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Doctor ADAMS'S DEFENCE of the CONSTITUTIONS of GOVERNMENT of the UNITED STATES of AMERICA.

[CONTINUED.]

LETTER XXVIII.

Mixed or Composed Governments.

SIDNEY, PAGE 22, § 10.

Dear sir,



SOME small numbers of men, living within the precincts of one city, have, as it were, cast into a common stock, the right which they had of governing themselves and children, and by common consent, joining in one body, exercised such power over every single person as seemed beneficial to the whole; and this men call perfect democracy. Others chose rather to be governed by a select number of such as most excelled in wisdom and virtue; and this according to the signification of the word, was called aristocracy. When one man excelled all others, the government was put into his hands, under the name of monarchy. But the wisest, best, and by far the greatest part of mankind, rejecting these simple species, did form governments mixed or composed of the three, as shall be proved hereafter, which comingly received their respective denomination from the part that prevailed, and did receive praise or blame, as they were well or ill proportioned.

Sidney, p. 138. § 16. The best governments of the world have been composed of monarchy, aristocracy, and democracy.

As for democracy, I believe it can suit only with the convenience of a small town, accompanied with such circumstances as are seldom found. But this no way obliges men to run into the other extreme, in as much as the variety of forms, between mere democracy and absolute monarchy, is almost infinite. And if I should undertake to say, there never was a good government in the world, that did not consist of the three simple species of monarchy, aristocracy, and democracy, I think I may thank it good. This at least is certain, that the government of the Hebrews, instituted by God, had a judge, the great Sanhedrim, and general assemblies of the people. Sparta had two kings, a senate of twenty eight chosen men, and the like assemblies. All the Dorian cities had a chief magistrate, a senate and occasional assemblies. The cities of Ionia, Athens, and others, had an archon, the areopagus, &c. and all other judgments concerning matters of the greatest importance, as well as the election of magistrates, were referred to the people. Rome, in the beginning, had a king and a senate, while the election of kings, and judgments upon appeals, remained in the people: afterwards, consuls representing kings, and vested with equal power, a more numerous senate, and more frequent meetings of the people. Venice has at this day, a duke, the senate of the pregadi, and the great assembly of the nobility, which is the whole city; the rest of the inhabitants being only incolæ, not cives; and those of the other cities or countries are their subjects, and do not participate in the government.

Genoa is governed in like manner; Lucca not unlike to them. Germany is at this day governed by an emperor, the princes or great lords in their several precincts; the cities by their own magistrates; and by general diets, in which the whole power of the nation resides, and where the emperor, princes, nobility, and cities have their places in person, or by their deputies. All the northern nations which upon the dissolution of the Roman empire, possessed the best provinces that had composed it, were under that form, which is usually called the Gothic polity. They had king, lords, commons, diets, assemblies of estates, cortes, and parliaments, in which the sovereign powers of those nations did reside, and by which they were exercised. The like was practised in Hungary, Bohemia, Sweden, Denmark, Poland: and, if things are changed in some of those places within these few years, they must give better proofs of having gained by the change, than are yet seen in the world, before I think myself obliged to change my opinion.

Some nations, not liking the name of king, have given such a power as kings enjoyed in other places to one or more magistrates, either limited to a certain time, or left to be perpetual, as best pleased themselves: others, approving the name, made the dignity purely elective. Some have in their elections principally regarded one family as long as it lasted: others considered nothing but the fitness of the person, and referred to themselves a liberty of taking where they pleased. Some have permitted the crown to be hereditary as to its ordinary course; but restrained the power, and instituted officers to inspect the proceedings of kings, and to take care that the laws were not violated. Of this sort were the ephori of Sparta, the maires du palais, and afterwards the constable of France, the justiciar in Arragon, the reichshofmeister

in Denmark, the high steward in England; and in all places, such assemblies as are before mentioned under several names, who had the power of the whole nation, &c.

Sidney, p. 147. § 18. It is confessed, that a pure democracy can never be good, unless for a small town, &c.

Sidney, p. 160. § 19. As to popular government in the strictest sense, that is, pure democracy, where the people in themselves, and by themselves, perform all that belongs to government, I know of no such thing; and, if it be in the world, have nothing to say for it.

Sidney, p. 161. If it be said, that those governments, in which the democratical part governs most, do more frequently err in the choice of men, or the means of preserving that purity of manners which is required for the well being of a people, than those wherein aristocracy prevails, I confess it, and that in Rome and Athens, the best and wisest men did for the most part incline to aristocracy. Xenophon, Plato, Aristotle, Thucydides, Livy, Tacitus, Cicero, and others, were of this sort. But if our author there seek patrons for his absolute monarchy, he will find none but Phalaris, Agathocles, Dionysius, Calatine, Cethegus, Lentulus, with the corrupted crew of mercenary rascals who did, or endeavoured to set them up: these are they, quibus ex honesto nulla est spes: they abhor the dominion of the law, because it curbs their vices, and make themselves subservient to the lusts of a man who may nourish them.

Sidney, p. 165. § 21. Being no way concerned in the defence of democracy, &c. I may leave our knight, like Don Quixote, fighting against the phantoms of his own brain, and saying what he pleases against such governments as never were, unless in such a place as St. Marino, near Singaglia in Italy, where an hundred clowns govern a barbarous rock that no man invades, and relates nothing to our question. The republic of St. Marino, next to that of Millengen in Switzerland, is the smallest republick in Europe. The limits of it extend no farther than the base of the mountain on which it is seated. Its insignificance is its security. No neighbouring prince ever thought it worth his while to destroy the independency of such a beehive. See Blainville's travels, vol. ii. p. 227. Addison's remarks on several parts of Italy.

Sidney, p. 258. However, more ignorance cannot be expressed, than by giving the name of democracy to those governments that are composed of the three simple species, as we have proved that all the good ones have ever been: for, in a strict sense, it can only suit with those, where the people retain to themselves the administration of the supreme power; and more largely, when the popular part, as in Athens, greatly over-balances the other two, and the denomination is taken from the prevailing part.

LETTER XXIX.

Mixed Governments.

Montesquieu, Spirit of Laws, b. 11. c. vi.

OF THE CONSTITUTION OF ENGLAND.

My dear sir,

IN every government there are three sorts of power; the legislative, the executive in respect of things dependent on the law of nations, and the executive in regard to things that depend on the civil law.

By virtue of the first (i. e. the legislative power,) the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions. By the third he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the citizen, is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted, as that one citizen need not be afraid of another citizen.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate, or the same senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the power of judging be not separated from the legislative, and executive powers: were it joined with the legislative, the life and liberty of the citizens would be exposed to arbitrary controul; for the judge would then be legislator: were it joined to the executive power, the judge might behave with all the violence of an oppressor.

There would be an end of every thing (*tout seroit perdu*) were the same man, or the same body, whether of princes, of the nobles, or of the people, to exercise those three powers; that of enacting laws, that of

executing the public resolutions, and that of judging in the crimes or differences of individuals.

Most kingdoms in Europe enjoy a moderate government, because the prince, who is invested with the two first powers, leaves the third to his subjects. In Turkey, where these three powers are united in the sultan's person, the subjects groan under the weight of a most frightful oppression. In the republicks of Italy, where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to a violent method for its support, as even that of the Turks; witness the state inquisitors at Venice, and the lion's mouth, into which every informer may at all hours throw his written accusations: what a situation must the poor citizen be in under those poor republicks! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They might plunder the state by their general decrees, and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions. The whole power is here united into one body; and though there is not external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is, that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting in their own persons all the branches of magistracy, and all the great offices of state.

It is now, indeed, that the mere hereditary aristocracy of the Italian republicks, does not answer exactly to the despotic power of the eastern princes. The number of magistrates sometimes softens the power of the magistracy; the whole body of the nobles do not always concur in the same designs; and different tribunals are erected that temper each other. Thus, at Venice, the legislative power is in the council, the executive in the pregadi, and the judiciary in the quarantia. But the mischief is, that these different tribunals are composed of magistrates all belonging to the same body; which constitutes almost one and the same power.

The judiciary power ought not to be given to a standing senate; it should be exercised by persons taken from the body of the people, as at Athens, at certain times of the year, and pursuant to a form and manner prescribed by law, in order to erect a tribunal that should last only as long as necessity requires.

By this means the power of judging, a power so terrible to mankind, not being annexed to any particular state or profession, becomes, as it were, invisible. People have not then the judges continually present to their view; they fear the office, but not the magistracy.

In accusations of a deep or criminal nature, it is proper the person accused should have the privilege of choosing, in some measure, his judges, in concurrence with the law; or at least, he should have a right to except against so great a number, that the remaining part may be deemed his own choice. The other two powers may be given rather to magistrates or permanent bodies, because they are not exercised on any private subject; one being no more than the general will of the state, and the other the execution of that general will.

But though the tribunals ought not to be fixed, yet the judgments ought, and to such a degree as to be always conformable to the exact letter of the law. Were they to be the private opinion of the judge, people would then live in society without knowing exactly the obligations it lays them under.

The judges ought likewise to be in the same station as the accused, or, in other words, his peers; to the end that he may not imagine he is fallen into the hands of persons inclined to treat him with rigour.

If the legislative leaves the executive power in possession of a right to imprison those subjects who can give security for their good behaviour, there is an end of liberty; unless they are taken up, in order to answer, without delay, to a capital crime; in this case they are really free, being subjects only to the power of the law.

But should the legislature think itself in danger, by some secret conspiracy against the state, or by a correspondence with a foreign enemy, it might authorize the executive power, for a short and limited time, to imprison suspected persons; who, in that case, would lose their liberty only for a while, to preserve it forever. And this is the only reasonable method that can be substituted to the tyrannical magistracy of the ephori, and to the state inquisitors of Venice, who are also detestable.

As, in a free state, every man who is supposed a free agent, ought to be his own governor; so the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniences; it is fit the people should execute by their representatives what they cannot execute by themselves.

The inhabitants of a particular town are much bet-

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P O E T R Y.
RELIGION. A SIMILE.

I'M often drawn to make a stop,
And gaze upon a picture thop.
There have I seen (as who that carries
Has not the same?) a head that varies;
And, as in different veils expos'd,
A different figure is disclos'd.
This way a fool's head is express'd,
Whose very countenance is a jest;
Such as were formerly at court,
Kept to make wiser people sport.
Turn it another way, you'll have
A face ludicrously grave,
Something betwixt the fool and knave.
Again, but alter the position,
You're frighted with the apparition:
A hideous, threatening, Go-gon head
Appears, enough to fright the dead.
But place in its proper light,
A lovely face accolls the sight;
Our eyes are cha'm'd with every feature;
We own the whole a beauteous creature.

Thus true Religion fares: For when,
By sily, or designing men,
In false or foolish lights 'tis plac'd,
'Tis made a bugbear, or a jest.
Here by a set of men 'tis thought
A scheme, by politicians wrought,
To strengthen and enforce the law,
And keep the vulgar more in awe:
And these, to shew sublimer parts,
Call all religion from their hearts;
Break all its votaries as the tools
Of priests, and politician's fools.

Some view it in another light;
Less wicked, but as foolish quite:
And these are such as blindly piece it
In superstitions that disgrace it
And think the essence of it lies
In ceremonious fooleries;
In points of faith and speculation,
Which tend to nothing but vexation.
With these it is a heinous crime
To cough or spit in sermon time:
'Tis worse to whistle on a Sunday,
Than cheat their neighbours on a Monday:
To dine without first saying grace,
Is enough to lose in heaven their place:
But goodness, honesty and virtue,
Are what they've not the least regard to.

Others there are, and not a few,
Who place it in the largbear view!
Think it consists in strange severities:
In fastings, weepings, and austerities.
False notions their weak minds possess,
Of faith, and grace, and holiness;
And, as the Lord's of purer eyes
Than to behold iniquities,
They think, unless they're pure and spotless,
All their endeavours will be bootless;
And dreadful furies in aeternum,
In unconfuming fires will burn 'em.

But, O how happy are the few
Who place it in its proper view!
To these it shines divinely bright;
No cloud obscure its native light:
Truth stamps conviction in the mind,
All doubts and fears are left behind,
And peace and joy at once an entrance find.

MISCELLANY.

BEAUTIES OF HISTORY.
MAGNANIMITY.
SENTIMENTS.

MAGNANIMITY is sufficiently defined by its name; yet we may say of it, that it is the good sense of pride, and the noblest way of acquiring applause. It renders the soul superior to the trouble, disorder, and emotion which the appearance of great danger might excite: and it is by this quality that heroes maintain their tranquillity, and preserve the free use of their reason, in the most surprising and dreadful accidents.

It admires the same quality in its enemy; and fame, glory, conquests, desire of opportunities to pardon and oblige their opposers, are what glow in the minds of the brave. Magnanimity and courage are inseparable.

EXAMPLES.

"THE inhabitants of Privernum being subdued and taken prisoners after a revolt, one of them being asked by a Roman senator, who was for putting them all to death, what punishment he and his fellow-captives deserved, answered with great intrepidity, "We deserve that punishment which is due to men who are jealous of their liberty, and think themselves worthy of it." Plautinus perceiving that his answer exasperated some of the senators, endeavoured to prevent the ill effects of it, by putting a milder question to the

prisoner: how, would you believe, says he, if Rome should pardon you? "Our conduct, replied the generous captive, depends upon yours. If the peace you grant be an honourable one, you may depend on a constant fidelity on our parts; if, the terms of it be hard and dishonourable, lay no stress on our adherence to you." Some of the judges contrived these words as menaces; but the wiser part finding in them a great deal of magnanimity, cried out, that a nation whose only desire was liberty, and only fear that of losing it, was worthy to become Roman. Accordingly a decree passed in favour of the prisoners, and Privernum was declared a municipium. Thus the bold sincerity of one man saved his country, and gained it the privilege of being incorporated into the Roman state.

Liv' lib. viii. c. 30, 24.

"SUBRIUS FLAVIUS, the Roman tribune, being impeached for having conspired against the life of the emperor Nero, not only owned the charge, but gloried in it. Upon the emperor's asking him what provocation he had given him to plot his death? "Because I abhorred thee, said Flavius, though there was not in the whole army one more zealously attached to thee than I, so long as thou didst merit affection; but I began to hate thee when thou becamest the murderer of thy mother, the murderer of thy brother and wife, a character, a comedian, an incendiary, and a tyrant." Tacitus tells us, that the whole conspiracy afforded nothing which proved so bitter and pungent to Nero as this reproach. He ordered Flavius to be immediately put to death, which he suffered with a amazing intrepidity. When the executioner desired him to stretch out his neck valiantly, "I will, replied he, thou mayst strike as valiantly."

"SULPICIUS ASPER, the centurion, another of the conspirators, being asked by Nero, why he had conspired against him? answered in a few words: "Because there was no other relief against thy abominable enormities."

FOREIGN AFFAIRS.

COCHIN, (E. Indies) Sept. 26.

TIPPOO, with a large army, is in the environs of Adoni, making the necessary arrangements for his ensuing campaign; when it is to be expected he will be busily engaged, as he will have to contend with a force, which, in point of numbers, is very far superior to his own.—The approaching moment will be the most important of his life, as every thing, liberty, kingdom, life, all depend upon the event of it; it is then very natural to imagine that his situation of mind must be painfully agitated, and full of anxiety. He is constantly engaged in forming plans, and disciplining his troops, many of whom are disaffected, and it is supposed, they will be either neuter inaction, or go over to the enemy. The circumstance is well known to Tipoo, and must add considerably to his uneasiness: he is using every means towards conciliation; but such is the genius of the people with whom he has to deal, that inveteracy, or discontent once entertained, is hardly ever to be eradicated, and no confidence can be placed in them, although they may make the most solemn protestations to that effect.

The confederate armies in the Dekhan are encamped near the fort of Dharwar, and in the neighbourhood of Tipoo's army, with whom they had several desperate and bloody engagements. The Mahrattas have not suffered very considerably in these attacks; but reinforcements granted them by the Nabob Nizam Ali Khan, is reduced to nearly one half of its original strength. The loss sustained by Tipoo is impossible to form any estimate of, from the profound secrecy which envelope every transaction of that political chieftain, whose strength, whose resources, and whose plans are known only to himself. But the Mahratta commander in that quarter has calamities of another nature to struggle with, arising from the difficulty of procuring forage in a country exhausted by war, and for an army so irregularly paid.

ALGIERS, February 20.

The plague, which has so long desolated this place and its environs, has at last disappeared, but the small pox rages in its stead with almost equal violence; that disorder having, in the course of a few months, carried off 35,000 persons.

FRONTIERS OF TURKEY, March 8.

If the throne of the grand seignor is shaken in Europe, it is not less in Egypt, from whence we have accounts that the arms of the rebel beys have obtained the upper hand in every degree, and that the captain Pacha is in the utmost distress; it is further said that the Venetian fleet has only quitted the coasts of Tunis, to observe the Turkish fleet near Alexandria, and to intercept it upon its return if possible.

LONDON, May 31.

One of the subjects given for the next year's prize, in the university of Cambridge, by lord Enslou and Mr. Pitt is, "whether, in a well-regulated state, it is good policy to imprison persons for debt?" This circumstance may give the publick reason to hope, that the legislature have it in contemplation to make some change in this present oppressive, unconstitutional and impolitic practice of arrest for debt.

Among the wretched prisoners in the Fleet prison, who are waiting in anxious expectation of an insubstantial bill passing, is an illegitimate brother of the present M—

Among other remarkable trials on the late circuit was on the midland—in which it appeared, that a fellow put his female apprentice into an oven, and burnt her to death. One of the witnesses proved that he listened and heard her, to use his expressive crackle in the fire.

No less than 3402 messages were received at Carlton-house on Sunday last, from 8 in the morning to 11 at night, to inquire after the prince's health.

Drugs and Medicines.

Frederick Kast,

BEGS leave to inform his Friends and the Publick, that he has JUST RECEIVED,
AND NOW READY FOR SALE
At his Shop in HAVENHILL,
A fresh and general Assortment of
Drugs and Medicines,

Which he is determined to sell on the lowest Terms
For Cash, or Country Produce,

AMONG WHICH ARE,

Hopper's famous Female Turlington's Balsom of Pills,
Anderson's do. Essence of Peppermint,
Locker's do. Stoughton's Elixir,
Teeth Brushes, Corn Plaster, &c. &c.

Also, -W. Indi and N. England Rum,
Tea, Coffee, Loaf and Brown Sugars, &c
Constant Attendance—and every Favour gratefully acknowledged.

Auction at SALEM.

At W. P. Bartlett's
VENDUE-OFFICE.

On Wednesday the 22d inst.

Will be sold at Auction,
PART of the CARGO of the Brigantine HOPE,
from the Cape of Good-Hope,
Consisting of

Five Hundred pieces of India
CALICOES,
Fifty pieces Cotton SHEETINGS,
&c. &c. &c.

The Money to be paid on the Delivery.
Sale beginning at Nine o'Clock in the Morning.

Cambridge, Aug. 1.

THE Fellows of the American Academy of Arts and Sciences, are hereby notified, that a Statute-Meeting will be holden at the University of Cambridge, on Wednesday the 22d instant, at 9 o'Clock, A.M. Per Order.

CALEB GANNETT, Sec. Sec.

Mablehead, July 23, 1787.

THE Subscribers, Commissioners appointed to examine the Claims of the Creditors to the Estate of John Gerry, late of Mablehead, Essex County, Esquire, deceased, represented insolvent, GIVE NOTICE, that a further time of six Months from the sixth day of June last, being allowed the Creditors for exhibiting their Claims and proving their Debts, we shall meet, for that Purpose, at the Dwelling House of Mr. Ebenezer Warner, Innholder, in said Mablehead, on the first Thursday of each of the five ensuing Months, at five o'Clock. P.M.
ISAAC MANSFIELD } Commis.
WILLIAM BACON. } s. nrs.

TO BE SOLD,

A brick Dwelling-House,

NOW occupied by Mr. Samuel Jenks, situate at the north-end, in Middle Street, directly opposite the head of Ferry-lane.
For particulars inquire of the Printers. (Sept)

ALL Persons who have any demand on the late Company of HINKLEY and KNIGHTLAND, are desired to bring in the same, immediately to the Subscriber; and all those indebted to said Company, or the Company of PARKMAN and HINKLEY, are requested to pay their dues without delay in order for a speedy settlement of said Companies' accounts. (It)
JOHN KNEELAND, jun. surviving Partner

ALL Persons indebted to the Estate of THOMAS CHASE, Esquire, late of Bolton, deceased, are requested to make immediate Payment, and all those to whom said Estate are indebted, desired to bring in their Accounts, in Order for settlement, to ELIZABETH CHASE, of Bolton, ABEL ALLEYNE, of Braintree. (Administ.)
(It)
June 6th, 1787.