of tribunes; when, and not before, it was a real government under the form of a true democracy. In fact, the people were then not only sovereign, but also magistrate and judge; the senate being a tribunal of an inferior order, formed to temper and correct the government; while even the consuls themselves, although patricians, first magistrates, and, as generals, absolute in the field, yet at Rome they were only presidents of the assemblies of the people.

From this time it is evident the government followed its natural bias, and tended strongly toward aristocracy. The patrician order dying away of itself, the aristocracy subsisted no longer in the members of that body, as at Venice and Genoa, but in the body of the senate composed of Patricians and Plebeians, and even in the body of tribunes when they began

progressive change, by having the number of its members increased, it might be said to relax or dilate itself; but this inverse progress is impossible.

In fact, a government never changes its form, except its spring of action be too much worn to support its own. Now, if it relaxes still more by being extended, its force becomes absolutely nothing, and is still less capable of supporting itself. It is necessary therefore to wind up and renew such spring in proportion as it gives way; otherwise the state it is intended to support, must necessarily fall.

The dissolution of the state indeed may happen two ways. First, when the prince does not govern according to law, but arrogates the sovereign power to himself: in which case he effects a remarkable change, whereby not the government, but the state itself is contracted. What I mean to say is, that the great state is thence dissolved, and that he forms another within it, composed only of the members of the government, who are only the masters and tyrants over the rest of the people. So that when the government usurps the sovereignty, at that instant the Social Compact is broken, and the individuals, who were citizens before, are restored to the rights of natural liberty, and are compelled, not legally obliged, to obedience.

It

to usurp an active power. For words make no alteration in things. When the people have chiefs who govern in their stead, whatever denomination be given to those chiefs, the government is always an aristocracy. From the abuse of the aristocratical form, arose the civil wars and the triumvirate. Sylla, Julius Cæsar, and Augustus, indeed became real monarchs, and at length under the despotism of Tiberius the state was finally dissolved. The Roman history, therefore, doth not tend to disprove my principle, but to confirm it.

It is the same thing when the members of government assume separately the power they are entitled to exercise only collectively; which is no less an infringement of the laws, and is productive of still worse consequences. For, in this case, there may be said to be as many princes as magistrates; while the state, no less divided than the government, is totally dissolved, or changes its form.

When the state is dissolved, the abuse of government, of whatever nature it be, takes the common name of anarchy. To distinguish more nicely, *democracy* is said to degenerate into *ochlocracy*; *aristocracy* into *oligarchy*; and I may add, *monarchy* into *tyranny*: but this last term is equivocal, and requires some explanation. In the vulgar sense of the word, a tyrant is a king who governs by force and without regard to justice or the laws. In the more precise and determinate sense, it means any individual who assumes the royal authority, without having a right to it. In this latter sense the Greeks understood the word tyrant; and give it indiscriminately both to good and bad princes whose authority was not legal *. Thus, *tyrant* and *usurper* are two words perfectly synonymous.

To give different names, however, to different things, I call the usurpation of regal authority

* *Omnes enim et habentur et dicuntur tyranni, qui potestate utuntur perpetua, in ea civitate qua libertate usa est.* CORN. NEPOS. IN MILTIADE. It is true that Aristotle makes a distinction between the tyrant and king, in that the one governs for his own good, and the other for the good of his subjects: but besides that all the Greek writers use the word tyrant in a different sense, as appears particularly by the Hieron of Xenophon, it would follow from Aristotle's distinction that no king ever existed on the face of the earth.

rity *tyranny*, and that of sovereign power *despotism*. The tyrant is he who takes upon himself, contrary to law, to govern according to law; and the despotic chief, one who places himself above the laws themselves. Thus a tyrant cannot be despotic, though a despotic prince must always be a tyrant.

CHAP. IX. *Of the dissolution of the body-politic.*

SUCH is the natural and unavoidable tendency of even the best constituted governments. If Rome and Sparta perished, what state can hope to last for ever? In our endeavours to form a durable establishment, we must not think therefore to make it eternal. If we would hope to succeed, we must not attempt impossibilities, nor flatter ourselves to give that permanency to human institutions, which is incompatible with their nature.

The politic body, as well as the physical, begins to die at its birth, and bears in itself the causes of its destruction. Both, however, may possess a constitution more or less robust, and adapted to different periods of duration. The constitution of man is the work of nature; that of the state, is the work of art. It doth not depend on men to prolong their lives; but it depends on them to prolong that of the state as much as possible, by giving it a constitution the best adapted to longevity. The most perfect constitution, it is true, will have an end; but still so much later than others, if no unforeseen accident bring it to an untimely dissolution.

The principle of political life lies in the sovereign authority. The legislative power is the
heart

heart of the state ; the executive is the brain, which puts every part in motion. The brain may be rendered useless by the palsy, and yet the individual survive. A man may become an insensible driveller, and yet live : but as soon as the heart ceases to beat, the animal is dead.

The state doth not subsist by virtue of the laws, but by the legislative power. The statutes of yesterday are not in themselves necessarily binding to-day, but the tacit confirmation of them is presumed from the silence of the legislature, the sovereign being supposed incessantly to confirm the laws not actually repealed. Whatever is once declared to be the will of the sovereign, continues always so, unless it be abrogated.

Wherefore, then, is there so much respect paid to ancient laws ? Even for this reason. It is rational to suppose, that nothing but the excellence of the ancient laws could preserve them so long in being ; for that, if the sovereign had not found them always salutary and useful, they would have been repealed.

Hence we see, that the laws, instead of losing their force, acquire additional authority by time in every well formed state ; the prepossession of their antiquity renders them every day more venerable ; whereas, in every country where the laws grow obsolete, and lose their force as they grow old, this alone is a proof that the legislative power itself is decayed, and the state extinct.

CHAP. XII. *By what means the sovereign authority is maintained.*

THE sovereign, having no other force than the legislative power, acts only by the laws ;
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while the laws being only the authentic acts of the general will, the sovereign cannot act unless the people are assembled. The people assemble! you will say. What a chimera!—It is indeed chimerical at present; though it was not reckoned so two thousand years ago. Are mankind changed in their nature since that time?

The bounds of possibility in moral affairs are less confined than we are apt to imagine: It is our foibles, our vices, our prejudices, that contract them. Mean souls give no credit to the sentiments of heroic minds; while slaves affect to turn the notion of liberty into ridicule.

By what hath been done, however, we may judge of what may be done again. I shall not speak of the petty republics of ancient Greece; but the Roman republic was undoubtedly a great state, and the city of Rome a great city. By the last register of the citizens of Rome, their number amounted to four hundred thousand persons capable of bearing arms; and the last register of the empire amounted to more than four millions of citizens, without reckoning subjects, women, children, or slaves.

How very difficult, you will say, must it have been, to assemble frequently the people of that capital and its environs? And yet hardly a week passed in which the Roman people were not assembled, and on some occasions several times a-week. This numerous body indeed not only exercised the functions of sovereignty, but also in some cases those of government. They sometimes deliberated on state-affairs, and at others decided in judicial causes; the whole people being publicly assembled almost as frequently in the capacity of magistrates as citizens.

By recurring to the primitive state of nations, we shall find that most of the ancient governments, even the monarchical, as that of Macedon and others, had the like popular assemblies. Be this, however, as it may, the fact being once incontestibly proved, obviates all difficulties; for, to deduce the possibility of a thing from its having actually happened, will admit of no objection.

CHAP. XIII. *The subject continued.*

IT is not enough, however, that the people once assembled should fix the constitution of the state, by giving their sanction to a certain code or system of laws: it is not enough that they should establish a perpetual government, or provide once for all by the election of magistrates. Besides the extraordinary assemblies, which unforeseen accidents may require, it is necessary they should have certain fixed and periodical meetings, which nothing might abolish or prorogue: so that the people should on a certain day be legally summoned by law, without any express statute being required for their formal convocation.

But, excepting these regular assemblies, rendered legal by the date, all others, unless convoked by the proper magistrate previously appointed to that end, agreeable to prescribed forms, should be held illegal, and all their determinations declared null and void, because the very manner of the people's assembling should be determined by law.

As to the frequency of legal assemblies, it depends on so many different considerations, that
it

it is impossible to lay down any precise rules on this head. It can only be said in general, that the more powerful the government, the more often ought the sovereignty to display itself.

All this, it may be said, is very well for a single town or city; but what must be done in a state comprehending several cities? Must the sovereign authority be distributed, or ought it to centre in one to the total subjection of the rest?

I answer, Neither one nor the other. In the first place, the sovereign authority is simple and uniform, so that it cannot be divided without destroying it. In the next place, one city cannot be legally subject to another, any more than one nation to another; because the essence of the body-politic consists in the union of obedience and liberty, and in the terms *subject* and *sovereign* being those identical correlatives, the ideas of which are united in the single term *citizen*.

I answer farther, that it is fundamentally wrong, to unite several towns to form one city; and that such union being made, the natural inconveniences of it must ensue. The abuses peculiar to great states must not be made objections to the system of one, who maintains the exclusive propriety of little ones. But how, it will be said, can little states be made powerful enough to resist the great?—Even as the cities of ancient Greece were able to resist the arms of a powerful monarch; and as, in more modern times, Switzerland and Holland have resisted the power of the house of Austria.

In cases, also, where the state cannot be reduced within proper bounds, there remains one resource; and this is by not permitting the existence of a capital, but removing the seat of go-

vernment from one town to another, and assembling the states of the country in each alternately.

People a country equally in every part; diffuse the same privileges and advantages throughout; and the state will become at once the strongest and the best governed. Remember that the walls of cities are founded on the ruins of the villages, and that the splendid palaces in town are raised at the expence of miserable cottages in the country.

CHAP. XIV. *Subject continued.*

NO sooner are the people legally assembled, in a sovereign body, than the jurisdiction of government ceases, the executive power of the state is suspended, and the person of the meanest citizen becomes as sacred and inviolable as the greatest magistrate; because when the body represented appears, it is not requisite that the representatives of it should exist. Most of the tumults which happened in the *Comitia* at Rome, were owing to the general ignorance or neglect of this rule. On those occasions, the consuls were only presidents of the assembly of the people, the tribunes merely orators *, and the senate absolutely nothing.

These intervals of suspension, when the prince acknowledges, or at least ought to acknowledge, an actual superior, have been always formidable; and such assemblies which are the safeguards of the body-politic, and serve as so many checks to
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* Nearly in the sense given to those who speak on any question in the parliament of England. The resemblance of their employments set the consuls and tribunes together by the ears, even when their jurisdiction was suspended.

administration, have always been a terror to the rulers; so that they have spared no pains in raising objections and difficulties, nor scrupled making any fair promises to render the people averse to such meetings. When the latter, therefore, have been avaritious, mean, or cowardly, preferring their ease to liberty, they have not been able to withstand long the repeated efforts of government: and thus it is that, this encroaching power incessantly augmenting, the sovereignty becomes totally extinct, and thus most cities come to an untimely end.

Sometimes, however, there is introduced between sovereign authority and arbitrary government, a mean term of power, of which it is necessary to treat.

CHAP. XV. *Of deputies or representatives.*

WHEN the service of the public ceases to be the principal concern of the citizens, and they had rather discharge it by their purses than their persons, the state is already far advanced toward ruin. When they should march out to fight, they pay troops to fight for them, and stay at home. When they should go to council, they send deputies, and stay at home. Thus, in consequence of their indolence and wealth, they in the end employ soldiers to enslave their country, and representatives to betray it.

It is the bustle of commerce and the arts; it is the sordid love of gain, of luxury and ease, that thus convert personal into pecuniary services. Men readily give up one part of their profit, to increase the rest unmolested. But supply an administration with money, and they will

presently supply you with chains. The very term of *taxes* is slavish, and unknown in a free city. In a state truly free, the citizens discharge their duty to the public with their own hands, and not by money. So far from paying for being exempted from such duty, they would pay to be permitted to discharge it themselves. I am very far from adopting received opinions, and think the services exacted by force a less infringement of liberty than taxes.

The better the constitution of a state, the greater influence have public affairs over private, in the minds of the citizens: they will have, also, much fewer private affairs to concern them; because the sum total of their common happiness, furnishing a more considerable portion to each individual, there remains the less for each to seek from his own private concerns. In a city well governed, every one is ready to fly to its public assemblies; under a bad government, they are careless about going thither at all, because no one interests himself in what is doing there: it is known that the general will does not influence them, and hence at length domestic concerns engage all their attention. Good laws tend to the making better, while bad ones are introductory of worse. No sooner doth a citizen say, What are state-affairs to me? than the state may be given up for lost.

It is this want of public spirit, the influence of private interest, the extent of states, conquests and abuses in government, that have given rise to the method of assembling the people by deputies and representatives. The assembly of these representatives is called, in some countries, the third estate of the nation; so that the

particular interests of the two orders are placed in the first and second rank, and the public interest only in the third.

The sovereignty, however, cannot be represented, and that for the same reason that it cannot be alienated. It consists essentially of the the general will, and the will cannot be represented: it is either identically the same, or some other; there can be no mean term in the case. The deputies of the people, therefore, neither are nor can be their representatives; they are only mere commissioners, and can conclude on nothing. Every law that is not confirmed by the people in person is null and void; it is not in fact law. The English imagine they are a free people; they are however mistaken: they are such only during the election of members of parliament. When these are chosen, they become slaves again; and indeed they make so bad a use of the few transitory moments of liberty, that they richly deserve to lose it.

The notion of representatives is modern; descending to us from the feudal system, that most iniquitous and absurd form of government, by which human nature was so shamefully degraded. In the ancient republics, and even monarchies, the people had no representatives; they were strangers to the term. It is even very singular, that at Rome, where the Tribunes were so much revered, it was never imagined they could usurp the functions of the people; and as strange that they never once attempted it. One may judge, however, of the embarrassment sometimes caused by the multitude, by what happened in the time of the Gracchi, when

part

part of the citizens gave their votes from their house-tops.

Where men value their liberty and privileges above every thing, inconveniences and difficulties are nothing. Among this wise people things were held in a proper estimation? they permitted the Lictors to do what they would not suffer the Tribunes to attempt; they were not afraid the Lictors would ever think of representing them.

To explain, nevertheless, in what manner these Tribunes did sometimes represent them, it will be sufficient to conceive how government represents the sovereign. The law being only a declaration of the general will, it is clear that the people cannot be represented in the legislative power; but they may, and ought to be, in the executive, which is only the application of power to law. And this makes it evident, that, if we examine things to the bottom, we shall find very few nations that have any laws. But, be this as it may, it is certain that the Tribunes, having no part of the executive power, could not represent the Roman people by virtue of their office, but only in usurping those of the senate.

Among the Greeks, whatever the people had to do, they did it in person; they were perpetually assembled in public. They inhabited a mild climate, were free from avarice, their slaves managed their domestic business, and their great concern was liberty. As you do not possess the same advantages, how can you expect to preserve the same privileges? Your climate being more severe, creates more wants *; for six months

* To adopt in cold countries the luxury and effeminacy of the

months in the year your public squares are too wet or cold to be frequented; your hoarse voices cannot make themselves heard in the open air; you apply yourselves more to gain than to liberty, and are less afraid of slavery than poverty.

On this occasion, it will probably be asked me, if liberty cannot support itself without the assistance of slavery? Perhaps not. At least the two extremes approach very near. Whatever does not exist in nature, must have its inconveniences, and civil society still more than any thing else. There are some circumstances so critically unhappy, that men cannot preserve their own liberty but at the expence of the liberty of others; and in which a citizen cannot be free without aggravating the subjection of his slaves. Such was the situation of Sparta. As for you, ye moderns, you have no slaves; but are slaves yourselves, and purchase their liberty by your own. You may, if you please, boast of this preference; for my part, I find more meanness in it than humanity.

I do not intend, however, by this to inculcate that we should have slaves, or that it is equitable to reduce men to a state of slavery; having already proved the contrary. I am here only giving the reasons why certain modern nations who imagine themselves free, employ representatives, and why the ancients did not. But let this be as it will, I affirm, that when once a people make choice of representatives, they are no longer free.

Every thing duly considered, I do not see a
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 the East, is to appear desirous of slavery, without having the
 same excuse for submitting to it.

possibility of the sovereign maintaining its rights, and the exercise of its prerogatives, for the future among us, unless the state be indeed very small. But if it be so very small, will it not be liable to lose its independency? No. I will make it hereafter appear in what manner the exterior power of a great people may be united with the policy and good order of a little one.

CHAP. XVI. *That the institution of government is not a compact.*

THE legislative power being once well established, we proceed to settle the executive power in the same manner: for the latter, which operates only by particular acts, being essentially different from the other, is naturally divided from it. If it were possible for the sovereign, considered as such, to possess the executive power, the matter of right and fact would be so confounded, that we should be no longer able to distinguish what is law and what is not; the body-politic also being thus unnaturally situated, would soon become a prey to that violence, which it was originally instituted to correct.

The citizens being, by virtue of the Social Compact, all equal, that which all may perform, all may prescribe, whereas none can have a right to require another to do what he does not himself. Now it is properly this right, indispensibly necessary to animate and put the body-politic in motion, with which the sovereign invests the prince in the institution of government.

It has been pretended by some, that the act forming this institution was a contract between
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the people and the chiefs of which they made choice ; a contract in which the two parties stipulated the conditions on which the one obliged themselves to command, and the other to obey. I am persuaded every one will agree with me, that this was a very strange mode of contract. But let us see whether this opinion is in itself well founded.

In the first place, the supreme authority can no more modify or alter its form, than it can alienate itself ; to limit or restrain, would be to destroy it. It is absurd and contradictory to say the sovereign made choice of a superior : to oblige itself to obey a master, is to dissolve its own constitution, and restore its members to their natural liberty.

Again, it is plain that such a supposed contract between the people in general and certain particular persons would be a particular act ; whence it follows, that it would not be a law nor an act of sovereignty, and of consequence would be illegal.

It is farther evident, that the contracting parties would remain, respecting each other, simply under the laws of nature, without any security for the performance of their reciprocal engagements, a circumstance totally repugnant to a state of civil society. The party only who might have the power, could enforce the execution of the terms ; so that we might as well give the name of a contract, to the act of a man who should say to another, " I give you my whole property, on condition that you will restore me just as much of it as you please."

There is but one compact in a state ; and that is the act of association, which alone is exclusive
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of every other, as it is impossible to imagine any subsequent public contract which would not be a violation of the original.

CHAP. XVII. *Of the institution of government.*

WHAT notion, then, are we to form of the act by which government is instituted? In answer to this question, I shall first remark, that this act is complicated, or composed of two others, *viz.* the establishment of the law and execution of it.

By the first, the sovereign enacts that a government should be established in such or such a form; and it is clear, this being a general act, that it is a law.

By the second, the people name the chiefs who are to be charged with the administration of the government so established. Now this nomination, being a particular act, is not a second law, but only a consequence of the first, and in reality an act of government.

The difficulty lies in being able to comprehend how an act of government can take place before the government existed; and how the people, who must be always either sovereign or subjects, become prince or magistrate in certain circumstances.

We have here made a discovery of one of these astonishing properties of the body-politic, by which it reconciles operations apparently contradictory to each other; this act being effected by a sudden conversion of the sovereignty into a democracy: so that, without any sensible change, and only by means of a new relation of all to all, the citizens, becoming magistrates, pass
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from general acts to particular ones, and from enacting laws to the execution of them.

This change of relation is not a matter of mere speculation, unexemplified in practice: it takes place very frequently in the parliament of England, where, among the commons, the whole house is formed, on certain occasions, into a committee, for the better inquiry into and discussion of the matter in hand; the members become mere commissioners of the sovereign court they constituted but a moment before. Agreeable to which, the inquiry being ended, they make a report to themselves, as the House of Commons, of their proceedings as a grand committee, and deliberate anew under the former title on what they had already determined under the latter.

Such, indeed, is the peculiar advantage of a democratical government, that it is established in fact by the simple act of the general will. After which, this provisional government continues, if such be the intended form; or establishes, in the name of the sovereign, the form of government adopted by law; and thus every thing proceeds according to order. It is impossible to institute a government in any other legal manner, without renouncing the principles before established.

CHAP. XVIII. *Of the means of preventing the usurpations of government.*

FROM the foregoing illustrations results the confirmation of what is asserted in the XVIth chapter, *viz.* that the act which institutes government is not a contract, but a law; that the

depositories of the executive power are not the masters, but the servants of the people; that the people may appoint or remove them at pleasure; that they have no pretence to a contract with the people, but are bound to obey them; and that in accepting the offices the state imposes upon them, they only discharge their duty as citizens, without having any sort of right to dispute the conditions.

- When it so happens, therefore, that the people establish an hereditary government, whether monarchical, and confined to one particular family, or aristocratical, and divided among a certain order of citizens, they do not enter thereby into any formal engagement; they only give the administration a provisional form, which remains legal till they think proper to change it.

It is certain that such changes are always dangerous; and that a government once established should not be meddled with, unless it be found incompatible with the public good; but this circumspection is a maxim of policy, and not a matter of right. The state, however, is no more bound to resign the civil authority into the hands of its magistrates or chiefs, than the military authority into those of its generals.

- It is certain, also, that great care should be taken to observe all those formalities, which, in such a case, are requisite to distinguish a regular and legal act from a seditious commotion; to distinguish between the general will of a whole people, and the clamours of a faction. In which latter case, a people are particularly obliged to give the best founded remonstrances no farther countenance, than in the utmost strictness of justice they may deserve. Of this obligation,
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however, the prince may take great advantages, in order to preserve his power in spite of the people, without running the risk of being charged with usurping it. For in appearing only to make use of his prerogatives, he may extend them, and, under the pretence of maintaining the public peace, may prevent those assemblies which might otherwise be calculated to re-establish the good order of government: so that he might profit by that silence which he keeps from being broken, and by those irregularities which he himself might cause to be committed; pleading in his favour the tacit approbation of those whose fears keep them silent, and punishing those who are bold enough to speak. It was thus the *Decemviri*, at first elected for one year only, and afterwards continued for another, attempted to perpetuate the duration of their power, by preventing the *Comitia* from assembling as usual; and it is by such easy means that all the governments in the world, when once invested with power, usurp sooner or later the sovereign authority.

These periodical assemblies, of which I have spoken above, are very proper to prevent or protract this misfortune, particularly when they require no formal convocation; for then the prince cannot prevent them without declaring himself openly a violator of the laws and an enemy to the state.

The opening of these assemblies, which have no other object than the preservation of the social contract, ought always to be made by two propositions, which can never be suppressed, and should pass separately by vote.

First, Whether it be the determination of the

sovereign to preserve the present form of government.

Second, Whether it be the determination of the people to continue the administration in the hands of those who are at present charged with it.

It is to be observed, that I here take for granted, what I conceive has already been demonstrated, *viz.* that there is no fundamental law in any state, which such state cannot repeal, not excepting even the social compact: for, should all the citizens assemble with one accord to break this compact, it would undoubtedly be very legally dissolved. Grotius even thinks that an individual may renounce the state of which he is a member, and resume his natural independence and property by leaving the country*. Now it would be very absurd to suppose that the whole body of citizens united, could not do that in concert, which any one of them might do separately.

B O O K IV.

CHAP. I. *That the general will cannot be annihilated.*

SO long as a number of individuals remain perfectly united and consider themselves as one body, they can have but one will; which
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* With this exception, however, that he does not fly, to elude his duty, and avoid serving his country on any emergency, when his service is required. In this case, his flight would be criminal, and highly deserving of punishment. It would not be a retreat, but desertion.

relates to their common preservation and welfare. All the resources of the state are then simple and vigorous, its political maxims clear and obvious; it comprehends no intricate and opposite interests; but that of the public is demonstrably evident to all, and requires only the gift of common-sense to understand it. Peace, concord, and equality, are enemies to political refinements. When men are honest and simple, their very simplicity prevents their deception; they are not to be imposed on by sophistry, but are too artless even to be duped. When it is known, that, among the happiest people in the world, a number of peasants meet together under the shade of an oak, and regulate the affairs of state with the most prudential œconomy, is it possible to forbear despising the refinements of other nations, who employ so much artifice and mystery to render themselves splendidly miserable?

A state thus simply governed hath need of but few laws; while in proportion as it becomes necessary to promulgate new ones, that necessity is universally apparent. The first person who proposes them, takes on himself to speak only what every one hath already thought; and neither eloquence nor intrigue is requisite to make that pass into a law, which every one had already resolved to do as soon as he should be assured others would do the same.

That which deceives our reasoners on this subject, is, that, seeing none but such states as were badly constituted at their beginning, they are struck with the impossibility of maintaining such a police in them. They smile to think of the absurdities into which a designing knave or

insinuating orator might lead the people of Paris and London. They are not apprised that a Cromwell and a Beaufort would have been treated as incendiaries at Berne and Geneva, and have underwent the discipline due to their demerit.

But when the bonds of society begin to relax, and the state to grow weak; when the private interests of individuals begin to appear, and that of parties to influence the state; the objects of public good meet with opposition: unanimity no longer presides in the assemblies of the people; the general will is no longer the will of all; contradictions and debates arise, and the most salutary counsel is not adopted without dispute.

Again, when the state is bordering on ruin, and exists only in empty form; when the social tie no longer connects the hearts of the people; when the basest motives of interest impudently assume the sacred name of the public good; then is the general will altogether silent: individuals, actuated by private motives, cherish no more the sentiments of citizens, than if the state had never existed; while the mock legislature pass, under the name of laws, those iniquitous decrees which have no other end than private interest.

Doth it follow from hence, however, that the general will is annihilated or corrupted? No. This remains ever constant, invariable, and pure; though it is subjected to that of party. There is not an individual who doth not see, while he detaches his own interest from that of the public, that he cannot separate himself from it entirely: but his share in the common evil seems nothing in comparison to the good which he proposes to secure exclusively to himself.

self. Setting this motive aside, he is as ready to concur in measures for the good of the public, and that even for his own sake, as any one. Nay, even in selling his vote, he doth not lose all sense of the general will; he only eludes it. The fault he is guilty of, lies in changing the state of the question, and making an answer to what is not asked him; so that, instead of admitting by his vote, *that it is to the interest of the state*, he says, *it is to the interest of such an individual or such a party, that this or that law should pass*. Thus the order which should prevail in the public assemblies of the state, should not be calculated so much to preserve the general will inviolate, as to cause it to be always interrogated, and to make it answer.

I might here make a variety of reflections on the simple right of voting in every act of the sovereignty; a right which the citizens cannot be deprived of: as also on the rights of thinking, proposing, and debating, on public matters; privileges which government is ever solicitous enough to confine to its own members. This subject, however, is of importance enough to deserve a whole treatise of itself; and it is impossible for me to say every thing in the present.

CHAP. II. *On votes.*

IT is evident, from what has been said in the preceding chapter, that the manner in which public affairs are carried on, may afford a sure indication of the actual state of manners, and the health of the body-politic. The more concord there is in public assemblies, that is to say, the nearer the members approach to unanimity
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in giving their votes, the more prevalent is the general will among them : but long debates, dissentions, and commotions; evince the ascendancy of particular interests and the decline of the state.

This appears less evident, indeed, when two or more orders of men enter into the constitution ; as at Rome, where the quarrels of the Patricians and Plebeians occasioned frequent disturbances in the *Comitia*, even in the most flourishing times of the republic. This exception, however, is more apparent than real : as in that case there exists, by a defect inherent in the body-politic, two states in one ; and that which is not true of both together, may nevertheless be true of each apart. It is also true in fact, that, even during the most turbulent times of the republic, the decrees of the Plebeians, when the Senate did not intermeddle, were passed with great tranquillity agreeable to the plurality of voices. The citizens having but one common interest, the people could have but one will.

Unanimity returns again at the opposite extremity of the circle ; and this is where the citizens, reduced to slavery, have neither liberty nor will. In such a situation, fear and flattery pervert their votes into acclamations ; they no longer deliberate among themselves, but either adore or curse their tyrants. Such were the debased principles of the Senate under the Roman emperors. Under these circumstances also the sentiments of the public were frequently expressed with the most ridiculous precaution ; Tacitus observing, that, under Otho, the Senators, while they loaded Vitellius with execrations, affected at the same time to make a confused
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and clamorous noise, in order to prevent his knowing, should he become their master, what any individual had said.

From these considerations may be deduced the maxims on which the manner of counting votes and comparing different suffrages should be regulated, according as the general will is more or less easy to be discovered, and the state more or less advanced towards its decline. There is but one law, which in its own nature requires unanimous consent: and this is the Social Compact. For civil association is the most voluntary act in the world: every man being born free, and master of himself, no one can lay him under restraint, on any pretence whatever, without his own consent. To affirm that the son of a slave is born a slave, is to affirm he is not born a man.

If there be any persons, however, who oppose this contract itself, their opposition does not invalidate that contract; it only hinders their being comprehended therein; and they remain aliens in the midst of citizens. When a state is formed, a consent to its institution is inferred by the residence of the party: to submit to residence in any country, is to submit to its sovereignty*.

If we except this primitive contract, the determination of the majority is always obligatory on the rest: this is a necessary consequence of the contract itself. But it may be asked, How can

* This must always be understood, however, of a free state, from which people have the liberty to depart with their effects at pleasure. For in others, the consideration of their family, their property, the want of an asylum, necessity or violence, may detain an inhabitant in a country contrary to his will; in which case, his simple residence neither implies his consent to the contract, nor his violation of it.

can a man be free, and yet be obliged to conform to the will of others? How can the members of an opposition be called free-men, who are compelled to submit to laws which they have not consented to? I answer, that this question is not properly stated. The citizen consents to all laws passed by a majority, though some of them in particular may have passed contrary to his inclination; nay, he consents to those by which he is punishable for the breach of any one. The constant will of all the members of a state, is the the general will; and it is this alone that makes them either citizens or free-men*. When a law is proposed in the assembly of the people, they are not precisely demanded, Whether they severally approve or reject the proposition; but, Whether it be conformable or not to the general will, which is theirs as a collective body. Each person, therefore, in giving his vote declares his opinion on this head; and on counting the votes, the declaration of the general will is inferred from the majority. When a law thus passes contrary to my opinion, it proves nothing more than that I was mistaken, and that I concluded the general will to be what it really was not. So that, if my particular advice had been followed, it would have been contrary to my will, which as a citizen is the same as the general, and in that case I should not have been free.

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* At Genoa we see the word *Libertas* inscribed on the chain of the galley-slaves, and on the doors of the prisoners: the application of which device is beautiful and just; as it is in fact only the criminals of all states that infringe the liberty of the citizen. A country, whose malefactors should be all actually chained to the oar, would be a country of the most perfect liberty.

This argument supposes, indeed, that all the characteristics of the general will are contained in the plurality of votes: and when this ceases to be the case, take what course you will, there is an end of liberty.

In having shewn how the will of particulars and parties is substituted for the general in public deliberations, I have already sufficiently pointed out the practicable means of preventing such abuses; of this, however, I shall speak further hereafter. With regard to the proportional number of votes that indicate this general will, I have also laid down the principles on which it may be determined. The difference of a single voice is enough to break the unanimity; but between unanimity and an equality there is a variety of proportions; to each of which the number in question may be applied, according to the circumstances of the body-politic.

There are two general maxims, which may serve to regulate these proportions: the one is, that the more grave and important the deliberations, the nearer ought the determination to approach to unanimity: the other is, that the more expedition the affair requires, the less should unanimity be insisted on. In deliberations where the matter should be immediately determined, the majority of a single vote should be sufficient. The first of these maxims seems most applicable to permanent laws, and the second to matters of business. But be this as it may, it is from their judicious combination that the best proportions must be deduced concerning that plurality in whose votes should be supposed to consist the general will.

CHAP. III. *Of election.*

WITH regard to the election of a prince or of magistrates, which, as I before observed, is a complicated act, there are two methods of proceeding; viz. by choice, and by lot. They have each been made use of in different republics; and we see in our own times, a very intricate mixture of both in the election of the doge of Venice.

The preference by lot, says Montesquieu, is of the nature of a democracy. This I admit, but not for the reasons given. The choice by lot, says he, is a method which offends nobody, by permitting each citizen to entertain the reasonable hope of being preferred to the service of his country.

This, however, is not the true reason. If we reflect that the election of chiefs is a function of government and not of the sovereignty, we shall see the reason why this method is of the nature of a democracy, in which the administration is so much the better as its acts are fewer.

In every real democracy, the office of magistrate is not advantageous, but expensive and burdensome, so that it were unjust to impose it on one person rather than another. The law, therefore, imposes that charge on him to whose lot it falls: for in this case, all standing an equal chance, the choice doth not depend on human will, nor can any particular application change the universality of the law.

In an aristocracy, the prince makes choice of the prince; and, the government providing for itself, here it is that votes are properly applicable. The apparent exception, in the election
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of the doge of Venice, confirms this distinction, instead of destroying it. Such a mixed form as is used by the Venetians is adapted to a mixed government: for it is a mistake to suppose the government of Venice a true aristocracy. If the lower order of people, indeed, have no share in the government, the nobility stand in their place, and become the people in respect to the administration. What a number is there of the inferior order of nobles, who stand no chance of ever getting into the magistracy, and reap no other advantage from their rank than the empty title of Excellency, and the privilege of sitting in the great Council! This great Council being as numerous as our general Council at Geneva, its illustrious members have no greater privileges therefore than our ordinary citizens. It is certain, that, setting aside the extreme disparity of the two republics, the burghers of Geneva represent exactly the Patricians of Venice, our natives and sojourners represent the citizens and people, and our peasants the inhabitants of the *terra firma* belonging to that state. In a word, consider their Venetian republic in what light you will, abstracted from its grandeur, its government is no more aristocratical than that of Geneva. All the difference is, that we have no occasion for this kind of election.

The choice by lot is attended with very little inconvenience in a real democracy, when all men being nearly on an equality, as well with regard to manners and abilities as to sentiments and fortune, the matter of choice is indifferent. But I have already observed, a true democracy is only imaginary.

When the election is of a mixed form, viz.

by vote and by lot, the first ought to provide for those officers which require proper talents, as in military affairs; the other being best adapted to those which require only common sense, honesty, and integrity; such as the offices of judicature; because, in a well-formed state, those qualities are possessed by all the citizens in common.

No election, either by vote or lot, hath place under a monarchical government; the monarch himself being the only rightful prince and legal magistrate, the choice of his substitutes is vested in him alone. When the Abbe de St Pierre, therefore, proposed to increase the number of the king's councils in France, and to elect their members by ballot, he was not aware that he proposed to change the form of the French government.

It remains to speak of the manner of giving and collecting votes in popular assemblies; but perhaps an historical sketch of the Roman police relating to this point, will explain it better than all the maxims I should endeavour to establish. It is worth the pains of a judicious reader to attend a little particularly to the manner in which they treated affairs, both general and particular, in a council of two hundred thousand persons.

CHAP. IV. *Of the Roman Comitia.*

WE have no authentic monuments of the earliest ages of Rome; there is even great reason to believe that most of the stories told us of them are fabulous †; and indeed, the most
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† The name of *Rome*, which it is pretended was taken from *Romulus*, is Greek, and signifies *force*; the name of *Numa* is Greek,

interesting and instructive part of the annals of nations in general, which is that of their establishment, is the most imperfect. Experience daily teaches us to what causes are owing the revolutions of kingdoms and empires; but as we see no instances of the original formation of states, we can only proceed on conjectures in treating this subject.

The customs we find actually established, however, sufficiently attest, there must have been an origin of those customs. Those traditions, also, relating to such origin, which appear the most rational, and of the best authority, ought to pass for the most certain. These are the maxims I have adopted in tracing the manner in which the most powerful and free people in the universe exercised the sovereign authority.

After the foundation of Rome, the rising republic, that is to say, the army of the founder, composed of Albans, Sabines, and foreigners, was divided into three classes; which, from that division, took the name of tribes. Each of these tribes was subdivided into ten *Curia*, and each *Curia* into *Decuria*, at the head of which were placed Chiefs respectively denominated *Curiones* and *Decuriones*.

Beside this, there were selected from each tribe a body of an hundred cavaliers or knights, called *Centurions*; by which it is evident, that these divisions, not being essential to the good order of a city, were at first only military. But it seems as if the presaging instinct of future greatness induced the little town of Rome to

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adopt

Greek also, and signifies *law*. What probability is there that the two first kings of this city should have been called by names expressive of their future actions?

adopt at first a system of police proper for the metropolis of the world.

From this primitive division, however, there speedily resulted an inconvenience. This was, that the tribe of Albans, and that of the Sabines, always remaining the same, while that of the strangers was perpetually encreasing by the concurrence of foreigners, the latter soon surpassed the number of the two former. The remedy which Servius applied to correct this dangerous abuse was to change the division; and to substitute, in the room of distinction of race, which he abolished, another taken from the parts of the town occupied by each tribe. Instead of three tribes, he constituted four; each of which occupied one of the hills of Rome, and bore its name. Thus by removing this inequality for the present, he prevented it also for the future; and in order that such division should not only be local but personal, he prohibited the inhabitants of one quarter of the city from removing to the other, and thereby prevented the mixture of families.

He doubled also the three ancient centuries of cavalry, and made an addition of twelve others, but always under their old denomination; a simple and judicious method, by which he completely distinguished the body of knights from that of the people, without exciting the murmurs of the latter.

Again, to these four city tribes, Servius added fifteen others, called rustic tribes, because they were formed of the inhabitants of the country, divided into as many cantons. In the sequel were made an equal number of new divisions, and the Roman people found themselves di-

divided into thirty-five tribes; the number at which their divisions remained fixed till the final dissolution of the republic.

From the distinction between the tribes of city and country, resulted an effect worthy of observation; because we have no other example of it, and because Rome was at once indebted to it for the preservation of its manners and the increase of its empire. It might be conceived the city tribes would soon arrogate to themselves the power and honours of the state, and treat the rustics with contempt. The effect, nevertheless, was directly contrary. The taste of the ancient Romans for a country life is well known. They derived this taste from the wise institutor, who joined to liberty the labours of the peasant and the soldier, and consigned, as it were, to the city, the cultivation of the arts, trade, intrigue, fortune, and slavery.

Thus the most illustrious personages of Rome, living in the country, and employing themselves in the business of agriculture, it was among these only the Romans looked for the defenders of their republic. This station, being that of the most worthy patricians, was held in universal esteem: the simple and laborious life of the villager was preferred to the mean and lazy life of the citizen; and a person who, having been a labourer in the country, became a respectable housekeeper in town, was yet held in contempt. It is with reason, says Varro, that our magnanimous ancestors established in the country the nursery for those robust and brave men, who defended them in time of war and cherished them in peace. Again, Pliny says in express terms, the country tribes were honoured because

of the persons of which they were composed; whereas such of their individuals as were to be treated with ignominy were removed into the tribes of the city. When the Sabine, Appius Claudius, came to settle in Rome, he was loaded with honours, and registered in one of the rustic tribes, which afterwards took the name of his family. Lastly, the freed-men were all entered in the city tribes, never in the rural; nor is there one single instance, during the existence of the republic, of any one of these freed-men being preferred to the magistracy, altho' become a citizen.

This was an excellent maxim; but was carried so far, that it effected an alteration, and undoubtedly an abuse in the police of the state.

In the first place, the Censors, after having long arrogated the right of arbitrarily removing the citizens from one tribe to another, permitted the greater part to register themselves in whatever tribe they pleased; a permission that could surely answer no good end, and yet it deprived these officers of one of their severest methods of censure. Besides, as the great and powerful thus got themselves registered in the rural tribes, and the freedmen, with the populace, only filled up those of the city, the tribes in general had no longer a local distinction; but were so strangely mixed and jumbled together, that their respective members could be known only by appealing to the registers; so that the idea attached to the word tribe, was changed from real to personal, or rather became altogether chimerical.

It happened also, that the tribes of the city, being nearer at hand, had generally the greatest influence in the *Comitia*, and made a property of

the state, by selling their votes to those who were base enough to purchase them.

With regard to the *Curia*, ten having been instituted in each tribe, the whole Roman people, included within the walls, made up thirty *Curia*, each of which had their peculiar temples, their gods, officers, and feasts called *Compitalia*, resembling the *Paganalia* afterwards instituted among the rustic tribes.

At the new division made by Servius, the number thirty not being equally divisible among the four tribes, he forbore to meddle with this mode of distribution; and the *Curia*, thus independent of the tribes, formed another division of the inhabitants. No notice, however, was taken of the *Curia*, either among the rustic tribes, or the people composing them; because the tribes becoming a mere civil establishment, and another method having been introduced for raising the troops, the military distinctions of Romulus were dropt as superfluous. Thus, though every citizen was registered in some tribe, yet many of them were not included in any *Curia*. Servius made still a third division, which had no relation to the two former, and became in its consequences the most important of all. He divided the whole Roman people into six classes, which he distinguished neither by persons nor place, but by property. Of these the higher classes were filled by the rich, the lower by the poor, and the middle classes by those of middling fortunes. These six classes were subdivided into one hundred ninety-three other bodies called centuries; and these were again so distributed, that the first class alone comprehended more than half the number of

centuries, and the last class only one single century. In this method the class that contained the fewest persons, had the greater number of centuries; and the last class was esteemed only a subdivision, although it contained more than half the inhabitants of Rome.

In order that the people should penetrate less into the design of this latter form of distribution, Servius affected to give it the air of a military one. In the second class he incorporated two centuries of armourers, and annexed two instruments of war to the fourth. In each class, except the last, he distinguished also between the young and the old, that is to say, those who were obliged to bear arms, from those who were exempted from it on account of their age; a distinction which gave more frequent rise to the repetition of the *census* or enumeration of them, than even the shifting of property: lastly, he required their assembly to be made on the *Campus Martius*, where all those who were of age for the service were to appear under arms.

The reason why he did not pursue the same distinction of age in the last class, was, that the populace, of which it was composed, were not permitted to have the honour of bearing arms in the service of their country. It was necessary to be housekeepers, in order to attain the privilege of defending themselves. There is not one private centinel perhaps, of all those innumerable troops that make so brilliant a figure in the armies of modern princes, who would not, for want of property, have been driven out with disdain from a Roman cohort, when soldiers were the defenders of liberty.

In the last class, however, there was a distinction

distinction made between what they called *Proletarii* and those denominated *Capite Censi*. The former, not quite reduced to nothing, supplied the state at least with citizens, and sometimes on pressing occasions with soldiers. As to those who were totally destitute of substance, and could be numbered only by capitation, they were disregarded as nothing; Marius being the first who deigned to enroll them.

Without taking upon me here to decide, whether this third species of division be in itself good or ill; I may venture safely to affirm, that nothing less than that simplicity of manners which prevailed among the ancient Romans, the disinterestedness, their taste for agriculture, their contempt for trade and the thirst of gain, could have rendered it practicable. Where is the nation among the moderns, in which voracious avarice, a turbulence of disposition, a spirit of artifice, and the continual fluctuation of property, would permit such an establishment to continue for twenty years, without overturning the state? Nay, it must be well observed, that the purity of the Roman manners, and the force of a censure more efficacious than the institution itself, served to correct the defects of it at Rome, where a rich man was often removed from his own class, and ranked among the poor, for making an improper parade of his wealth.

It is easy to comprehend from this, why mention is hardly ever made of more than five classes, though there were in reality six. The sixth, furnishing neither the army with soldiers, nor the *Campus Martius* * with voters, and being

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* I say the *Campus Martius*, because it was there the *Comitia*

of hardly any use in the republic, was hardly ever accounted any thing.

Such were the different divisions of the Roman people. We will now examine into the defects of which they were productive in their assemblies. These assemblies, when legally convoked, were denominated *Comitia*, and were held in the *Campus Martius* and other parts of Rome: being distinguished into *Curiate*, *Centuriate*, and *Tribute*, according to the three grand divisions of the people into *Curia*, *Centuries*, and *Tribes*. The *Comitia Curiate* were instituted by Romulus, the *Centuriate* by Servius, and the *Tribute* by the Tribunes of the people. Nothing could pass into a law, nor could any magistrates be chosen but in the *Comitia*; and as there was no citizen who was not enrolled in a *Curia*, *Century*, or *Tribe*, it follows that no citizen was excluded from giving his vote; so that the Roman people were truly sovereign both in right and fact.

To make the assembly of the *Comitia* legal, and give their determinations the force of laws, three conditions were requisite. In the first place, it was necessary that the magistrate or body convoking them should be invested with proper authority for so doing; secondly, that the assembly should occur on the days permitted by law; and thirdly, that the augurs should be favourable to their meeting.

The reason of the first condition needs no explanation. The second is an affair of police; thus it was not permitted the *Comitia* to assemble on market-

Comitia assembled by centuries; in the two other forms, they assembled in the *Forum* and other places, where the *Capite Cens* had as much influence and importance as the principal citizens.

market-days, when the country people, coming to Rome on business, would be prevented from transacting it. By the third, the Senate kept a fierce and turbulent multitude under some restraint, and opportunely checked the ardour of the seditious Tribunes; the latter, however, found more ways than one to elude the force of this expedient.

But the laws and the election of the chiefs were not the only matters submitted to the determination of the *Comitia*; the Roman people having usurped the most important functions of government, the fate of Europe might be said to depend on their assemblies. Hence the variety of objects that came before them gave occasion for divers alterations in the form of these assemblies, according to the nature of those objects.

To judge of these diversities, it is sufficient to compare them together. The design of Romulus in instituting the *Curia*, was to restrain the Senate by means of the people, and the people by the Senate, while he himself maintained his influence equally over both. By this form, therefore, he gave to the people all the authority of number to counterbalance that of power and riches, which he left in the hands of the Patricians. But, agreeable to the spirit of monarchy, he gave more advantage to the Patricians, by the influence of their clients to obtain the majority of votes. This admirable institution of patrons and clients was a masterpiece of politics and humanity, without which the order of Patricians, so contrary to the spirit of the republic, could not have subsisted. Rome alone hath the honour of giving to the world
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this fine example, of which no abuse is known to have been made, and which nevertheless hath never been adopted by other nations.

This division by *Curia* having subsisted under the kings till the time of Servius, and the reign of the last *Tarquin* being accounted illegal, the regal laws came hence to be generally distinguished by the name of *leges curiatae*.

Under the republic, the *Curia*, always confined to the four city tribes, and comprehending only the populace of Rome, could not arrive either at the honour of sitting in the Senate, which was at the head of the Patricians, or at that of being Tribunes, which, notwithstanding they were Plebeians, were yet at the head of the citizens in easy circumstances. They fell, therefore, into discredit, and were reduced to so contemptible a state, that their thirty Lictors assembled to do the whole business of the *Comitia Curciata*.

The division by *Centuries* was so favourable to aristocracy, that it is not at first easy to comprehend why the Senate did not always carry their point in the *Comitia Centuriata*, by which the Consuls, Censors, and Prætors, were chosen. It is in fact certain, that out of the hundred and ninety-three centuries, forming the six classes of the whole Roman people, the first class containing ninety-eight of them, and the votes being reckoned only by centuries, this first class alone had more votes than all the others. When the centuries of this class, therefore, were found to be unanimous, they proceeded no farther in counting votes; whatever might be determined by the minority being considered as the opinion of the mob. So that it might be justly said,
that

that in the *Comitia Centuriata* matters were carried rather by the greater quantity of money than the majority of votes.

But this extreme authority was moderated by two causes. In the first place, the Tribunes, generally speaking, and always a considerable number of wealthy citizens, being in this class of the rich, they counterpoised the credit of the Patricians in the same class. The second cause lay in the manner of voting, which was this; the centuries, instead of voting according to order, beginning with the first in rank, cast lots which should proceed first to the election. And to this the century whose lot it was, proceeded * alone; the other centuries being called upon another day to give their votes according to their rank, when they repeated the same election, and usually confirmed the choice of the former. By this method the preference of rank was set aside, in order to give it according to lot, agreeable to the principles of democracy.

There is another advantage resulting from this custom; which is, that the citizens residing in the country had time between the two elections to inform themselves of the merit of the candidates thus provisionally nominated; by which means they might be better enabled to give their vote. But under the pretence of expediting affairs, this custom was in time abolished, and the two elections were made the same day.

The *Comitia by Tribes*, were, properly speaking, the great Council of the Roman people.

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These

* The century thus preferred by lot was called *Prærogativa*, because it was the first whose suffrage was demanded; and hence is derived the word *prerogative*.

These were convoked only by the Tribunes; by these also the Tribunes were chosen, and by these the *plebiscita* or laws of the people were passed. The Senators were not only destitute of rank in these assemblies; they had not even the right to be present at them; but, obliged to pay obedience to laws in the enacting of which they had no vote, they were in that respect less free than the lowest citizens. This injustice, however, was very ill understood, and was in itself alone sufficient to invalidate the decrees of a body, whose members were not all admitted to vote. Had all the Patricians assisted at these *Comitia*, as they had a right, in quality of citizens, they could have had no undue influence where every man's vote was equal, even from the lowest of the people to the highest personage of the state.

It is evident, therefore, that, exclusive of the good order that resulted from these several divisions, in collecting the votes of so numerous a people, the form and method of these divisions were not indifferent in themselves; each being productive of effects, adapted to certain views in regard to which it was preferable to any other.

But without entering into a more circumstantial account of these matters, it is plain from what hath been advanced, that the *Comitia Tribunata* were the most favourable to a popular government, and the *Comitia Centuriata* to an aristocracy. With respect to the *Comitia Curiata*, of which the populace formed the majority, as they were good for nothing but to favour tyrannical designs, they remained in this contemptible state into which they were fallen;

ever

even the contrivers of sedition themselves not chusing to employ means which must have exposed too openly their designs. It is very certain that all the majesty of the Roman people was displayed only in the *Comitia Centuriata*, which only were complete; the *Curiate* wanting the rustic Tribes, and the *Tribunata* the Senate and Patricians.

With regard to the method of collecting the votes, it was, among the primitive Romans, simple as their manners, though still less simple than that of Sparta. Every one gave his vote aloud, which the register took down in writing; the plurality of votes in each tribe determined the vote of that tribe, and the plurality of votes in the tribes determined the suffrage of the people. In the same manner also they proceeded with regard to the *Curia* and the Centuries. This custom was a very good one, so long as integrity prevailed among the citizens, and every one was ashamed to give his public sanction to an unworthy person or cause. But when the people grew corrupt and sold their votes, it became necessary to make them give their votes more privately, in order to restrain the purchasers by distrust, and afford knaves an expedient to avoid being traitors.

I know that Cicero censures this alteration, and attributes to it in a great degree the ruin of the republic. But, though I am sensible of all the weight of Cicero's authority in this case, I cannot be of his opinion. I conceive, on the contrary, that the ruin of the state would have been accelerated had the Romans neglected making this alteration. As the regimen of people in health is not proper for the sick, so it is

absurd to think of governing a corrupt people by the same laws as were expedient for them before they were corrupted. There cannot be a stronger proof of this maxim, than the duration of the republic of Venice; the shadow of which still exists, solely because its laws are adapted only to bad men.

On this change in the manner of voting, tablets were distributed among the citizens, by means of which they could give their suffrage without its being known. On this occasion other methods were of course made use of in collecting votes, such as counting the number of voices, comparing it with that of the tablets, &c. Not that these methods were so effectual as to prevent the returning officers † from being often suspected of partiality: and it is plain in the sequel, by the multiplicity of laws made to prevent bribery and corruption in elections, that they could not effect this point.

Toward the decline of the republic, recourse was had to very extraordinary expedients to make up for the insufficiency of the laws. Prodigious were sometimes played off with success; but this scheme, though it imposed on the multitude, did not impose on those who influenced them. Sometimes assemblies were called suddenly, and in great haste, that the candidates might not have time to create an undue interest: at others, again, the whole session was spent in declamation, when it was seen that the people were biassed to take a wrong side. At length, however, ambition eluded all these precautions; and it is almost incredible that, in the midst of

† Custodes, Distributores, Rogatores suffragiorum: